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REPUBLIC OF CROATIA
MINISTRY OF DEFENCE
ZAGREB
Reg. No. 512-10-98-468
Zagreb; 4 June 1998

**TO THE PRESIDENT OF RH /REPUBLIC OF CROATIA/
Dr. Franjo TUĐMAN**

Mr. President,

During my conversation with you, I promised to prepare and forward to you a report on activities and facts related to the protection of interests of the Republic of Croatia before the MKS /International Criminal Tribunal/ in The Hague, and to the defence of accused or indicted Croats, which I have set forth in the Report (22 pages) enclosed herewith.

This Report is a brief summary and contains only the basic points. If necessary, we may forward separate reports with accompanying documentation in support of each separate item.

Yours Sincerely,

DEPUTY MINISTER:
Staff Brigadier Markica REBIĆ
/signed/

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Report on the work of the Security and Information Service in relation to the defence of indicted Croats before the International Criminal Tribunal in The Hague

- Information, analyses and evaluations

This Report was composed in such a manner as to present the past activities of this Service in monitoring the work of the MKS /ICTY/, with the objective of protecting the interests of the Republic of Croatia and the freedom and rights of indicted Croats, within the framework of Operation *Hague*, undertaken at the level of the intelligence community of the RH.

The Report contains the following items:

- I. Information on the trial proceedings against indicted Croats from Central Bosnia
 - General T. BLAŠKIĆ
 - Zlatko ALEKSOVSKI
 - Dario KORDIĆ et al.
 - Vlatko KUPREŠKIĆ and Anto FURUNDŽIJA
- II. Protection of the immediate national interests of the RH in connection with the work of the ICTY
 - The ICTY demands on the RH arising from the case of General BLAŠKIĆ, and direct ICTY requests addressed to the RH
 - *Subpoena duces tecum*
 - Request for Assistance
 - Binding Order ... of 30 January 1998
 - *Oluja /Storm/* and General GOTOVINA
- III. Direct cooperation with the ICTY in the interest of the Republic of Croatia
 - Work with ICTY investigators and opening the Vukovar investigation
- IV. Cooperation with various Croatia institutions related to the ICTY
 - HVO /Croatian Defence Council/ SIS /Security and Information Service/; Office for Cooperation /Liaison/ with the ICTY; HIS /Croatian Information Service/; MUP /Ministry of the Interior/; MVP /Ministry of Foreign Affairs/
- V. Activities relating to preparation of witnesses in other proceedings before the ICTY
 - KARLOVIĆ, BERHOFER, Marin VIDIĆ aka Bili
- VI. Elements of counter-intelligence and intelligence work of this Office
- VII. A chart showing all participants and description of their work
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- IX. Conclusions.

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I. Information on trial proceedings against indicted Croats from Central Bosnia

On 5 November 1995, the Office of the Prosecutor of the ICTY brought in an indictment against **Dario KORDIĆ**, General **Tihofil** /as written/ **BLAŠKIĆ**, and others.

The **Information and Security Service** took a series of actions, measures and activities to defend the accused, as listed below:

- **GENERAL T. BLAŠKIĆ**
- After the adoption of the political decision on General **BLAŠKIĆ**'s voluntary surrender to the ICTY, General **BLAŠKIĆ** addressed this Service (in March 1996) with a request to assist him in preparing his defence, which he had been preparing his own, with /the help of/ Anto **DAMJANOVIĆ**.
- On **26 March 1996**, the Security and Information Service prepared a plan of measures and activities for the purpose of collecting, protecting and processing documents and other materials necessary for his defence.
- On 28/29 March 1996, General **BLAŠKIĆ** went into hiding after changing his mind about his voluntary surrender to The Hague, and Ante **DAMJANOVIĆ** took over the defence documentation already compiled and transferred it from General **BLAŠKIĆ**'s office to his own apartment.
- This Service, in cooperation with VP /Foreign Affairs/ and SZUP /Service for the Protection of the Constitutional Order/, undertook successfully to find General **BLAŠKIĆ** and seize the documents in the private possession of Ante **DAMJANOVIĆ**.
- After Minister **ŠUŠAK**, on his return from medical treatment in the United States, had a conversation with General **BLAŠKIĆ**, the latter agreed to leave voluntarily for The Hague on 1 April 1996.
- In its communication Reg. No. 512-18-01-96-2902 of 15 April 1996 (2 "volumes"), the SIS advised the HIS accordingly, and supported its information with documents pertaining to the facts surrounding the events on which the indictment against General **BLAŠKIĆ** rested. At the same time, this provided the framework for his defence.
- Following the above, this Administration undertook an urgent intelligence mission on the ground gathering information, documents, witness statements and statements of participants in the alleged events, opinions and information in the possession of relevant officials in the OZ SB /Central Bosnia Operative Zone/, inspection of the alleged crime scenes, and so forth, in support of General **BLAŠKIĆ**'s defence, for the following purpose:
 - a) to inform the HIS in-depth, and provide documentary and material evidence in support of information pertaining to the facts surrounding the events on which the indictment against General **BLAŠKIĆ** rests;
 - b) to contribute to the formulation of a comprehensive concept of defence in this legally complex matter, because the commitment to a "speedy trial" was still holding; this is the subject of our communications reg. no. 512-18-01-96-2902-3 of 22 April 1996 and 512-18-01-96-2902-4 of 7 May 1996 (7 "volumes").

The subject of the afore-mentioned communications with their supporting materials (favourably assessed by foreign legal experts Professor I. JOSIPOVIĆ, Professor S. JELINIĆ, attorney Russell HAYMAN, ...), eventually laid the foundations and

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provided guidelines for the defence team preparing the defence of indicted Croats from Central Bosnia.

