

THE INTERNATIONAL CRIMINAL TRIBUNAL  
FOR THE FORMER YUGOSLAVIA

CASE No. IT-95-5/18-T

IN TRIAL CHAMBER No. 3

Before: Judge O-Gon Kwon, Presiding  
Judge Howard Morrison  
Judge Melville Baird  
Judge Flavia Lattanzi, Reserve Judge

Registrar: Mr. John Hocking

Date: 6 September 2010

THE PROSECUTOR

v.

RADOVAN KARADZIC

*Public*

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MOTION FOR SUBPOENA TO INTERVIEW:  
MIROSLAV TUDJMAN

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The Office of the Prosecutor:

Mr. Alan Tieger

Ms. Hildegard Uertz-Retzlaff

The Accused:

Radovan Karadzic

1. Radovan Karadzic respectfully moves, pursuant to Rule 54, for the issuance of a subpoena to Miroslav Tudjman, former Director of the Croatian Intelligence Service (HIS), compelling him to submit to an interview by the defence of Radovan Karadzic.

### **Background**

2. Miroslav Tudjman, the son of former Croatian President Franjo Tudjman, served as Director of the Croatian Intelligence Service (HIS) from its creation in 1993 until 1998. The Croatian Intelligence Service directed and organized the work of all intelligence services in Croatia and worked with foreign intelligence services.<sup>1</sup> It would have had intimate knowledge of the arrangements for and the actual shipments of arms into Croatia for the Bosnian Muslims in 1994-95.

3. Reports of the United States intelligence agencies indicate that in late April 1994, United States Ambassador to Croatia Peter Galbraith, acting upon guidance approved by President Clinton, gave the “green light” to Croatian President Franjo Tudjman to import arms from Iran and transship those arms to the Bosnian Muslim Army in violation of the UN Arms Embargo.<sup>2</sup>

4. Thereafter, during the period May 1994 through September 1995, it is estimated that thousands of metric tons of infantry weapons and other arms were smuggled to the Bosnian Muslim Army from Iran and other Islamic countries through Croatia. Many of these arms ended up in the so-called “safe zones” of Srebrenica and Zepa, where they were used to attack and kill Serb civilians in neighboring villages. This precipitated President Karadzic’s March 1995 directive to the Bosnian Army to take action to address these armed attacks.

5. On 2 June 2009, Dr. Karadzic sent a letter to the government of Croatia requesting the production of documents related to those shipments and requesting to interview Miroslav Tudjman. On 22 July 2009, the Croatian government indicated it was not in possession of the requested documents and that “concerning your wish to organize

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<sup>1</sup> See Tudjman, *The First Five Years of the Croatian Intelligence Service 1993-98* attached as Annex “A”.

<sup>2</sup> See, for example, Report of the Select Committee of Intelligence of the United States Senate, *US Actions Regarding Iranian and Other Arms Transfers to the Bosnian Army 1994-1995* (November 1996); House Committee on International Relations, *Final Report of the Select Subcommittee to Investigate the United States Role in Iranian Arms Transfers to Croatia and Bosnia* (19 March 1997)

an interview with Mr. Miroslav Tudjman, the practice is that such interviews are organized by the defence teams and not by the Croatian government.”<sup>3</sup>

6. On 11 September 2009, Dr. Karadzic filed a *Motion for Binding Order: Government of Croatia* in which he requested documents concerning arms smuggling to the Bosnian Muslim Army. On 7 January 2010, at the request of the government of Croatia, he made his request more specific by requesting seven narrow categories of documents relating to the arms shipments.

7. On 9 August 2010, after an oral hearing and series of correspondence, the Croatian government indicated that it could not locate most of the documents requested by Dr. Karadzic.

8. Meanwhile, Dr. Karadzic was also unsuccessful in his efforts to arrange a voluntary interview with Miroslav Tudjman. He was informed in the autumn of 2009 by a mutual acquaintance that when informed of Dr. Karadzic’s request for an interview, Mr. Tudjman had indicated that he was occupied with the Croatian Presidential elections and would not be available for an interview until 2010. Thereafter, on 11 January 2010 and 29 June 2010, e-mails were sent to Mr. Tudjman requesting an interview.<sup>4</sup> No response was received.

9. On 24 August 2010, Dr. Karadzic wrote a letter to Mr. Tudjman requesting an interview.<sup>5</sup> When no response was received, Dr. Karadzic again asked the mutual acquaintance to contact Mr. Tudjman. On 3 September 2010, that mutual acquaintance reported that Mr. Tudjman was not willing to be interviewed voluntarily as “he was not involved in politics.”

### **Argument**

10. Rule 54 provides that:

At the request of either party or *proprio motu*, a Judge or a Trial Chamber may issue such orders, summonses, subpoenas, warrants and transfer orders as may be necessary for the purposes of an investigation or for the preparation or conduct of the trial.

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<sup>3</sup> A copy of this letter is attached as Annex “B”.

<sup>4</sup> Copies of these e-mails are attached as Annex “C”.

<sup>5</sup> A copy of this letter is attached as Annex “D”. It was sent both to Mr. Tudjman and served on the Croatian embassy.

11. The jurisprudence of the *ad hoc* Tribunals indicates that the proper method for obtaining the testimony of a person who was or is a government official is by subpoena, rather than an order to the State pursuant to Rule 54 *bis*.<sup>6</sup>

12. The jurisprudence of the *ad hoc* Tribunals also indicates that the Trial Chamber has the power to require a prospective witness to attend at a nominated place and time in order to be interviewed when the requesting party shows that (1) it has made reasonable attempts to obtain the voluntary cooperation of the witness; (2) the witness' information may materially assist its case; and (3) the witness' information may be necessary and appropriate for the conduct and fairness of the trial.<sup>7</sup>

13. When the defence is not fully aware of the nature and relevance of the testimony of a prospective witness, it is in the interests of justice to allow the Defence to meet with the witness and assess his testimony.<sup>8</sup>

14. In this case, as detailed above, Dr. Karadzic has made reasonable efforts to obtain the voluntary cooperation of Mr. Tudjman.

15. There are reasonable grounds to believe that Mr. Tudjman has information which can materially assist Dr. Karadzic's case. As Director of the Croatian Intelligence Service, Mr. Tudjman is particularly well placed to reveal what documents exist which

<sup>6</sup>*Prosecutor v Karadzic*, No. IT-95-5/18-T, *Decision on Motion for Subpoena for Douglas Lute and John Feeley* (8 July 2009) at para. 8

; *Prosecutor v Milosevic*, No. IT-02-54-T, *Decision on Assigned Counsel Application for Interview and Testimony of Tony Blair and Gerhard Schroeder* (9 December 2005) at para. 27; *Prosecutor v Bagosora et al*, No. ICTR-98-41-T, *Decision on Request for a Subpoena* (11 September 2006) at para. 4

<sup>7</sup> *Prosecutor v. Krstić*, IT-98-33-A, *Decision on Application for Subpoenas*, (1 July 2003) at para. 10; *Prosecutor v Halilovic*, No. IT-01-48-AR73, *Decision on the Issuance of Subpoenas* (21 June 2004) at para. 5; *Prosecutor v Karemera et al*, No. ICTR-98-44-T, *Decision on Nzirorera's Ex Parte Motion for Order for Interview of Defence Witnesses NZ1, NZ2, and NZ3* (12 July 2006) at para. 9; *Prosecutor v Karemera et al*, No. ICTR-98-44-T, *Decision on Joseph Nzirorera's Motions for Subpoena to Leon Mugesera and President Paul Kagame* (19 February 2008) at para. 4; *Prosecutor v Bizimungu et al*, No. ICTR-99-50-T, *Decision on Prosper Mugiraneza's Motion to Subpoena Witness RWU* (19 May 2008) at para. 4; *Prosecutor v Bagosora et al*, No. ICTR-98-41-T, *Decision on Request for a Subpoena* (11 September 2006) at para. 5; *Prosecutor v Karemera et al*, No. ICTR-98-44-T, *Decision on Joseph Nzirorera's Motions to Subpoena Witnesses G and AWD for Interview* (10 February 2009) at para. 4

<sup>8</sup> *Prosecutor v Nindliyiimana et al*, No. ICTR-2000-56-T, *Decision on Nzuwonemeye's Motion Requesting Cooperation from the Government of Belgium Pursuant to Article 28 of the Statute* (7 June 2006) at para. 8; *Prosecutor v Bagosora et al*, No. ICTR-98-44-T, *Decision on Request for Subpoena of Major General Yaache and Cooperation of the Government of Ghana* (23 June 2004); *Prosecutor v Nindliyiimana et al*, No. ICTR-00-56-T, *Decision on Nzuwonemeye's Motion Requesting the Cooperation of the Government of The Netherlands Pursuant to Article 28 of the Statute* (13 February 2006) at para. 8; *Prosecutor v Nindliyiimana et al*, No. ICTR-00-56-T, *Decision on Nzuwonemeye's Motion Requesting the Cooperation of the Government of Ghana Pursuant to Article 28 of the Statute* (13 February 2006) at para. 8; *Prosecutor v Nindliyiimana et al*, No. ICTR-00-56-T, *Decision on Nzuwonemeye's Motion Requesting the Cooperation of the Government of Togo Pursuant to Article 28 of the Statute* (13 February 2006) at para. 8;

reflect the agreement with Iran to ship arms to the Bosnian Muslims, the acquiescence of the United States and other United Nations Member States, the opening up of naval or air routes which had been blockaded, the use of humanitarian convoys to smuggle the arms into Bosnia, and the nature and amount of arms which were smuggled into Bosnia during 1994-95.