- The officials of this Service had the first working contacts with the defence team (HODAK - PEDIŠIĆ) at the end of May and the beginning of June 1996, when they presented to the defence counsel their information on the events for which they were charged, and documents and other materials in support of General T. BLAŠKIĆ's defence.
- At this time it is **important** to note that General BLAŠKIĆ and his counsel entered out-of-court talks with the Prosecutor, whose potential detrimental effect on the successful outcome of the defence was pointed out by the officials of this Service in their working contacts with the defence counsel, for two reasons:
 - a) General T. BLAŠKIĆ and his defence counsel were not prepared for the trial and these talks would no doubt cause irreparable harm to the defence of General T. BLAŠKIĆ;
 - b) In the Anglo-Saxon legal system, underlying the ICTY, the prosecutor and the defendant are equal parties and the disclosure of information rests on reciprocity. However, the prosecutor did not disclose all the materials supporting the indictment until the time when these talks began.

The talks were discontinued, and Professor M. DAMAŠKA (Yale Law School - USA) confirmed subsequently the validity of this decision.

This event served as a reminder that we must take into account the insufficient expertise of Croatian lawyers, and their inexperience with the Anglo-Saxon legal system, and in early August 1996 an American attorney, Russell HAYMAN, was recruited as a member of General T. BLAŠKIĆ's defence team. He was immediately briefed on the content of the afore-mentioned materials, whose basic elements were consistent with the conduct of a defence investigation typical of Anglo-Saxon criminal proceedings.

- On-site investigation resumed the same month with the compilation of photo-documentation, ground surveys, maps and sketches.
- The defence team enlisted the active participation of General T. BLAŠKIĆ himself in his defence, which is why an official of this Service, Major Stipan UDILJAK (in charge of preparing the defence), visited The Hague on 9 May 1996, as the General wished to be briefed on the course of preparation of his defence so far.
- In September and October 1996, the defence stepped up the pace of its work and embarked on intensive preparations of the defence by interviewing potential defence witnesses, and visiting the places listed in the indictment to obtain first-hand information.
- Toward the end of October 1996, there were personnel changes in the defence team. General BLAŠKIĆ asked that his counsel HODAK be removed and agreed that attorney Anto NOBILO replace him.
- It is necessary to mention here that this Service never volunteered legal opinions to attorneys that would be binding on them, but it immediately warned its superiors of any weaknesses in their defence concepts, such as the **theory of chaos**, for instance, espoused by attorney NOBILO (the theory of chaos as the basic premise of defence opens up a real possibility of blame-shifting among the accused, rendering the defence of any of the accused hopeless).
- In early November 1996, there were personnel changes in the Office of the Prosecutor of the ICTY: **Louise Arbour** assumed the duty of Chief Prosecutor,

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and prosecutor **OSTBERG**, conducting the case against General T. **BLAŠKIĆ** was replaced by **Mark HARMON**.

- On 15 November 1996, Mark HARMON amended the indictment against General T. **BLAŠKIĆ** by expanding it to include the area of Kiseljak, more specifically the area under the responsibility of OZ SB /Central Bosnia Operations Zone/ OG-2 /Operative Group/, and extending the time until April 1994 (amended indictment). This Service immediately proceeded to investigate this area and the alleged events by operative methods mentioned above.
- By spring 1997, the defence team focused on a number of procedural and legal requests submitted to the ICTY, the most significant being the request for specification of the amended indictment and the objection to the non-existence of an international armed conflict.
- In addition to persistent work on the collection, protection and analysis of documents and other materials supporting the case for the defence of General **BLAŠKIĆ**, this Service facilitated on several occasions preliminary interviews of the defence team with prospective defence witnesses.
- At the beginning of the main hearing (24 June 1997) in the case against General T. **BLAŠKIĆ**, the associates of this Service stepped up their support to the Defence Team, especially in terms of information on witnesses for the prosecution, forwarding of relevant documentation, video materials, maps, etc., and between sessions of the Tribunal, they worked continuously on the selection of documents for the defence phase of the main hearing, production of computer graphics, maps, raised relief maps, production of expert opinions etc, which has yielded palpable results in support of the defence case through cross-examination of witnesses.
- In addition to the above, this Service had a particular interest, and still does, in the defence team's thorough preparation for the cross-examination of witnesses whose statements could be detrimental to general Croatian national interests (such as, for instance, the claim of RH's "involvement" in the international armed conflict in BH and the "responsibility" of the Croatian leadership for it, which is a sustained claim of the Prosecution). After an examination of the court transcripts of cross-examinations (which have been forwarded to the HIS) we concluded that, in view of the **quality and sufficient time for preparation**, attorneys Anto NOBILO and Russell HAYMAN have not always taken full advantage of the possibility for such preparation, and we particularly stress this point in the case of the testimonies of **S. MESIĆ** and **P. ASHDOWN**, for which it is characteristic that they are directed against the President of RH and claim that RH was "involved" in the war in BH as an aggressor.
- At the request of General T. **BLAŠKIĆ**, an associate of this Service, Major Stipan UDILJAK, was The Hague during the main hearing, between 23 September and 4 October 1997, with part of the documentation which the defence needed then, which had been taken to and returned from The Hague through diplomatic bag.
- **ZLATKO ALEKSOVSKI**
- Not long after General **BLAŠKIĆ** left for The Hague, members of the RH MUP /Interior Ministry/ (impersonating MORH /Ministry of Defence of the Republic of Croatia/ SIS /Security and Information Service/ members) arrested Zlatko ALEKSOVSKI, co-accused in the case of General **BLAŠKIĆ**.
- On 10 May 1996, at the request of the Defence team (HODAK, PEDIŠIĆ, HAYMAN), members of this Service interviewed Zlatko ALEKSOVSKI at the

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Bilice county jail in Split, because the indictments of General T. BLAŠKIĆ and Z. ALEKSOVSKI were legally and factually connected. The same officers talked to Zlatko ALEKSOVSKI one more time, in December 1996, at the prison hospital in Zagreb, as the term for his surrender was expiring. These conversations provided useful information on the *Kaonik VIZ* /military remand prison/, whose commander was Z. ALEKSOVSKI, and which is the subject of the indictment against Z. ALEKSOVSKI, General T. BLAŠKIĆ and D. KORDIĆ.

- After the surrender of Z. ALEKSOVSKI to the ICTY in The Hague, attorney Goran MIKULIČIĆ (ALEKSOVSKI's defence counsel) addressed this Service seeking its help in preparing the defence, submitting copies of parts of the original documentation from the *Kaonik VIZ*. When attorney MIKULIČIĆ was included on the list of attorneys paid by the ICTY, he recruited attorney Srđan JOKA (Serbian by nationality) without consultation with, or the approval of, this Service.
- So far, the contribution of this Administration to the preparation of Z. ALEKSOVSKI's defence has been of the same kind and quality as the defence of General T. BLAŠKIĆ.
- Members of Z. ALEKSOVSKI's defence team do not have frequent professional contacts with members of this Service. They seek assistance from this Service in preparing Z. ALEKSOVSKI's defence only in the technical sense (information, documents, video materials, sketches ...), which this Service provides, limiting the two-way exchange of information to the minimum, reserving the right to decide on the procedural use of the defence case exclusively for itself, which could have, in the absence of co-ordination between the lawyers of the accused, a harmful effect on the defence of the accused because a co-ordinated defence of all accused is a precondition of a successful defence, in view of the fact that they are legally and factually connected.
- **DARIO KORDIĆ and the VOLUNTARY SURRENDER OF THE OTHER INDICTED CROATS TO THE ICTY**
- After the voluntary departure of General BLAŠKIĆ to The Hague and the surrender of Zlatko ALEKSOVSKI, this Service assessed that there will be growing pressure on the RH to surrender the remaining Croats from Central Bosnia, who would also need substantial legal assistance.
- In view of the fact that all indicted Croats from Central Bosnia are legally and factually connected in the indictments, and that for their successful defence, both collectively and individually, a concerted and balanced effort of all attorneys is necessary, we proceeded to put together an appropriate defence team. As attorney NOBILO was already engaged, and according to his personal view that it was necessary to invest a concerted team effort for a joint defence of all defendants, he proposed to put together such a defence team himself, offering personal guarantees that such a team would function successfully. This is how the following attorneys were recruited: Jadranka GLUMAC-SLOKOVIĆ, Mitko NAUMOVSKI, Božo KOVAČIĆ, Ranko RADOVIĆ, Petar PAVKOVIĆ, Luka ŠUŠAK and Petar PULIŠELIĆ.
- Pursuant to the indictment against Dario KORDIĆ et al, and an ICTY warrant of arrest, the MUP arrested Mr. Pero SKOPLJAK in Samobor on 14 August 1997. Associates of this Service offered assistance to the defence team in establishing as advantageous a legal status for Mr. P. SKOPLJAK as possible, and in the preparation of the defence.

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- On 6 October 1997, the following indicted Croats from Central Bosnia surrendered themselves voluntarily in Split:
 1. Dario KORDIĆ
 2. Ivica ŠANTIĆ
 3. Pero SKOPLJAK
 4. Mario ČERKEZ
 5. Mirjan KUPREŠKIĆ
 6. Zoran KUPREŠKIĆ
 7. Vlado ŠANTIĆ
 8. Dragan PAPIĆ
 9. Marinko KATAVA
 10. Drago JOSIPOVIĆ
- On 19 December 1997, Ivica ŠANTIĆ, Perko SKOPLJAK and Marinko KATAVA were released after the ICTY Prosecutor withdrew the indictment due to absence of evidence and /a defence of/ alibi, which was accomplished as a result of cross-examining witnesses for the prosecution (in particular, Dr. Muhamed MUJEZINOVIĆ and Dr. Fuad ZEĆA) in the proceedings against General T. BLAŠKIĆ. This Service fully contributed to this outcome by providing timely and solid information on the role of the said individuals in the war and with its assistance to the defence attorneys in their methodology and approach in formulating the questions to be used in cross-examination.
- To this day, This Service has prepared materials for the defences of D. KORDIĆ, M. KUPREŠKIĆ, Z. KUPREŠKIĆ, D. PAPIĆ, D. JOSIPOVIĆ, which it has presented to the team of attorneys in the form of general overviews of the situation in the Lašva valley, maps, computer animations, video recordings, photo documentation, documents, etc., as well as by making available precise information on events and individuals relevant to the defence. It also enabled the attorneys to hold a series of interviews with prospective witnesses for the defence.
- Despite our efforts, the work of the team of attorneys is not as good and as synchronised as attorney NOBILO had promised, which will be discussed in a dedicated section of this report.
- **VLATKO KUPREŠKIĆ and ANTO FURUNDŽIJA**
- On 18 December 1997, SFOR forces arrested Vlatko KUPREŠKIĆ in Ahmići and transferred him to The Hague. V. KUPREŠKIĆ is the only accused Croat from Central Bosnia who refused to appear before the ICTY voluntarily. Vlatko KUPREŠKIĆ hired attorney B. KRAJINA from Sarajevo and, who are assisted in their work by attorney Grlimir JONJIĆ, a former judge in Zenica who is related to V. KUPREŠKIĆ. This Service has not received any requests for assistance in the preparation of the defence of Vlatko KUPREŠKIĆ, who chose to defend himself independently, but continuously applies for financial and material aid from the RH.
- Between 5 November and 18 December 1997, on the basis of a secret indictment of the ICTY, SFOR forces arrested Anto FURUNDŽIJA and transferred him to The Hague. Anto FURUNDŽIJA was the commander of the *Jokeri*, a special purpose platoon of the professional company of the 5th HVO VP /military police/ battalion. This indictment includes the name of Miroslav BRALO aka Cicko, and two other names which cannot be accurately determined, but an analysis of the indictment and the course of the proceedings in the case against General T. BLAŠKIĆ so far, and operative /intelligence/ information available to this

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Service, suggest that the individuals involved are Dragan BOTIĆ and Josip ŽULJEVIĆ.