16. Mr. Tudjman's information can be used in two ways. First, to direct the Croatian government to the precise documents concerning these events, which it seemingly has been unable to locate. And, second, to serve as the basis of a written statement of Mr. Tudjman which can be used pursuant to Rule 92 *ter* or Rule 92 *bis* so that Dr. Karadzic can provide the Trial Chamber with evidence of these events during the trial.

17. The Trial Chamber has already found that documents relating to arms which found their way to Srebrenica were relevant to the general requirements of the charges of crimes against humanity as well as Dr. Karadzic's state of mind and thus to a live and important issue in the case.<sup>9</sup> The information sought from Dr. Tudjman directly relates to that issue.

18. The Trial Chamber has also found that the issue of UN personnel's involvement in arms smuggling bears relevance to Dr. Karadzic's case.<sup>10</sup> The information sought from Dr. Tudjman, particularly about the means in which arms were smuggled into Bosnia, directly relates to that issue.

19. Moreover, the information of Mr. Tudjman is likely to lead to evidence that arms were smuggled in humanitarian convoys throughout Bosnia. An important allegation against Dr. Karadzic is that he impeded the delivery of humanitarian assistance in Bosnia. Mr. Tudjman's evidence is likely to demonstrate that there was a good reason for the Bosnian Serb's concern over the contents of those convoys.

20. Dr. Karadzic notes that in the extensive correspondence and responses filed by the government of Croatia, it has never disputed the relevance of the material sought.

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<sup>9</sup> *Decision on Accused's Application for Binding Order Pursuant to Rule 54 bis (Federal Republic of Germany)*(19 May 2010) at para. 22

<sup>10</sup> <sup>10</sup> *Decision on Accused's Application for Binding Order Pursuant to Rule 54 bis (Federal Republic of Germany)*(19 May 2010) at para. 27

21. Therefore, Dr. Karadzic has demonstrated that the information from Mr. Tudjman may materially assist his case, and is necessary for a fair determination of the issues being tried.

**Procedural Matters**

22. A subpoena should designate the place and time for the person to appear for an interview. To minimize any inconvenience to Mr. Tudjman, Dr. Karadzic suggests that the interview be held at the ICTY's Liaison Office in Zagreb on Friday, 15 October 2010 at 2 pm. Dr. Karadzic will be represented by his Legal Advisor Peter Robinson.

23. Dr. Karadzic further suggests that the government of Croatia be requested to serve the subpoena on Mr. Tudjman. States are obligated, when requested by the Tribunal, to effect service of a subpoena, and to provide any assistance that may be requested by the Registry to facilitate the attendance of the witness.<sup>11</sup>

24. Dr. Karadzic requests that this motion be served upon the government of Croatia for its own information, and for further service on Mr. Tudjman, and that both the government of Croatia and Mr. Tudjman be invited to respond to the motion if they wish to do so.

Word count: 2012

Respectfully submitted,



Radovan Karadzic

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<sup>11</sup> *Prosecutor v Bagosora et al*, No. ICTR-98-41-T, *Decision on Prosecutor's Request for a Subpoena Regarding Witness BT* (25 August 2004) at para. 8; *Prosecutor v Bagosora et al*, No. ICTR-98-41-T, *Decision on Request for Subpoena for Witness BW* (24 June 2004)

ANNEX "A"

# The First Five Years of the Croatian Intelligence Service: 1993-1998

Notes toward an understanding of the position, role, tasks and activities of the Croatian Intelligence Service and the Intelligence Community during the first years of the inception and formation of the Republic of Croatia

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## ABSTRACT

After the first democratic, multiparty elections held in 1990, the process of building state institutions commenced within the framework of newly-sovereign Croatia. This article describes the development of the national security system: the history of the Croatian Intelligence Service and the Intelligence Community, and their origin, structure, tasks and activities. The first five years (1993-1998) of the national security system of the Republic of Croatia are presented in detail and evaluated. HIS was formed in 1993 as the central agency of the National Security Office (UNS). The main objectives were the liberation of Croatia's occupied territories and dealing with the regional crisis. HIS also cooperated with foreign intelligence agencies on intelligence assessments of the regional crisis and support of the international troops (UNPROFOR, UNCRO, IFOR, SFOR, etc). The author stresses the legal and ethical criteria upon which HIS and the Croatian intelligence community were established.

## Introductory remarks

There are many reasons to record the history of the Croatian Intelligence Service and Intelligence Community of the Republic of Croatia. This is the first such record and I believe that the theme will be a subject of research in the future. Satisfying the curiosity of the public regarding the activities of the intelligence service in order to dispel preconceptions and fears and rebut constant attacks in the media is one reason and contributing to the understanding, monitoring and support of the security apparatus is

another. My motives for this presentation is a little different but also less ambitious.

First, pointing out the spiritual and moral basis upon which the Intelligence Community apparatus of the Republic of Croatia was formulated or, second, commenting upon the amount or accuracy of intelligence products the intelligence communities provide to their governments does not in itself lead to the resolutions which governments recommend or the international community and key international factors impose. As a matter of fact, the Republic of Croatia was deeply involved in the resolution of the crises on the territory of Southeastern Europe since 1990; therefore, the Croatian Intelligence Community was a subject of and partner in the collection and exchange of not only data and intelligence, but intelligence assessments on the crises in the region as well as suggesting possible means for resolving the bloodiest European crises in the second half of the twentieth century. I am therefore convinced that the lack of intelligence was not responsible for the long and bloody conflict in the former Yugoslavia. Intelligence can often influence the form and direction of political, social and historical events, but not always. I am still surprised today that ambassadors of various countries still display a large degree of misunderstanding as to the reasons and causes for the dissolution not only of the multi-national states (late 1980s to early 1990s) USSR and Czechoslovakia, but also the former Yugoslavia. Considering their position and responsibilities, this lack of understanding is a very disturbing indicator.

The intelligence services devote much of their efforts addressing the needs of diplomatic and international political relations. Since the services are only responsible for the collection of data (and their analysis) but not for political policies, those who are acquainted with the facts should be horrified that the knowledge and intelligence data regarding actual events, individuals, and processes are being neglected, denied, or rejected due to reigning stereotypes and superficial media reports.

The first five years of the Croatian Intelligence Service coincided with the inception and formation of the (new) institutions of the Croatian state, the War of the Homeland, the liberation of occupied territories, and with intensive engagement in international relations (Washington and Dayton agreements), the presence of international forces (UN, NATO) in the Republic of Croatia (1992-1998), Bosnia and Herzegovina, Macedonia, and, ultimately, in Kosovo. During these five years, members of the Croatian Intelligence Community participated in large numbers in operations which undoubtedly contributed to all the major military and historical changes; therefore, their participation in these changes testifies to the successes of the intelligence community. In this period, the Republic of Croatia achieved its greatest goal:

international recognition, liberation of its territory and integration into the most important international organizations. The successes of the Republic of Croatia are obvious even if based only on the changes in the political map of Europe between 1990-1998.

Nonetheless, in the nature of intelligence work there are no significant changes. This review, as every personal record, has an additional selfish motive: to provide an understanding of the nature of intelligence and the results of intelligence activities. My academic interest has always been centered around the organization and exchange of knowledge. Intelligence reports are certainly one form of knowledge which requires acquaintance with, and prediction of, future events; that is, such reports serve as a basis for reaching decisions of national interest.

It is not my intention here to enter into a theoretical discussion of intelligence. But I must admit that I have often been reminded during these years of Francis Bacon's divisions of prejudice (false conceptions), which he calls idols and which he divides into *tribal idols*, *idols of the cave*, *idols of the marketplace*, and *idols of the theatre*. I have often witnessed how the intelligence service (and the entire intelligence community) has been subject to prejudices of the media as well as politicians - sometimes with justification (because of a lack of transparency) - but for the most part without justification (when there is a desire to reject its findings), since it is easier for politicians and the media to hide behind stereotypical ways of thinking (prejudice) than to be exposed to risk. The destruction of some stereotypes, such as: Yugoslavia is a wonderful country and a perfect example of multinational communities - can be very bloody, and can lead to negative repercussions for the protagonists and founders of newly formed states in the eyes of those who for whatever reason do not wish to change their idols. Knowledge and intelligence can enable an understanding of the former and current state of affairs; intelligence announces change and possible new developments. The prejudices are often a result of the unwillingness to change one's views, or to reconcile one's views with actual processes. Politicians often provide proof that it is not necessary to change one's views and positions, at least not as long as their mandate is in force. In this case, intelligence reports are ineffective; they serve only to irritate. Therefore, reality attempts to form itself around idols proposed in advance. Bosnia and Herzegovina is an example of such an experiment: the massive efforts of the international community introduce into Bosnia and Herzegovina (along with good intentions and good will) a resolution reached in essence by means of knowledge but without intelligence. Instead of allowing the three nations within Bosnia and Herzegovina to independently reach a resolution and agreement on their own future after peace is re-established, the international protectorate often imposes resolutions based upon

its lack of understanding and recognition of the facts, and thus is the cause of the Bosnia-Herzegovina crises and tragedy.