- On 19 December 1997, a member of the defence team, Srđan JOKA, visited Mr. Anto FURUNDŽIJA at the ICTY detention unit. According to him, before the official reading of the indictment, the ICTY prosecutor invited A. FURUNDŽIJA to co-operate with the Prosecution as he had learned from the testimonies of prosecution witnesses at the main hearing in the trial against General T. BLAŠKIĆ that during the operation in Ahmići the *Jokeri* unit and A. FURUNDŽIJA were in the village. The offer for cooperation referred to the cooperation of A. FURUNDŽIJA with the Prosecution in connection with the events in the village of Ahmići (16 April 1993), and /in exchange/ the prosecutor would not expand the indictment against A. FURUNDŽIJA, and would confine it to the less harsh “secret indictment”. Anto FURUNDŽIJA has so far refused to co-operate in any way with the prosecutor although such cooperation would bring about his speedy release.
- An American attorney, Luka MIŠETIĆ, a Croat from Chicago, was recruited as a member of the defence team to defend A. FURUNDŽIJA. In his work so far, he has displayed a high level of expertise and patriotism.
- Because the indictment against Dario KORDIĆ and Mario ČERKEZ was amended, and because Dario KORDIĆ established contacts with the Croatian state and party officials in April 1998, two more attorneys were subsequently hired from the law firm whose member, D. RIVKIN, was already representing the Republic of Croatia before the ICTY (Subpoena, the *Storm* case of, Binding Order ... /?as/ of 30 January 1998).

II. DEFENCE OF DIRECT NATIONAL INTERESTS OF THE RH IN CONNECTION WITH THE ACTIVITY OF THE ICTY

- **SUBPOENA DUCES TECUM**
- On 15 January 1997, the ICTY addressed to the RH and the Minister of Defence of the RH an order (subpoena). This Service immediately pointed out that it was legally possible and politically necessary to challenge the legal validity of the Subpoena, indicating that it was an inappropriate way for the ICTY to communicate with a sovereign state and high officials. This initiated accessory proceedings within the framework of the trial against General T. BLAŠKIĆ on the legal acceptability of a Subpoena.
- The reasons for issuing a *Subpoena duces tecum*, in the view of this Service, were attributable to two essential facts:
 - a) the supporting evidence available to the ICTY prosecutor in the case against General T. BLAŠKIĆ was insufficient to support the charges set forth in the indictment;
 - b) on 13 September 1996, at OSTBERG’s motion submitted in April of the same year, the ICTY gave its opinion, in the case against Ivica RAJIĆ (commander of the OZ SB OG-2), that the RH had been involved in the armed conflict in BH, defining the conflict in Central Bosnia as part of an international armed conflict (the *Nicaragua* case).
- **The purpose of the *Subpoena duces tecum* was to meet the procedural and legal deficiencies of the Prosecution (a), and the ICTY’s political objectives (b).**

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- In this legal matter, the RH was represented by an American team of attorneys led by D. RIVKIN. By the very nature of the matter, the MORH had to take an active part and support these proceedings because the subject of the Subpoena were documents and materials in possession or alleged possession of the MORH, as the ICTY claimed. The MORH took the position, in strict compliance with international law and the legal system in the RH, emphasising especially Resolution 827 of the Security Council and the Constitutional Law on the Cooperation of the RH with the ICTY, which provide that the RH has the duty to provide legal assistance to the ICTY in accordance with the RH law, not pursuant to a Subpoena order.
- In keeping with the above, and in connection with ICTY's Request for Assistance addressed to the RH, on three different occasions, in keeping with the prescribed procedure on lowering the level of confidentiality and declassifying military documents, the MORH forwarded to the Office for Co-operation with the ICTY the requested documents at the time when the Subpoena procedure was still under way.
- With respect to the Subpoena proceedings, we wish to point out that over a period of 5 days in the month of August, members of this Service presented to and briefed RIVKIN's assistant Ira FRAILCHER on the position and role of the MORH and high-ranking officials within the order of the RH, and on the legal and factual unacceptability of the Subpoena.
- Members of this Service also assisted in recruiting an *amicus curiae*, German professor ROGEMAN, to /testify for/ the Croatian side in the closing arguments on the Subpoena, in September 1997, and in obtaining legal reference literature that the legal experts needed for their work.
- On 29 October 1997, the ICTY adopted a decision whereby the *Subpoena duces tecum* against the RH and the Minister of Defence, Gojko ŠUŠAK, was revoked.
- This Service provided assistance to Jadranka GLUMAC-SLOKOVIĆ, legal counsel for the Minister of Defence of the BH Federation, Mr Ante JELAVIĆ, who was also subpoenaed in the same case, and which was also revoked.
- **Request for Assistance ...**
- After the Trial Chamber suspended the Subpoena in February 1997, instructing the parties to argue /their positions/, the Prosecutor Louise Arbour forwarded to the RH a Request for Assistance (Request for ...) on 19 February 1997. This Request was identical in substance to the Subpoena, but for formal reasons (just because of the change of name) the RH had to reply to it and submit a certain number of documents. Within its range of responsibilities and competence, the MORH established timely cooperation with the Office for Co-operation with the ICTY, and on three different occasions, forwarded declassified documents by decision of the Minister of Defence Gojko ŠUŠAK, in accordance with the legal regulations in effect in the RH.
- In forwarding the documents, the MORH cited and proceeded from the legal grounds provided by Article 8 of the Agreement between the President of the RH, Dr. Franjo TUĐMAN and the President of the BH Presidency, Mr. Alija IZETBEGOVIĆ of 21 July 1992 regulating the co-operation between the RH and BH in resisting the Serbian and Montenegrin aggression. It is important to stress that in view of this Agreement the presence of the HV in BH is incontestably legal under international law.

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- All documents forwarded by the MORH conform to the spirit and intent of the cited Agreement.

- **Binding Order ... of 30 January 1998**

After the RH successfully argued its position in the Subpoena matter, and the Prosecutor failed to accomplish extra-legal objectives of the Request, on 30 January 1998 a Binding Order was forwarded retaining the substantive essence of the subpoena and Request.