The history of the Croatian Intelligence Service is a part of the story of the struggle of the Croatian nation for independence, freedom and autonomy, a story of the creation of the Republic of Croatia and state institutions. HIS, in its all-encompassing efforts toward freedom and independence, was comprised of people - for the most part those who participated in the War of the Homeland - who were not professional soldiers, but volunteers, patriots, and fighters who were given two new tasks. First, to provide the political leadership (in cooperation with other members of intelligence community) with relevant intelligence for the liberation of occupied territories of the Republic of Croatia and the resolution of the regional crises provoked by the dissolution of the former Yugoslavia; second, in cooperation with their intelligence services, to acquaint the leading countries, that is, the international community, with the actual situation in Croatia and the entire region. In order to perform this task it was necessary to form the Croatian Intelligence Service (HIS) and the intelligence community.

## I EPILOGUE: NATIONAL SECURITY OFFICE AND INTELLIGENCE COMMUNITY OF THE REPUBLIC OF CROATIA

In October 1998, the work of the Intelligence Academy of the National Security Office began. I appeared before the first graduates of the Intelligence Academy in a new role: as lecturer, and not any longer as director of the Croatian intelligence Service<sup>2</sup>; new tasks required of me an account of all that transpired during the first five years of the existence of HIS and the Intelligence Community. The model of the Intelligence Community was simple to present: every action, every resolution had its justification and reason based upon the conditions in which it was created. A summary of this model is provided on the following pages<sup>3</sup>. The dry presentation of the facts eliminates, however, the intensiveness of the activities, most often during conditions of war, under which the intelligence system of the Republic of Croatia was created.

### National Security Office

The National Security Office was formed by decree of the Croatian President on March 21, 1993. The creation and development of the National Security Office and the Intelligence Community commenced with this act. The model for the Croatian Intelligence Community was based upon the experiences of the Western countries, especially the American intelligence communi-

ty, and the core of the system is comprised of two civil and two military services.

The National Security Office (UNS) is a supreme state body which brings into conformity, directs, and oversees the work of the bodies of state administration whose activities are connected to national security activities. The National Security Office, as appears in Article 2 on the Law on the National Security Office<sup>4</sup>:

*coordinates* the work of state ministries with the activities of national security;  
*directs and oversees* the work of the intelligence and counter-intelligence services;  
*dissects, connects and analyzes* intelligence data and reports necessary for the performance of the constitutional duties of the President of the Republic of Croatia and the Government of the Republic of Croatia;  
*provides* counter-intelligence protection and security for the President of the Republic, Croatian State Parliament, the Government of the Republic of Croatia and the buildings they utilize.

In order to perform the duties of the National Security Office as prescribed by law, the following services were founded:

*Croatian Intelligence Service*  
*Security Headquarters*  
*Control and Supervision Service*

In order to perform the professional and technical activities of the National Security Office, the following services were formed:

*Croatian National Sigint Service*  
*Intelligence Academy*

The Office is administered by a director<sup>5</sup> appointed and relieved of duties by the President of the Republic. The President of the Republic appoints - at the recommendation of the Director of the Office - the various directors of the individual services of the National Security Office. The Director of the National Security Office answers to the President of the Republic for the work of the National Security Office and the individual services of the National Security Office.

**The Joint National Security Committee (SONS)** was formed to direct and coordinate the work of the state ministries with the National Security Office on tasks relating to national security. The director of the National Security Office presides over meetings of SONS and the members of SONS are the deputy director of the National Security Office, the director of HIS and ministers of the state ministries.

The National Security Office prepares regular reports to the President of the Republic and the Government of Croatia on issues and activities of interest for national security. Supervision

over the legality of the work of the National Security Office is performed by the House of Representatives of the Croatian National Parliament through the Committee on Domestic Policy and National Security. The National Security Office provides a yearly report on its work to this Committee and, at the request of the Committee, special reports on individual issues of national security.

**The Croatian Intelligence Service** is the central service for the National Security Office and the only external intelligence service of the Republic of Croatia which:

*collects* intelligence data of national interest outside Croatia;

*dissects, combines, analyzes,* and makes available intelligence data and reports to the President of the Republic, the director of the National Security Office, Prime Minister of the Government as well as state and other ministries within the government of the Republic of Croatia;

*works* with foreign intelligence services;

*directs and organizes* the work of the intelligence services of the Republic of Croatia.

In addition to the aforementioned duties, the Croatian Intelligence Service performs other tasks in conformity with the law and other regulations.

The director administers the work of the Croatian Intelligence Service and is responsible for its work and performing tasks received from the President of the Republic, the director of the National Security Office and the Joint National Security Committee.

The director of the Croatian Intelligence Service calls and presides over the meetings of the Coordinating Committee of the Intelligence Community, organizes the work of the intelligence and security services, and presents and represents the Intelligence Community and the Croatian Intelligence Service in meetings with representatives of foreign intelligence services.

**The Control and Supervision Service** monitors the constitutionality and legality of the work of the intelligence services. It also follows, collects, and analyzes data on the work of the members of the intelligence services of the Republic of Croatia, as well as services and various sections of the National Security Office. Monitoring is effected through direct contact, investigation or as the result of a requested special supervision.

After the facts of a situation have been confirmed, the Control and Supervision Service delivers a report to the director of the National Security Office and the appropriate minister, which recommends ways for resolving problems or making

progress in the work of the individual services and the Intelligence Community in its entirety.

The Control and Supervision Service is administered by the director and composed of permanent members named by representatives of the various intelligence agencies of the Republic of Croatia.

**The UNS Security Headquarters** is not really a service, but a body which coordinates, supervises, and directs the work of the agencies that perform security tasks and protect individuals and edifices.

The Headquarters recommends goals, strategies, and protection plans for the highest state officials of the Republic of Croatia, presidents of foreign states, government, parliament, delegations and individuals whose visit to Croatia is of great significance.

It is also in charge of security and protection of the President of the Republic, Croatian National Parliament, Government of the Republic of Croatia and other protected persons, as well as objects they utilize.

The director of the UNS Security Headquarters presides over the Supreme Security Committee, whose members are: director of the Headquarters, deputy director of the Headquarters, assistant to the director of the Croatian Intelligence Service for counter-intelligence activities, the appropriate assistant to the Minister of Internal Affairs, the appropriate assistant to the Minister of Defense, the head adjutant of the President of the Republic, the commander of the First Honor Guard, and the director of state protocol.

**The Croatian National Sigint Service (NSEI)** is an expert agency of the National Security Office, which is functionally connected to the Central Sigint Services of the Directorate of Intelligence Affairs within the Croatian Army Headquarters (GS OS RH).

The NSEI coordinates, directs, and oversees electronic monitoring of all kinds of signals outside the borders of the Republic of Croatia as well as diversionary-terrorist communications and prohibited signals of an intelligence nature within the borders of the Republic of Croatia.

The NSEI director is responsible for the work of the service and performance of tasks received by the directors of UNS and SONS.

**The Intelligence Academy** is an educational and research institute of the National Security Office which provides training and education of the cadres in order to meet the needs of the Croatian Intelligence Community. The Intelligence Academy organizes basic and specialized schooling for members of the intelligence community; it also has its own publishing activities.

## Intelligence Community

The Croatian Intelligence Community is comprised of agencies who by special means and methods collect both within and without the country data of interest to national security. Goals and tasks of the Intelligence Community are determined by the Joint National Security Committee (SONS) and Intelligence Community Coordination Committee (KOOZ).

**The Intelligence Community** of the Republic of Croatia is responsible for obtaining data of significance for:

- national security, and especially for conducting foreign and defense policies and ensuring economic well-being in accordance with laws and regulations;
- opposing terrorism and organized crime;
- protection of the highest state officials, diplomatic representatives in the Republic of Croatia, Croatian representatives outside Croatia, as well as objects of state and national interest.

The Intelligence Community is responsible for providing assessments and intelligence to the President of the Republic of Croatia, the Prime Minister of the government, and ministers of state ministries in order to enable them to more effectively protect national security, that is, promote national interests.

### **The Joint National Security Committee (SONS).**

The task of SONS is to direct and organize the work of the state ministries in performing actions relating to national interests. SONS sets goals, and tasks and approves work plans of the intelligence community, and also determines policies and strategies relating to protection of the domestic and foreign officials. SONS also prescribes measures and activities relating to protection of national interests.

The director of the National Security Office presides over the sessions of SONS, and members of SONS are comprised of the deputy director of the National Security Office, the director of the Croatian Intelligence Service and ministers of state ministries. The national security and domestic policy advisers to the President of the Republic of Croatia also participate in the work of the Joint National Security Committee.

### **Coordinating Committee of the Intelligence Community.**

The coordinating committee of the Intelligence Community (KOOZ) is responsible for the implementation of tasks received from SONS. KOOZ coordinates the work of all agencies in the implementation of their appointed tasks.