With respect to the Binding Order, proceedings were initiated before the ICTY in which the RH is represented by American attorney D. RIVKIN.

This Service worked with attorney RIVKIN on several occasions in connection with clarification and provision of documentation addressing individual items of the Binding Order. In keeping with the general framework of the attorney's reply to the ICTY and the decision of the Council of the Office for Co-operation with the ICTY, and provided that the Minister of Defence, Dr HEBRANG, declassifies the documents sought (the draft proposal for a decision on declassification is before the Minister, Dr HEBRANG), we are prepared to surrender the said documents and reasoned arguments for them to the ICTY.

- ***Oluja* and General GOTOVINA**

On the basis of the Joint Request to Forward Information of 25 February 1997, of which this Service learned on 5 May 1997, we have learned that the ICTY Prosecutor initially requested information on the people killed or wounded in the course of Operation Storm in a letter addressed to Dr. ŠIMONOVIC on 29 July 1996. Apparently, due to poor co-ordination between competent government agencies we were not involved in the problems surrounding *Oluja* from the beginning.

This Service replied to the Joint Request for Information to the Office for Co-operation with the ICTY within five days, in August 1997. It briefed RIVKIN'S assistant Ira FREILCHER on the legal and military specifics of the military-police operation Storm.

In view of the fact that *Oluja* has not yet been legally defined by the ICTY, namely whether *Oluja* constitutes an "armed conflict" in terms of international law, which would determine whether the ICTY has in fact the jurisdiction to deal with *Oluja*.

On 24 November 1997, this Service has provided its opinion on the legal and military nature of *Oluja* (which the American attorney RIVKIN supports in principle), and we feel that it offers clear and reasoned arguments why the ICTY does not have the jurisdiction over *Oluja*, based on the interpretation of the Geneva Conventions and its Additional Protocols.

ICTY's request to interview General Anto GOTOVINA as a suspect is directly related to *Oluja*.

It is important to emphasise here that the ICTY has been investigating for some time the events which occurred during *Oluja*, in contravention of Article 4 of Security Council Resolution 827 and the Constitutional Law of the RH on cooperation with the ICTY, by appearing unannounced and conducting exploratory talks with prospective witnesses or potential suspects without the knowledge of the authorised organs of the RH (Office for Co-operation with the ICTY). We place in the same context the "unauthorised" conversation of General ČERMAK with ICTY investigators, although the assistant minister of defence, Staff Brigadier Markica REBIĆ had promptly advised General ČERMAK of the duty of RH citizens, particularly military officers, to act within the framework of the law, in their contacts with ICTY representatives.

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According to reliable information from the field, ICTY representatives have continued to come to the RH and are stepping up investigations into events surrounding *Oluja*.

On the basis of ICTY documents, which this Service has acquired through intelligence methods and from reliable sources which have so far proved to be correct, we propose that the ultimate objective of the ICTY Prosecution is to link all indictments against Croats (RH and BH), attributing responsibility to the top leadership, and the most prominent members of the RH leadership, including the President of the RH.

The testimonies of a number of witnesses in the trial against General BLAŠKIĆ and Zlatko ALEKSOVSKI support this argument (Stipe MESIĆ, W. ZIMMERMAN, P. ASHDOWN, BIACHINI), whose transcripts we have forwarded earlier to the HIS and the Minister of Defence, while we have forwarded to the Office of the President of the RH (to Mrs. V.Š. OŽBOLT personally) ICTY documentation used by the Prosecutor to support the general allegations in the indictments against General BLAŠKIĆ and others.

The purpose of the current activities of the ICTY Office of the Prosecutor with respect to the RH (frequent visits of Prosecutor Louise Arbour in the United States, assistance to the FBI in locating potential witnesses among the Croats who fled from Central Bosnia to the United States, ...) is to exert strong political pressure on the RH. Therefore, we consider that urgent action must be taken by the attorney representing the RH before the ICTY, D. RIVKIN, with respect to *Oluja* proceedings, which we have indicated to the Office for Co-operation with the ICTY and the HIS through our working contacts.

III. Direct cooperation with the ICTY in the interest of the Republic of Croatia

- **Working with ICTY investigators and opening an investigation into Vukovar**
Since 18 November 1997, through the Office for Co-operation with the ICTY, representatives of this Service held a number of meetings with ICTY investigators who stated their intention to try the serious violations of international law committed on the territory of the RH at the hands of the JNA /Yugoslav People's Army/ (Vukovar, Dubrovnik, Zadar, ...).

Following this request, the MORH provide information relevant to the aforementioned investigations, particularly in connection with the command responsibility of the officers of the former JNA and their ties with para-military units.

When this Service arranged a meeting between The Hague investigators and three direct participants in the events in Vukovar in 1991, we established that prior to that the ICTY had not conducted a comprehensive investigation into problems surrounding the events in Vukovar in 1991, but only individually (Ovčara - DOKMANOVIĆ), which was confirmed by the investigators who had been assigned to conduct the official exploratory interview with the three direct participants /in the events/ in Zagreb, on 3 - 5 May 1998.

IV. Cooperation with various Croatian Institutions in connection with the ICTY

- HVO SIS

The most successful cooperation in the matter of defence of General BLAŠKIĆ, D. KORDIĆ and others that this Service has established is with the HVO SIS, especially its part in Central Bosnia. This cooperation began in April 1996 and continues to this day, constantly improving, and consists of the following:

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Gathering, processing and protecting documents of the Central Bosnia HVO at the time to which this indictment applies; gathering and processing documentation of the A BH /Army of Bosnia and Herzegovina/, Muslim government structures and UNPROFOR from the same period; gathering of accurate operative information about prosecution witnesses; locating and preparing potential defence witnesses; production of maps,

The above activities have been used by the defence team in their defence of indicted Croats before the ICTY.

- Office for Co-operation with the ICTY;

Because the Office referred to above is authorised to maintain cooperation with the ICTY, the MORH has responded to its demands so far. After the changes at the top of this Office, the cooperation between the Office and MORH has been better co-ordinated and thus more successful.