The director of HIS presides over the sessions of KOOZ, whose members consist of the deputy director of HIS, the assistant minister of domestic policy (director of the Service for the

Protection of the Constitutional Order), the assistant minister of defense for security, the head of the Security Intelligence Service, the head of the Directorate of Intelligence Affairs within the Croatian Army Headquarters and the head of the Department of International Military Cooperation of the Ministry of Defense. The director of HIS can when necessary invite representatives of NSEI, the Intelligence Academy, financial police, administrators of the Croatian customs, criminal police and military police to sessions of KOOZ.

Per the Handbook on the Work of the Croatian Intelligence Community, the Coordinating Committee, among other things:

- prepares* yearly plans and work programs of the Intelligence Community;
- approves* and accepts joint operative actions;
- organizes* the work of the members of the Intelligence Community;
- performs* analyses and evaluations of the more important operative actions;
- brings* methods of the agencies' activities into conformity with regulations;
- monitors* the state of affairs in the various services and undertakes steps to make improvements;
- suggests* systems of training, procurement and preparation of members of the Intelligence Community in an operational-technical sense;
- resolves* conflicting interpretations in cases where jurisdiction of activities in various services overlap or are unclear, and other cases where conflicts exist.

### Members of the Intelligence Community

The core of the Intelligence Community is comprised of four agencies which perform intelligence work:

- Croatian Intelligence Service* (HIS)
- Service for the Protection of the Constitutional Order* of the Ministry of Internal Affairs of the Republic of Croatia (SZUP);
- Security Intelligence Service* of the Ministry of Defense of the Republic of Croatia (SIS);
- Directorate of Intelligence Affairs* within the Croatian Army Headquarters (ObU GSOSRH).

The Department of International Military Cooperation of the Ministry of Defense of the Republic of Croatia is a member of the Intelligence Community, but it is not an intelligence agency in the true sense of the word, as it collects data through diplomatic contacts and official cooperation with ministries of defense of other countries.

#### **Croatian Intelligence Service**

HIS is the main and supreme service of the National Security Office (UNS). HIS implements the goals and tasks received from UNS. As the central agency of the intelligence community, HIS brings into conformity and directs the work of the intelligence and security services in activities of interest for national security and leads or monitors the joint operations of the Intelligence Community. HIS collects, analyzes, and evaluates data which is obtained outside Croatia by direct operational work; within the territory of the Republic of Croatia, it is allowed to operate only in collaboration with other intelligence services.

HIS is authorized to work with foreign intelligence services.

HIS brings together, analyzes, and evaluates data it has obtained through direct operational activities or from other members of the intelligence community. The analytical work product is provided by HIS to the President of the Republic of Croatia, the Prime Minister of the Government of Croatia, and other appropriate parties.

#### **Service for the Protection of the Constitutional Order (SZUP)**

SZUP, in conformity with regulations on the Law on domestic activities<sup>9</sup>, performs tasks relating to the protection of the constitutional order, especially counter-intelligence tasks within the entire territory of the Republic of Croatia. SZUP prevents actions and intentions which violently endanger or destroy the constitutional order of the country. SZUP is also involved in issues of terrorism and organized crime within the territory of the Republic of Croatia.

#### **Security Intelligence Service (SIS)**

In conformity with the Law on defense<sup>7</sup>, SIS collects information involving counter-intelligence protection of the armed forces and the Ministry of Defense of the Republic of Croatia. SIS has no authority over civilian citizens of the Republic of Croatia except in cases of wartime operations when by order of the Minister of Defense the activities can be expanded to civilians in areas of military activity. SIS also performs counter-intelligence and security protection of military production regardless of the status of participants.

#### **The Directorate of Intelligence Affairs (GS OS RH)**

The Directorate of Intelligence Affairs collects intelligence data for use by the Croatian Army. The Directorate is not permitted, in the performance of these tasks, to create an agent network or implement operations outside the Republic of Croatia, except in times of war. Outside Croatia it may only exchange intelligence data through official channels with military bodies with whom the Republic of Croatia cooperates.

#### Department of International Military Cooperation

This service is responsible for procuring data which is obtained through official channels by military envoys of the Republic of Croatia outside Croatia from institutes by which they are accredited. Such reports are presented to the Minister of Defense and the Croatian Intelligence Service. This service may not act operationally either outside or within the Republic of Croatia.

#### Area of Activity of the Intelligence Community

The President of the Republic of Croatia provides direction for the work of UNS and the Intelligence Community of the Republic of Croatia. The director of UNS and state ministers determine the tasks of the services for which they are responsible. Every service prepares its yearly work plan according to the directions and tasks they have received. The yearly work plan of the Intelligence Community is prepared by KOOZ and consists of projects and operative actions in which two or more services must participate. The Joint National Security Committee approves the yearly work plan of the Intelligence Community and monitors its implementation.

Between 1993-1998, the tasks of the Intelligence Community included the following areas of national interest:

- protection of the sovereignty and territorial integrity of the Republic of Croatia (liberation of the occupied territories of the Republic of Croatia);
- problems of regional security (resolution of the crises in Bosnia-Herzegovina);
- international terrorism and organized crime;
- counter-intelligence protection.

From the beginning, the focus of the intelligence work of the Intelligence Community was the territorial integrity of the Republic of Croatia and regional stability, and two thirds of the operations and projects, i.e., the capacity of the services, was devoted to these goals. Only one third of the capacity was directed toward international terrorism, organized crime and counter-intelligence protection<sup>8</sup>.

#### Form of reports

HIS's information was utilized for the most part by the President of the Republic, Prime Minister of the government and ministers of certain ministries. All reports sent to the above are sent also to the head of the National Security Office.

HIS sends to its users the following type of information: analytical articles (basic type of analytic work product), analytical studies (long-term character), and daily intelligence (selection of

current information of short-term character). As needed, HIS also sends its users certain information from other members of the Intelligence Community.

#### **Cooperation with foreign services**

Cooperation with foreign services is determined in the yearly plan, on the basis of agreements on cooperation with partner services. As the service which is authorized to work with foreign partners, HIS implements the majority of the cooperation programs with foreign partners. Other members of the Intelligence Community of the Republic of Croatia may work with related foreign services, but only with the knowledge and permission of HIS, that is, the Coordinating Committee of the Intelligence Community.

Cooperation with foreign services develops on the basis of exchange of information, technical, educational and, finally, joint operations as the epitome of cooperation between two partner services. HIS's basic area of cooperation with foreign services consists of problems of regional stability, international terrorism and organized crime.

#### **Monitoring UNS and the Croatian Intelligence Community**

Monitoring of the work of UNS is performed by the President of the Republic. Monitoring the legality of the work of UNS is the responsibility of the House of Representatives of the Croatian National Parliament through its Committee on Internal Affairs and National Security. UNS provides the Committee with yearly reports on its work and also, at the request of the Committee, special reports on individual activities within its jurisdiction.

Regular and special monitoring of the services of the Intelligence Community is performed by the UNS Control and Supervision Service.

#### **Difficulties with the Model**

One of the primary reasons for the formation of UNS and the Intelligence Community of the Republic of Croatia was the political necessity of coordinated and consistent reporting to the political leadership; until 1993, it was the case that the primary users were receiving conflicting reports on the same issues or even similar evaluations, but during different time periods, which provoked confusion.

Several years of intensive effort were needed to create trust between the services, services which by their very nature are distrustful. After some years, the Intelligence Community was functioning in conditions of full trust between the most senior individuals but also on lower levels. There were two critical reasons for such a development of events: first, there was too much work, too

few people and too little equipment for just one service to perform the work alone; and second, in conditions of war in the country and the critical regional situation, no single service wished to assume the risk and responsibility for eventual failures or miscalculations. The destruction and death were too great, and only by joint efforts could the danger be removed. The service chiefs and operatives realized and accepted this after several joint operations and successful actions such as *Epilogue*, or joint operations of security of international troops in the Republic of Croatia and in Bosnia-Herzegovina, operations in which literally all of the intelligence and security services of the Republic of Croatia participated.

Problems and misunderstandings occurred not in the Intelligence Community of the Republic of Croatia, but in the media representations of the Intelligence Community during the pre-election campaign rhetoric in 1997 and 1999. It was alleged that in the Republic of Croatia, there were nine or even eleven intelligence agencies<sup>9</sup>, and that there was complete confusion in relations between VONS, SONS and KOOZ<sup>10</sup>.

I am convinced that the prescribed model established balance between the politicians which determined tasks, and the goals, and the Intelligence Community, which implemented those tasks professionally and autonomously according to the law and rules of the trade<sup>11</sup>. In order for the Intelligence Community to have really been able to function as a group of synchronized agencies, it was necessary for all its integral parts to be able to operate successfully as individual units and to coordinate work relating to national security.

The most important coordinating body is the Joint National Security Committee (SONS), presided over by the director of UNS. Members meet as deemed necessary<sup>12</sup> to analyze the security situation and to determine priorities of action for the Intelligence Community in the protection of national interests.

The Intelligence Community Coordination Committee (KOOZ) is comprised of all major figures of all intelligence and, as needed, security services in the Republic of Croatia. KOOZ transforms the strategic dimension, as defined by SONS, into operational tasks. KOOZ is also concerned with the precise division of work between the four intelligence services which exist in the Republic of Croatia: two civilian (SZUP and HIS), and two military (VOS and SIS)<sup>13</sup>.

The President of the Republic, director of UNS, and state ministers determined the goals but were not involved in operations. The director of HIS and heads of the services (who were, in essence, assistant ministers) were involved in operations but not in setting goals for the service. In this manner, politicization of the intelligence system was avoided; in other words, any manipulation

based upon eventual political interests was made impossible. Because of the two-tiered system of responsibility (subordination and coordination - service chiefs were primarily responsible to their minister, but also to the director of HIS<sup>14</sup> for joint operations), the system was transparent for all participants, as there was no possibility of arbitrariness either in the selection of tasks or their implementation. Nor was it possible to abandon responsibilities which had been assigned. A series of legal acts and regulations determined the relations between the members of the Intelligence Community, that is, between UNS and HIS. Legal regulations which determine intelligence activities grow from year to year, and with this, pressure on operatives to strictly follow prescribed procedures. Parallel to this, the efficiency of the intelligence services has also grown and created a "surplus" of information which has been difficult to disseminate to a wide circle of users because, unfortunately, other potential users (in the government and Parliament) were not (and still are not today) sufficiently responsible concerning the sensitivity and protection of the classified documents and data.

## II PROLOGUE: AMATEURS AND PROFESSIONALS

In the fall of 1993 in Washington I met for the first time with CIA Director James Woolsey. Although HIS had just been constituted, meetings with foreign agencies were intensive from the very beginning, as everyone was seeking firsthand contacts and information. The American system, magnitude, potential and needs were impressive. This created an even larger imbalance between foreign agencies and HIS, which consisted of a small number of enthusiasts and amateurs. We did not hide the fact that we were brand new in the field, amateurs who wished to learn the trade. It was because of this imbalance that I was surprised by the words with which Woolsey greeted me: "I hear that you've discovered the best kept secret in Washington - that we have no policy towards the former Yugoslavia." During a later visit, when I told the NSA director that the intelligence for a regional stability solution is not to be sought in Bosnia-Herzegovina, but in Washington, which in the meantime had assumed the leading role in the region, I received the following answer: "If something is a secret, we can discover it, but not if it's a mystery."

Soon we established very good relations with most intelligence agencies. I believe we achieved this due to our honesty, directness and dedication. In our relations with foreign agencies, we never falsified facts or idealized the reality (at least not intentionally). We took foreign operational officers and analysts on site, to the frontlines and into the battlefields, enabling them to get an insight into the actual situation and allowing them to reach their

own conclusions. Our naivete spoke against us, but our openness, collected intelligence and results were to our advantage<sup>15</sup>. On several occasions I heard the same reaction from representatives of different foreign agencies. They were saying for the first time that they were dealing with real people, people who communicate directly and who actually do what they promise.

The relationship with foreign agencies was a two-way street of mutual recognition and establishment of trust. We established good relations with all those who wished to learn about the actual state of affairs in Croatia, as well as in the region. In the early nineties, not all countries or their governments were familiar with the causes of the crises or the actual state of affairs in the former Yugoslavia. After several years of intensive cooperation, with all of the world agencies operating in this relatively small area, lack of intelligence could not be a reason or excuse for the fact that the crises in Southeast Europe was still continuing. Croatia emerged from the crises owing to its own political and diplomatic efforts and military operations. However, one hundred thousand soldiers, members of international forces, are still deployed in Bosnia-Herzegovina, Kosovo, Macedonia and Albania, and it is not certain that their mission will end in the near future.

How and why did HIS (i.e. the Croatian Intelligence Community together with HIS) in such a short time become an equal interlocutor and later on, an equal partner, to agencies with a very long history? Why are there no crucial differences in the assessment of the situation in the region? Why are existing differences being exaggerated at the diplomatic table?

Let us repeat once again: HIS was formed in 1993 as a central agency of the National Security Office (UNS). The UNS was not a legal successor of any institution<sup>16</sup>. This means that HIS did not inherit or take over anyone else's personnel or archives. The employment policy was not to hire people who had worked for the former agencies of the communist system. What was common to most people who started working at HIS was their participation in the Homeland War<sup>17</sup>. As this was only one of the criteria in the very strict recruitment selection, the chief asset of HIS was, from the very beginning, young, capable and modest people, who initially did not have any intelligence experience, but were aware of the on site circumstances and possessed the ability to assess and evaluate both people and events.

What we were all familiar with, regardless of our participation in the Homeland War, were the relations within former Yugoslavia, the main causes and actors in the crises, as well as the views of the formal and informal leaders and their standing on the political scene. All this was beyond the understanding of the foreigners, as their point of departure was a thesis and an image in which they wanted to believe, for one reason or another; namely, that

former Yugoslavia was "a very nice country." All those who lived in it, but were not part of the communist establishment, knew how far that picture departed from the reality.

Where then lay the advantage of the amateurs over the professionals? Did the advantage really exist or are we only imagining it?

I believe that the advantage did exist and that it was due to the fact that we were part of the reality, that we were familiar with the reality and knew what values we advocated and fought for. For us there were no multiple solutions – solutions, theory and logic could devise and the illogical ones diplomacy proposed of. We knew exactly what the other sides in the conflict wanted. We wished the events to take only one direction in order to make a break from the past: the unitarian Yugoslav state and its communist regime. We knew the past very well and also knew what we did not want. We probably idealized our goals, but not the past. Because of that, our road to the future was very clear, although not easy.

Our advantage lay in the belief that each intelligence assessment depended on a correct diagnosis of the situation. The theory that the prognosis is conditioned by the diagnosis can be explained by the following model<sup>1a</sup>.

The essential thesis is a simple one:

Peace and stability in the region - i.e. some new, desirable reality - cannot be achieved by means, goals and models which depart from real diagnosis of the crises. In other words, the means, goals and models shall only be realized to the extent that the initial premises (i.e. the set of information upon which the diagnosis of the present condition is based) actually coincide with the factual state of the crises.

Viewed from the methodological standpoint this attitude is plausible. If we are to accept the thesis just presented, then we must be prepared to face the consequences thereof:

*The goals and means for the resolution of a problem necessarily derive from the description of that problem (facts and information by which a problem is described are the basic argument for the achievement of the desired objective);*

*There is no substantial difference between diagnosis and prognosis: the estimate of an existing condition and that of a desired condition are united by a common system of values which must be consistent, so that - as a result - both the evaluation of the crises and the model for the crises resolution are eventually consistent;*

We only see what we want to see. We accept only information which we can understand. *We understand only that which corresponds to our system of values; we propagate only those objectives, which correspond, to our Weltanschauung.* In

other words, the multitude of information and the ever-increasing quantity of data (relating to the crises) do not have a cumulative impact. New quants of information do not increase our knowledge; rather, they increase the discrepancies between the opposing sides. The parties involved, having different points of view and departing from different systems of values, inevitably attribute a different meaning to the same set of information and data. Whenever there is a contradiction of interests among the various parties involved, their communication - in the course of time - progressively becomes ever more divergent and eventually results in an ever lower level of understanding.

I am deeply convinced that these postulates are valid for all participants in the crises: for those advocating global and local solutions, for the developed and underdeveloped, great and small, powerful and weak, civilized and those who are not. These are simply the postulates of the organization and the exchange of knowledge which govern the behavior of social groups and political communities.

### III CONTROVERSIES, REALITIES AND PREJUDICE

#### ..... controversies

What was the reality and what were the objects of interest and activities of such a large number of intelligence agencies? What were the points of discussion and cooperation between HIS and the Croatian Intelligence Community on the one side, and foreign intelligence agencies on the other?

Although it may seem superfluous, it is necessary to outline the basic contours of the events that were taking place in former Yugoslavia. These events still remain the cause of the unresolved crises in the Southeast of Europe<sup>19</sup>.

A year and a half after the first freely held multi-party elections in 1990, Yugoslavia disintegrated. The process of decay was accelerated at the moment when all of the contradictions were exposed and the reality of Yugoslavia had become an illusion and a deception. The newly created countries celebrated their independence and emancipation, and the world pragmatically accepted the new realities as a fact, though - more often than not - it never actually understood the real reasons and causes of the dissolution of Yugoslavia.

Yugoslavia was a country laden with contradictions<sup>20</sup>. These contradictions are critical for the understanding of the past, the present, and the future of the relations between the nations and countries now created in the area of the former Yugoslavia. These contradictions are the determining factors of the fears and desires,

as well as the motivations and objectives, of the newly created subjects on the historical and political scene.

The co-existence of that time in the former Yugoslav state was equally cruel, as was the disintegration of the Yugoslav federation itself. Those who do not understand that, or do not take that into account, can never understand the situation in former Yugoslavia and will hardly be able to articulate paths and ways for finding a solution for the crises in Bosnia-Herzegovina (BH) and Kosovo today, and perhaps in the near future in Macedonia.

An obvious example of unresolved contradictions is the crises in Bosnia-Herzegovina. To the old contradictions should be added the new ones, provoked by the war and imposed by present/past solutions for multi-ethnic states.