- HIS; MUP; MVP;

The cooperation between MORH and the above institutions is not of high enough quality, nor is it sufficiently institutionalised in view of the challenge and significance of the subject matter under discussion for the protection of Croatian national interests, which will be discussed further under item VI of this Report.

V. Preparing witnesses in other trials before the ICTY

This Service participated in the preparation of prosecution witnesses in the event that the indictment against MRKŠIĆ, RADIĆ and ŠLJIVANČANIN was confirmed, and in proceedings against DOKMANOVIĆ (Vilim KARLOVIĆ, D. BERHOFER, and Marin VIDIĆ aka Bili).

VI. Elements of counter-intelligence and intelligence activities of this Service

- When HVO archives became a serious problem in the course of preparation of General BLAŠKIĆ's defence, with respect to the substance of the Subpoena, and ICTY's requests involving HVO officials, this Service, in cooperation with the HIS, took action and measures to protect the HVO archives.
- This Service established through counter-intelligence methods the existence of 7 other secret indictments against Croats from Central Bosnia. On several occasions, it forwarded timely information on the intention of SFOR members to arrest the individuals charged in secret indictments, and to that end measures were taken to hide and protect them. We are providing direct protection to 4 individuals from Central Bosnia who are subject to secret indictments, the HVO SIS is protecting one individual, while the remaining two persons were promptly informed of their possible arrest. This Service is also providing protection for two defence witnesses of Muslim nationality in connection with the proven ties between the AID /Agency for Information and Documentation/ and ICTY prosecutors, and Muslim crimes against Croats in Bugojno.
- This Service is in the final phase of preparations of measures and activities, which would successfully show to international institutions and to the international and domestic public that the Office of the Prosecutor of the ICTY has committed severe violations of the Rules on Procedure and Evidence of the ICTY in the course of the current trials, through documents and witnesses in the following areas:
 - a) Cooperation of the Prosecution with AID;

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- b) Redacted documents of UNPROFOR that are harmful to indicted Croats;
 - c) By suspending investigations into the crimes committed against Croats at the hands of Muslims;
 - d) Disloyal cooperation of the Muslim authorities with the ICTY.
- The above was possible because, in the absence of intelligence support from the HIS in terms of, this Service made intelligence inroads into the ICTY. By engaging two associates, this Service did not overstep the boundaries of its competence. The meetings were held exclusively on the territory of the RH, and the case in which the associates were recruited involved exclusively the protection of defence information from foreign intelligence services and the Office of the Prosecutor of the ICTY. Through this cooperation, this Service has been able so far to obtain significant ICTY documentation (about 70 files of original documentation). Through the above-mentioned associates, we also received other current information on secret indictments, the Prosecutor's intentions and activities and recruitment of witnesses.
 - This Service established a direct contact and ensured a certain level of cooperation with former ICTY investigators who used to work on Muslim crimes (the operation is under way). The Service is also in the process of implanting another agent into the ICTY in The Hague (the operation is under way).
 - Through its intelligence sources, this Service has come into the possession of 24 BRITBAT reports from April 1993 from Central Bosnia and video footage of the British troops from the same area, which it has already used so that attorney Anto NOBILO was able to prove directly, during his examination of Colonel WATERS (former BRITBAT Deputy Commander) and officer TUDOR, the British presence in Ahmići on 16 April 1993, thus preventing manipulations with censored and doctored documents used by the Prosecutor, as well as a whole series of important items of evidence for the defence.
 - **This Service has indications that the current course of the trial of General BLAŠKIĆ, Dario KORDIĆ and others before the ICTY is causally connected to the internal political developments within the RH and BH, and that there is a constant threat that these trials may be increasingly used as instruments of internal political struggles, in view of the earlier ideological positions and membership in political parties of a certain number of accused, attorneys, and other persons involved in this case.**
 - By monitoring the course of the trial through other methods of operation used by this Service, we clearly established that the trials before the ICTY were used as instruments, or there were attempts to use them as instruments, for international or domestic political ends, of which we single out the most important instances:
 - The role of British investigators and prosecutors in the case against General BLAŠKIĆ and others was the extension of the role of the British contingent in the UN forces in Central Bosnia, whose goals were anti-Croat, and the role of British intelligence services in some crimes blamed on Croats, including the Ahmići case, is suspicious. The latter was already proved in part by this Service in the proceedings against General BLAŠKIĆ, where the presence of BRITBAT in Ahmići on the day of the crime was established beyond any doubt (video tape, testimony of a British officer who was present), and a crude attempt at manipulation during the testimony of the British officer about military reports and the doctoring of a command issued by General BLAŠKIĆ was pre-empted.