The American idea of a nation advocates a multi-ethnic state, in harmony with the American experience, i.e. a nation as a single state having several ethnic communities. The European experience, however, is different. Europe is aware of and familiar with a state as a multi-national country and this view is also present in Bosnia-Herzegovina (BH): none of the three nations in BH is willing to give up its nationality.

The diverging American and European ideas of a nation come from two different historical experiences, two different interpretations of reality and, finally, two different visions of the future. The European models for the resolution of the Bosnian crises followed the European experiences - mostly Swiss and Belgian<sup>21</sup>.

#### ..... Realities and Prejudices

A number of democratic changes took place in Croatia in early 1990:

A multiparty political system was legalized and free elections were held;

The newly constituted Parliament met on May 30;

And in December of the same year, a new Croatian constitution, and constitutional laws regarding human rights and liberties and the rights of ethnic and national communities and minorities within the Republic of Croatia, came into being.

Aware that this process of democratization would call into question his plans for a Greater Serbia, Milošević offered his support to the extremist wing of the Serbian minority within Croatia, who were threatening armed revolts and terrorizing those around them who held a different opinion. This was occurring with the logistical, political, and propaganda support of both Serbia and the Yugoslav National Army (JNA). Military preparations for the realization of the project of Greater Serbia started in 1985 with the restructuring of military districts in former Yugoslavia in such a way that they covered the area of Greater Serbia<sup>22</sup>.

On May 19, 1991, a referendum was held in Croatia. Ninety four percent of voters voted for Croatian independence. Based on the results of the referendum, the Croatian Parliament adopted a constitutional declaration on the sovereignty and independence of Croatia on May 25, 1991.

#### The War in Croatia and the Reaction of the International Community

In July of 1991, after attempting a military intervention in Slovenia, the JNA carried out a brutally aggressive attack on Croatia, occupying about 25 percent of its territory. The JNA was controlled by the Serbs and, in the latter years of the war, was in effect reorganized into three different Serbian armies: the Yugoslav Army (JA), the Serbian Krajina Army and the Republika Srpska Army. The attack on Croatia, combined with the JNA's later activities in Bosnia-Herzegovina in cooperation with other Serbian paramilitary units, provoked an extended security crises in the region.

The aggression against Croatia carried out by the JNA came at an unfavorable time with respect to the international community, as it occurred immediately after the Persian Gulf War, and in the shadow of the crises which shook the USSR, and led to its collapse. Today we know that only a military engagement in favor of the victims of Serbian aggression could have been effective; however, nobody in the international community really considered this a serious option. All of the world's key actors were in support of preserving Yugoslavia. It is enough to remember the attempts made to preserve Yugoslavia with Ante Marković, and later with Milan Panić.

The international community's response regarding the aggression of the then JNA against Slovenia and Croatia showed that it was taken by surprise by the ongoing events, and that it could not activate the necessary security mechanisms to put an end to the aggression.

After both Croatia and Slovenia postponed their declarations of independence for three months, upon the insistence of the European Community, the UN provided the Serbian army an opening to pacify Croatia in September of 1991 by imposing an embargo<sup>23</sup> on the import of arms upon the entire territory of the former Yugoslavia. This occurred under conditions of incredible military odds favoring the Serbian army over the poorly armed Croatian police and National Guard Corps units.

However, the international political players eventually had to face the fact that they had been trying to avoid: Yugoslavia, as a

nation-state, was untenable. The only argument remaining for the regime in Belgrade was one of brute military force. Croatia, on the other hand, had free elections, a new and democratic constitution, and a referendum which confirmed its desire for freedom and independence to support its decision. Croatia expressed its determination in choosing and protecting its independence at all costs.

Serbia, however, did utilise its chance to realize its military goals. It could no longer hide from the international community the destruction and criminal activity for which it was responsible in Croatia. Croatia's military resistance and international public opinion, appalled by the extent of Serbian aggression at the end of 1991, led to the first meaningful actions taken by the international community: the Badinter Commission<sup>24</sup> confirmed the collapse of Yugoslavia as an international entity. Croatia was then recognized as a sovereign and independent state, first by the nation-states of Europe, and then by the rest of the international community. The United Nations, in cooperation with the Vance Plan, decided to send international forces to Croatia to carry out the plan<sup>25</sup>.

What did Croatia obtain with international recognition? On the one hand, it received political satisfaction, and on the other, it was able to incorporate the international community's mechanisms of operation for itself - UNPROFOR, and later UNCRO. Unfortunately, these mechanisms did not prove very effective. The political will needed to substantiate the signed agreements was absent and this resulted in a blockade that lasted from 1991 to August 1995. Consequently, Croatia may have been recognized as an independent state<sup>26</sup> in 1991/1992, but it was forced to allow UNPROFOR and UNCRO into Croatia with all of their restrictions, limitations and prohibitions in the UNPA zones.

#### The War in Bosnia-Herzegovina

Milošević's war machine, which was brought to a halt in Croatia only after it had temporarily occupied one fourth of its territory, soon turned its efforts toward Bosnia-Herzegovina. Its goal was comparable to that in Croatia, to destroy the country, reshape the ethnic picture within that territory and create a Greater Serbia.

With respect to both the level of brutality and the magnitude and intensity of the destruction, this episode of Serbian aggression; committed against both Croatia and Bosnia-Herzegovina, has been the bloodiest in European history since World War II. Because of these particular details, BH became a serious problem for the new European and world orders. It combined the interests of three national groups with divergent political interests: these were nations which belonged to different religious and cultural cir-

cles, something which has presented a deeply rooted historical problem in this region. This fact, along with the possibility that the conflict would spread to the neighboring countries of this region, prompted the international community to reconsider the political, military and security mechanisms in its concept of the new world order which had just begun to take shape.

Minimal consensus existed among the international actors only on one point: containing the conflict to the given territory and preventing it from spreading to the rest of the region. The questions of a political solution and territorial boundaries remained unanswered because these key international actors had such divergent interests that an agreement was impossible, an agreement which would eventually lead to the conclusion of the armed conflict in Bosnia-Herzegovina.

Diplomatic efforts of the international community were evident but unsuccessful. A "Cutileiro Plan" was conceptualized prior to the escalation of the war in BH. However, no attempt was made to implement this plan. It was followed by the Vance-Owen Plan in April 1993, the Owen-Stoltenberg Plan in September 1993, and the Contact Group Plan in June 1994. All the proposed plans were de facto failures as a result of the Serbs' repeated refusal to cooperate. With the international community lacking authority and the UNPROFOR forces lacking efficacy on the ground, a solution could not be formed. Consequently, this meant that the war in BH would continue. However, the search for a settlement opened up a whole new set of developments within Croatia.

In spite of different interpretations, Croatian policy towards Bosnia was clear and transparent from the very beginning. It rested on two basic principles, constitutiveness and territoriality for each of the three peoples in Bosnia-Herzegovina. Constitutiveness and equality of all three peoples – Croats, Serbs and Bosniacs – is of crucial importance for the Croats, who are smallest in number. Territoriality, regardless of how it is described – provinces, cantons, union of three republics – is a precondition for a nation's continuance, and for the Bosnian Croats, it is a guarantee that they will not be repeatedly outvoted at the local level. It is because of this that Bosnian Croats voted for an independent Bosnia-Herzegovina at the referendum<sup>27</sup>. The Republic of Croatia was the first<sup>28</sup> to recognize Bosnia-Herzegovina as an independent state and the only one to sign all the proposed plans for the resolution of the Bosnian crises, because all of them more or less respected the principles of constitutiveness and territoriality.

#### The Liberation of Croatia's Occupied Territories: Operations Flash, Summer 1995 and Storm

During the summer of 1995, after a lengthy negotiation process with the assistance and mediation of the international

community, Croatia was finally forced to face the fact that prospects for a peaceful return of the occupied areas were not viable in the near future. In order to protect its own national interests, the Croatian Government decided to liberate the occupied territories by military means. Due to the geographic nature and circumstances in which Croatia found itself, the occupied territories presented a lasting problem for the normal development and functioning of the country.

The situation in Croatia was made more difficult by circumstances in BH, especially by the critical state of affairs in the Bihać region. Bihać, a UN "safe haven" in name only, had already found itself in dire straits a number of times because of continual siege by Serbian forces, which included rebel units from Croatia's Knin area. If Bihać had fallen, Croatia would have been faced with a huge new wave of refugees. To make matters worse, the necessary conditions would have been set for the Serbian quasi-states in Croatia and Republika Srpska in neighboring Bosnia-Herzegovina to unite into one contiguous whole. In May 1995, the Croatian Army launched the military operation "Flash" and freed Western Slavonia. In coordination with the Bosnian Croatian army (HVO) and the Bosniac army (ABiH), and on the basis of an agreement signed in Split<sup>29</sup> outlining future military co-operation between Croatia and Bosnia-Herzegovina, Operation "Summer 1995" was undertaken, freeing up the area bordering the Knin region on the Bosnian side. Some time later, at the beginning of August of the same year<sup>30</sup>, a much more elaborate operation, "Storm", took place. This operation liberated most of the remaining temporarily occupied territories in Croatia. The liberation of these areas created the conditions necessary for the active inclusion of the international community into the process of conflict resolution in the region. However, after the well known Republika Srpska army's occupation of the Srebrenica and Žepa<sup>31</sup> "safe-havens" took place, the credibility of both the international community and the UN mission was destroyed.

After a lengthy but unsuccessful negotiation process, the actions of the Croatian Army allowed the international community to integrate itself actively and effectively into the crises resolution process in the region. With a great deal of American diplomatic engagement, as well as NATO strength, the peace process was reinvigorated and the necessary results were achieved for peace and security to be established in the area.

Signed only after a great deal of painful compromise, the Dayton Peace Agreement<sup>32</sup> marked the beginning of the normalization of relations between the republics of the former Yugoslavia, and an end to the aggression, war, devastating destruction and human suffering in BH. Even though the peace agreements deal mostly with Bosnia, it is worthwhile to note that the Croatian con-

tribution was important. This was not only because it had changed the strategic situation on the ground by the successes of Operation "Storm", but because it had thwarted the Serb siege of Bihac, which had lasted 1000 days. It was also because of the key role played by the Croatian delegates in Dayton, even rescuing the peace process on more than one occasion.

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All these events and assessments of possible developments were and still are a topic of discussion between HIS and foreign intelligence agencies. Differences in Croatian and foreign intelligence assessments of the regional crises are not significant, particularly before the liberation of occupied territories in Croatia and the establishment of peace in Bosnia-Herzegovina<sup>33</sup>. Assessment differences became larger only after this period, when foreign agencies lost interest in domestic political developments of particular countries and when this interest shifted to non-governmental and "non-governmental" organizations and the diplomacy.

The differences increased first, in the evaluation and assessment of the interior political situation, due to ignorance about the history and the past that determined the present circumstances and second, because of the fundamental difference in the conception of human rights in American and European politics as a basic instrument for the solution of the crises.

Let us clarify the first thesis. The dream of a multi-ethnic and multi-cultural Bosnia-Herzegovina is not in conflict with the vision of the future of Bosnia-Herzegovina, but rather with experiences of the past: BH - as a multi-national and multi-cultural community - had been called, for years, "a small Yugoslavia". That is why the "Americanization of the Balkans" is in contradiction with both the history of BH and the history of (former) Yugoslavia, which makes the applicability of this concept to its future very questionable. Let us say once again: there is no contradiction in intentions; it is the vision which contradicts BH history.

Let us clarify the second thesis. American policy<sup>34</sup> was guided by the human rights principle; however, American policy only acknowledges individual human rights and treats them as if they were universal human rights. Individual human rights form the basic principle upon which rests the American globalization policy. Unlike the American approach, Europe acknowledges both individual and collective human rights: the right to culture, religion, language, nation, etc. The Serb-Albanian conflict in Kosovo is essentially about collective, not individual human rights. It is because of their failure to recognize this difference that the NATO troops in Kosovo misdirected the goal of their mission, and KFOR is left with no prospects for ending its mission anytime in the near future.

#### IV – SAPERE AUDE<sup>35</sup>

During the first five years of their existence, the Croatian Intelligence Service (HIS) and the Croatian intelligence community contributed significantly to the liberation of occupied Croatian territories. HIS participated in intelligence assessment processes and its members personally took part in all military operations until 1995, not just as operatives and analysts, but also as members of military units. This was only possible in a unique period when patriotism made such solutions possible. That unique period is now behind us. Only those who have been at war, who have felt the bitterness of defeat and the glory of victory, can begin to understand the relations of trust, courage and dedication established among people who began a job together and persevered until they reached their goal.

For a number of years, people were directly exposed to the dangers of war. It was mere luck that none of the HIS members were killed in military operations and operations in the battlefield. It was partially owing to the efforts of the intelligence community that the last occupied part of Croatian territory – so called East Sector – was peacefully reintegrated with the rest of the country from 1995 to 1998.

During the entire time, HIS and the Croatian Intelligence Community also cooperated with foreign intelligence agencies on issues of regional stability. They also provided support for the security of international troops (UNPROFOR, UNCRO, IFOR, SFOR, etc) in Croatia and in Bosnia-Herzegovina. Each year all Croatian intelligence and security services were praised and thanked for their efforts and assistance by commanders of NATO and the international forces<sup>36</sup>.

During its first five years, HIS dedicated two thirds of its actions and capacities to the tasks of the liberation of occupied territories and regional stability. About one third of assignments pertained to the antiterrorist program and organized crime. In war and postwar circumstances, this part of the program was partly related to the first group of tasks.

In a short time, HIS established cooperation with a large number of foreign agencies<sup>37</sup>. These established partnership relations were and still are a contribution to the stability of the whole region. It is owing to these relations that particular countries, their services and governments, were able to recognize the realities in Southeast Europe in a better and more precise way, which means that the services cooperating with HIS had at their disposal intelligence and facts about the reality in the crises area. As has been said before, there is no prognosis without an accurate diagnosis

of the situation. However, responsibility for the use of intelligence rests with the politicians. In spite of the availability of intelligence, one should not overestimate the power and role of intelligence agencies on any side, since their findings are just one of the sources that are ultimately determined by the worldviews, goals and possibilities of those who make the decisions.

In a speech<sup>36</sup> delivered on the occasion of the adoption of the National Security Office (UNS) Act in May 1995, I indicated a goal to which we all subscribed and to which we dedicated our efforts: *"To form an intelligence community with UNS as a central institution and HIS as an elite agency. The goal is to ensure strategic information for long-term strategic decisions by the leadership (the President of the Republic and the Government). To guide the activities in such a way that it is publicly known that we are creating, and that we are, an intelligence elite, both professionally and ethically. No action, operation or behavior of our members should be unethical. We desire respect not only from the Croatian political scene, but also from the international intelligence community. We must strive to be better than any services in the former socialist countries, and more efficient than most West European agencies.*

*Our objective is to be a small, but highly professional and ethical agency. Our every member must be above average. The nature of our work is intellectual; we work using our minds or engaging others to acquire knowledge of a superior kind.*

*To be an elite, intelligence elite is to be above any average. Therefore an easy goal is not our goal. Only that which is high enough and important enough for strategic decisions and assessments..."*

From the very beginning, the Croatian Intelligence Service was asked to aim for the highest goals: freedom and independence for Croatia, peace and stability in the region. In return, members of the Croatian Intelligence Service received the best that their country had to offer: a chance, opportunity and role in the historical changes. There are no words that can describe the feeling of belonging and participating in the struggle for the rights of the Croatian people and enabling all the citizens of Croatia to be able to choose and form their own faith and future.

## NOTES

1 Today we could present Bacon's divisions in another way: cultural bias, personal bias, media bias (prejudice of public opinion), group bias (prejudice based upon interest).

2 I was the director of HIS and the deputy director of UNS from 1993 to May 1998. I resigned at my own request. I was however appointed president of the Educational Council of the Intelligence Academy in October, 1998.

3 This report was written on the basis of reports and summaries prepared for lectures

at the Intelligence Academy. Some formulations are taken from the brochure "UNS and the Intelligence Community of the Republic of Croatia", an internal publication of UNS from January, 2000.

4 Law on the National Security Office (NN 37/95).

5 The following acted as directors of the National Security office between 1993-1998:

- Hrvoje Šarinić (3.4.1993 - 12.10.1994)
- Krunoslav Olujić (12.10.1994 - 18.5.1995)
- Miroslav Tuđman – served as acting director (14.6.1995 - 1.2.1996)
- Luka Bebić (1.2.1996 - 15.12.1996)
- Ivan Jarnjak (16.12.1996 - January 2000)

6 Law on Domestic Policy (NN 29/91, 19/92, 33/92, 76/94)

7 Law on Defense (NN74/93)

8 Per the Proposed Work Plan for 2000, the main tasks should include:

- Croatian national interests and regional stability;
- protection of sovereignty and integrity;
- international terrorism and organized crime;
- counter-intelligence protection of classified data in the state government bodies;
- protection of economic interests.

It is obvious from this that during the years, changes have taken place regarding the main foci of the Intelligence Community, according to political and security developments.

9 The weekly magazine "Globus" (No. 468) published an article entitled "Nine intelligence and counter-intelligence agencies are active in the Republic of Croatia", to which the Secretariat of UNS responded in a statement of December 8, 1999.

10 VONS - Defense and National Security Council, which is appointed per the Constitution by the President of the Republic of Croatia.