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- In the course of the proceedings before the ICTY it was shown beyond doubt that certain countries (the U.S.A., Great Britain, ...) and some international organisations (Soros, Helsinki Committee, ...) exert a very powerful effective, albeit informal, influence on the work of the Office of the Prosecutor of the ICTY (/Chief/ Prosecutor ARBOUR, G. BLEWITT, M. HARMON, B. STUBNER, ...). In view of Croatian interests and the objective application of international law, the role of the above-mentioned individuals is negative. In informal contacts, B. STUBNER has been making references to the Pentagon and stating that he wants to see TUĐMAN in The Hague. It is worth mentioning in his case that he spent some time in Nicaragua, which may have something to do with the *Nicaragua case* being invoked as a precedent in the case against Ivica RAJIĆ, in which “armed conflict” was redefined as “an international armed conflict” and a court decision was handed in whereby the RH had committed aggression against BH, with particular emphasis on the role of the HDZ /Croatian Democratic Union/ in the “aggression”, which may prove to be especially damaging to the case of Dario KORDIĆ.
- The connection between the Office of the Prosecutor of the ICTY and AID (BH) is irrefutable, and there is indirect evidence of ties between Vasvija VIDOVIĆ (the person responsible for contacts with the ICTY on behalf of the Muslim side) and the Serbian side in BH (she presented to the Tribunal the documents of the Vareš Brigade of the HVO which had fallen into the hands of the RS /Republika Srpska/ Army), the AID (one of the chief contacts of the ICTY Prosecutor’s Office with the AID). Following the course of the proceedings held so far, it becomes clearly evident that there is a high degree of co-ordination between all the subjects mentioned above, for the purpose of carrying out a limited and targeted investigation against Croats, which was conducted by British investigator Simon LEACH, and presented before the Trial Chamber by American prosecutor M. HARMON.
- From ICTY documents, which confirm the factual grounds of the indictment, we have established beyond doubt that in some investigations which were conducted by the ECMM /Monitoring Mission of the European Community/ in the course of 1993, for which members of the HVO had been accused, even some members of the HVO are listed as witnesses, including Ivan BANDIĆ (then member of the HVO SIS, currently agent of the HIS in the RH Embassy in The Hague) and MARIJANOVIĆ..
- We have also come by written evidence that from 1996 on, the ICTY has obtained from different, mostly Muslim sources, a large number of HVO documents in terms of the requirements of the trial.
- We also have written proof that attorney Anto NOBILO submitted a number of HVO documents for translation to ICTY’s Registry, violating the agreement that, prior to their use, he would forward any documents of military nature to the SIS, which was to give its opinion. Anto NOBILO undertook this together with attorneys Božo KOVAČIĆ and Goran MIKULIČIĆ, who thus also violated the agreement.
- /We have/ discovered secret communication between the ICTY and the Sarajevo Cantonal prosecutor BISIĆ, which confirms secret, unprincipled and special relations between the ICTY and the Muslim side. By means of

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a special operation, the documents were “planted” in the media, and the ICTY was put in an embarrassing position. The ICTY spokesman refused to make any comments.

VIII List of All Agencies and Description of their Activities (see Attachment for a chart)

This chapter contains a list of all agencies and a description of their activities so far, in view of their actual and completed tasks concerning the matter in question.

1. The RH Government – The RH Government Council – is in charge of making political decisions on the basis of expert reports submitted by agencies performing various activities related to the ICTY. Sessions of the Government Council were not properly prepared and Council members were consequently hesitant when making important decisions. Since there was no clear support from the expert team, especially in the *Subpoena*, *Oluja*, and *Binding Order* cases, the MORH SIS had to strongly uphold the principles that were later successfully defended, because the substance of the above-mentioned documents mostly concerned subjects in the sphere of responsibility of the MORH.
2. RH Government Office for Cooperation with the ICTY is the RH Government Council’s executive team for contacts with the ICTY. After the former head was replaced in December 1997, the Office intensified the activities it was in charge of.
3. The tasks of the MORH SIS are evident from this report.
4. In 1996, the HIS was assigned as the main protagonist responsible for carrying out Operation *The Hague* on the OZ RH level. This Service corresponded to the HIS, that is, the SIS in the OZ RH, in all important aspects of authority. Until KORDIĆ’s voluntary surrender, the HIS did almost nothing to carry out the tasks that had been planned and accepted. After that, Operation *The Hague* was once again redefined, but the engagement of the HIS was not intensified. Because the SIS was assigned to work with attorneys and collect, protect and process documentation and other materials necessary for the defence, and because of the ICTY’s specific demands that fell in the sphere of responsibility of the MORH, which made up most of the job to be done so far, the SIS practically remained the main protagonist of Operation *The Hague*, and the fact was subsequently verified by the OZ RH plan for 1998.
5. The MVP – Our cooperation with the MVP took place within technical cooperation.
6. The RH Embassy in The Hague – Cooperation with the RH Embassy in The Hague also took place exclusively on the level of technical support (the use of coded communication, diplomatic mail, and so on).
7. The Government Observer with the ICTY – At the request of Professor JOSIPOVIĆ and a legal expert team, this Service obtained the latest international professional literature (38 books) which deals with the implementation of the international war and humanitarian laws from a scientific perspective. On several occasions, the SIS received, directly or indirectly, expert opinions from Professor JOSIPOVIĆ which considerably differed from the opinions of this Service, especially in the legal cases of *Oluja* and *General Gotovina*.
8. The Mostar HIS – This Service has no direct contacts with or information on the activities of the said agency in this matter.
9. The HVO SIS – This Service performed most of the field tasks (collecting and protecting documentation and other materials necessary for defence, preparing and selecting potential defence witnesses, gathering information about prosecution witnesses, performing counterintelligence work, making maps, drawings, and so on)

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in direct cooperation with the HVO SIS, particularly with the HVO SIS in Central Bosnia.

10. The MUP – Cooperation between the MUP and the MORH SIS in this task took place within regular activity of the SZUP and the RH MUP Crime Investigation Police /Department/.

11. We achieved no cooperation with the RH Government's War Crimes Commission (Professor HORVATIĆ), and the Commission was abolished anyway. We failed to achieve even the minimum of cooperation in this matter with the RH Government Office for Establishing the Casualties of War..

12. The Team of Attorneys – Having taken the place of attorney HODAK as General BLŠKIĆ's defence counsel, attorney Anto NOBILO accepted the role of coordinator responsible for the entire team of attorneys, because the legal matter and facts concerning the indicted Croats from Central Bosnia are interrelated in many ways and require coordinated and balanced work of attorneys in order to avoid harmful consequences for the indictees caused by mutual shifting of responsibility, which is the real and most important reason for balanced team work of the attorneys. For the above reasons, attorney Anto NOBILO proposed members of the team of attorneys, guaranteeing professional and coordinated performance.

The team of attorneys has not yet shown the kind of performance that was agreed on. As attorney NOBILO himself admits, the reasons for this lie in financial independence of some of the attorneys whose services are now paid for by the ICTY, the reduction of contacts with our Service to a minimum, only when they are absolutely necessary (work in the field), and failure to provide information on the status of their cases. The team of attorneys has ideological and political prejudice, especially as regards the social system of BH and the character of war in BH ("an international armed conflict"), and their personal beliefs differ from official state policies. From its behaviour so far, it is obvious that the team of attorneys defends national interests of the RH minimally, only to an extent to which they find it necessary for the defendants. Inconsistent defence of the national interests of the RH may be harmful for both the interests and defendants.

The attorneys' association with members of the former security services (BOLJKOVAC, PERKOVIĆ, BANDIĆ) and with officials of international organisations (Open Society Institute – Croatia, HHO, etc.) and the attorneys' inclination towards the so-called ZUBAK political faction in BH is particularly interesting.

This Service is unable to achieve a complete counterintelligence monitoring of the lawyers, so we cannot know the purpose of the above-mentioned association, but the team of attorneys obviously tends to reduce this Service to its technical support, and this Service has done everything in its power not to allow that, nor will it allow that, especially in the important issues of protecting Croatian national interests consistent with state policies and the freedom of all Croats detained in The Hague. The team of attorneys has made insufficient use of the legal and procedural possibilities offered by the Rules of Procedure of the Hague Tribunal to strengthen its own position before the ICTY as an equal partner vis-a-vis the prosecution.

This does not refer to US attorneys, and certainly not to attorney Luka MIŠETIĆ.

13. Non-Government Organisations (NGOs) – This Service tried to achieve cooperation with the NGOs mentioned in the attached chart, but the only successful cooperation was with the Mostar Commission for Establishing War Crimes.

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14. The Media – *Feral.../as printed/, National and Globus* in particular have a negative attitude to national interests and some of the Croatian detainees and suspects who have considerably supported Croatian national interests with their activities (Dario KORDIĆ, General GOTOVINA, etc.). These magazines seek to create an impression of a division among the indictees and suspects into leftists and rightists and to suggest to the public that the rightists are responsible /as printed/. The team of lawyers is close to the above-mentioned media organisations, except for the US lawyers whom the Croatian lawyers wish to influence in accordance with their ideology.

Vjesnik, Večernji List and *HTV* have a remarkably affirmative attitude to the above, though rarely on their own initiative. On several occasions this Service achieved useful cooperation with them in these proceedings.

This Service also monitored and analysed the writings in all the media.

VIII Summary of the Tasks Performed So Far by This Service

1. Within the overall task, this Service performed the largest part of all the specific operative and analytical tasks, not all of which are the sole responsibility of this Service, and it even of necessity gave expert legal opinion, because the agencies listed in the attached chart made insufficient efforts, failed to carry out the tasks within their sphere of responsibility and exhibited lack of coordination.

This refers especially to the work on *Subpoena, Oluja, Request for assistance..., Binding Order...*, and most efforts were put in the defence of General BLAŠKIĆ, for which this Service did everything short of appearing before the ICTY Trial Chamber in The Hague. As a result, despite gravest accusations, in the opinion of attorney NOBILO and interested legal experts, this case is proceeding well and there is a good chance for acquittal, unless the Trial Chamber is motivated by political, financial or some other non-legal reasons when issuing a sentence.

2. For the purposes of this procedure, the MORH SIS and the HVO SIS have so far collected and processed more than 50,000 various documents, conducted or organised interviews with more than 300 potential defence witnesses, gathered information on over 200 prosecution witnesses, made 16 precise maps reflecting military situation in Central Bosnia (from 1992 to 1994) and 54 computer graphics and animations based thereon, made a relief of Central Bosnia (the Lašva-Lepenica valley) to the scale of 1:25,000, given about 10,000 pieces of information and documents to the team of attorneys, and compiled hundreds of reports, briefs and opinions which were submitted to superior authority. They have also acquired video footage from Central Bosnia, carried out forensic investigation in the field (photographs, charts, drawings, descriptions, video footage), continuously prepared attorneys for hearings, engaged and worked with several expert witnesses (soldiers, demographers and historians). The above-mentioned tasks were performed by an extremely limited number of SIS employees (MORH, HVO), who did not use their annual leaves and worked around the clock, with very limited technical, material, financial and administrative support.

IX. Conclusions

1. Over the past two and a half years of engagement in the matter that is the subject of this Report, we have managed to include a number of institutions, but we have not succeeded in striking a balance in their involvement, nor establishing organic

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- ties and co-ordination between them, which is also reflected in the results accomplished so far.
2. After the death of Defence Minister Gojko ŠUŠAK, and after the positions of Deputy Minister for Security and Head of the SIS Service were unfilled for six months, amidst speculations in the media and a situation in which the SIS was brought to the point where it was forced endlessly to defend and justify its activities, our past work has been seriously undermined, as well as the prospects of continuing the work with the same degree of excellence and success. The reputation and authority of the Service, as well as those of the Service employees, associates and attorneys, have been undermined.
 3. The team of attorneys is characterised by an increasing degree of wilfulness and politicisation of the case.
 4. **The defence strategy shall rest on the crucial position of non-involvement of the RH in the Muslim-Croat war in Central Bosnia (the legal question of “an international armed conflict”) and the ICTY’s lack of jurisdiction over the *Oluja* case (the legal issue of “armed conflict”). If we succeeded in this (which this Service considers realistically possible, on the basis of its work and the opinions forwarded to the authorized persons), in addition to long-term benefits for the RH, all charges of the indictment based on these legal grounds would be dropped.**
 5. As things stand now, success cannot be guaranteed for the following reasons:
 - a) The Council was divided, and there were even contradictory positions on the issue of RH involvement in the war in BH, and *Oluja*.
 - b) The defence attorneys in the trials are not active enough in the defence of the position of “non-involvement”, and, in the case of *Oluja*, they are also overly inclined to play the game of buying time with the Prosecutor, instead of insisting resolutely on a relevant discussion.
 - c) Lack of effectiveness in the use of expert witnesses, and insufficient assistance and coordination provided by the SIS in this matter.
 - d) The question of further prospects and methods of financing /the/ defence /?team/ and special operations.

Encl. Chart of /participating/ agencies

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CHART