11 The work of the intelligence and security services of the Republic of Croatia is regulated by a series of laws. The most important are:

- Constitution of the Republic of Croatia (NN 8/98)
- Law on the system of state administration (NN 75/93)
- Law on state officials and deputies and on salaries of legal officials (NN 74/94, 86/94, 7/95)
- Law on the National Security Office (NN 37/95)
- Law on Domestic Policy (NN29/91, 73/91, 19/92, 33/92, 76/94)
- Law on foreign policy (NN 48/96)
- Law on Defense (NN 74/93)
- Law on changes and additions to the Law on Defense (NN 57/96)
- Law on service in the armed forces of the Republic of Croatia (NN 23/95, 33/95)
- Law on financial police (NN 89/92, 16/93)
- Law on changes and additions to the Law on financial police (NN 94/93)
- Law on additions to the Law on financial police (NN 28/94)
- Law on customs agency of the Republic of Croatia (NN 53/91, 57/91)
- Law on changes and additions to the Law on customs agency (NN 106/93)
- Law on protection of classified data (NN 108/96)
- Law on negotiating and implementing international agreements (NN28/96)
- Law on investigatory commissions (NN 24/96)

12 SONS meets on an average of twice a month.

- 13 Or, according to other criteria: two intelligence services (HIS, VOS) and two counterintelligence services (SZUP, SIS).
- 14 Director of HIS has the status of state minister as he presides over the members of KOOZ, who are assistant ministers.
- 15 Since the very beginning we were open for cooperation. In his guidelines, Croatian President Franjo Tudman always determined the type, direction and scope of cooperation. As a rule, we received instructions for openness and directness in the passing of real goals and intentions of the official Croatian policy.
- 16 It is not true that the UNS is a legal successor of the Office for the Protection of Constitutional Order headed by Josip Manolić, as was reported in the media.
- 17 President of the Republic Franjo Tudjman visited HIS on October 10, 1996. On that occasion I informed the President of the personnel structure in the HIS: 80 percent of men, i.e. 50 percent of all employees, took part in the Homeland War. HIS employees do not have military ranks, but there was also one general, two brigadiers, five colonels, etc., with personal ranks obtained in the War.
- 18 I advocated this thesis in my paper "A view from Croatia. Peace and Stability in the Balkans and in Southeast Europe. Realities and Contradictions," Wilton Park Conference: Peace and Stability in the Balkans and in Southeast Europe, October 27-31, 1997.
- 19 See Tudjman, M. "Croatia as a Factor for Peace and Stability in Europe", in: M. Sopta (ed.) *Croatia as a Stabilizing Factor for Peace in Europe*, Croatian Center of Strategic Studies, Zagreb, 1998.
- 20 So were both the former Czechoslovakia - the CSSR - and the USSR. The downfall of these multi-national countries has a common point of departure: the need of the so-called small nations to achieve their independence and sovereignty.
- 21 Cutileiro, Vance-Owen and Owen-Stoltenberg plans had advocated a provincial, a cantonal partition model for BH, and/or envisioned BH as a union, consisting of three republics.
- 22 See Admiral Davorin Domazet (2000). How aggression against Croatia and Bosnia-Herzegovina was prepared or the transformation of the JNA into Serbian imperial force. *National Security and the Future*, 1(1)107-152.
- 23 25 September 1991. Upon Yugoslavia's proposition, UN Security Council adopted Resolution 713 on complete embargo on the import of arms in Yugoslavia. The JNA's attack on Vukovar had begun a month earlier, on August 25, 1991. A week after the Resolution had been adopted, on October 1, 1991, the Montenegrin-Serbian aggression aimed at the Dubrovnik region began along the entire border between Montenegro and Croatia. On October 7, 1991, JNA airplanes bombed president Tudjman's office Banski dvori, during his meeting with Stipe Mesic and Ante Markovic.
- 24 Badinter Commission, an arbitration commission of the Peace Conference for Former Yugoslavia, decided on July 4, 1992 that the "SFRY does not exist any more" and that the SRY could not be considered its "only successor."
- 25 On December 11, 1991 the Security Council was presented with C. Vance's plan for the UN peace operation in former Yugoslavia. The Security Council approved urgent deployment of 14000 blue helmets in Croatia on March 6, 1992.
- 26 Germany recognized Croatia on December 23, 1991, and EC countries did the same on January 15, 1992.

- 27 At the referendum on Bosnia's independence on February 29, 1992, 64.31 percent of citizens, mostly Muslims and Croats, chose an independent and sovereign Bosnia-Herzegovina.
- 28 Croatia recognized Bosnia on April 7, 1992.
- 29 The Split Agreement on Military Cooperation, i.e. "Declaration on the Implementation of the Washington Agreement, joint defense from the Serbian aggression and achievement of political solution", was signed in Split by Croatian president Franjo Tuđman, president of Bosnia-Herzegovina Alija Izetbegovic and president of the Federation Kresimir Zubak on July 22, 1995.
- 30 Military operation "Storm" during which 26.5 percent of occupied Croatian territory was liberated, began on August 4 and ended on August 8, 1995.
- 31 The massacre in Srebrenica happened on July 7, 1995. and the fall of Zepa was on July 25, 1995.
- 32 During peace negotiations in Dayton, representatives of Croatia, Bosnia-Herzegovina and Serbia initialed a General Peace Agreement on Bosnia-Herzegovina on November 21, 1995.
- 33 Croats and Bosniacs signed the Agreement on the Federation of Bosnia-Herzegovina and Special Relations with the Republic of Croatia in Washington on March 18, 1994; in 1995 in Dayton all three peoples signed the agreement on Bosnia-Herzegovina, comprised of the BH Federation and the Republika Srpska.
- 34 President Clinton's directive: Executive order 13107, "Implementation of Human Rights Treaties," December 10, 1998
- 35 *Sapere aude* is the motto of the HIS, and is written into the agency's emblem. The sense of this Latin saying is 'dare to be wise' (Horatius), 'have strength to use your own reason' (Kant); its literal meaning is 'acquire wisdom through listening', and its essential meaning is 'be smart'.
- 36 In October 1999 in Mostar (BH) SFOR conducted operation WESTAR. They penetrated into the National Security Service headquarters, aiming to prove HIS's illegal operations in the Federation. The HIS immediately issued a release requesting an apology and a statement from the US Administration. I received letters from directors of the CIA and the NSA, supporting and confirming our statements. US Ambassador in Zagreb William Montgomery on several occasions stated for the media that Croatia had contributed significantly to the security of international troops. SFOR never submitted any evidence of illegal actions of the HIS in Bosnia-Herzegovina, but the US government and the State Department failed to employ fair treatment of SFOR and the Croatian government thereby preventing unnecessary media manipulations.
- 37 Today HIS cooperates with twice as many foreign agencies than former Yugoslavia did until 1990.
- 38 This is one of the few speeches that I wrote beforehand and therefore it is presented here in its original form, and not from memory.

ANNEX "B"



## Embassy of the Republic of Croatia to the Kingdom of the Netherlands

*Amaliastraat 16, 2514 JC, The Hague*

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e-mail: [croemb.haag@mvp.hr](mailto:croemb.haag@mvp.hr) internet: <http://nl.mfa.hr>

File: 018-04/09-08/60

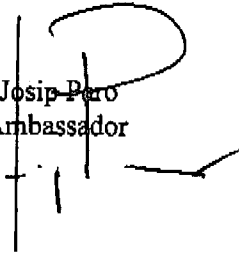
Ref. no. 521-NLD-01-06-09-02

The Hague, 22 July 2009

**Mr. Radovan Karadžić**  
**International Criminal Tribunal for the Former**  
**Yugoslavia**  
**UN Detention Unit, The Hague**

Dear Mr. Karadžić,

Concerning your letters from the 2 and 30 June 2009, I would like to inform you that, according to the information I have received from the Ministry of Justice of the Republic of Croatia, the Government of the Republic of Croatia is not in possession of the documents you have requested. Concerning your wish to organize an interview with Mr. Miroslav Tuđman, I would like to inform you that the practice is that such interviews are organized by the defence teams and not by the Croatian authorities.

  
Josip Pero  
Ambassador

ANNEX "C"

11 January 2010

Dear Mr. Tadjman,

My friend [redacted] gave me your e-mail address and I hope you do not object to my contacting you. I am an American lawyer serving as Legal Advisor for Radovan Karadzic at the ICTY.

I was hoping that you might be willing to meet with me sometime around 25 February in Zagreb and allow me to speak with you about the flow of arms to the Bosnian Muslims during the war. There are many prosecution witnesses who will be testifying at Dr. Karadzic's trial from countries which were involved in violating the arms embargo or letting others violate the arms embargo for them and who now have a very pious attitude towards obedience to UN resolutions.

Dr. Karadzic and I know you are very busy, and probably tired from your campaign, but if you could spare a few hours to meet me in February, we would be most grateful.

By way of background on me, I was a federal prosecutor in the United States for ten years and have been a criminal defence lawyer for another ten. Since 2000, I have been involved in cases at the ICTY and Rwandan Tribunal, where I am Lead Counsel for the former President of the Rwandan Parliament. For what it is worth, I am listed in the publication *Best Lawyers in America* and have the highest rating for legal ethics.

Thank you for your consideration.

Yours truly,

Peter Robinson  
Legal Advisor for Radovan Karadzic

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29 June 2010

Dear Mr. Tadjman,

My friend [redacted] gave me your e-mail address and I hope you do not object to my contacting you. I am an American lawyer serving as Legal Advisor for Radovan Karadzic at the ICTY.

I was hoping that you might be willing to meet with me in Zagreb and allow me to speak with you about the flow of arms to the Bosnian Muslims during the war. We have a pending request for documents to be produced by the government of Croatia

on this subject and it would promote resolution of that request if I could speak with you about the issue.

Dr. Karadzic and I know you are very busy, but if you could spare a few hours to meet me, we would be most grateful.

By way of background on me, I was a federal prosecutor in the United States for ten years and have been a criminal defence lawyer for another ten. Since 2000, I have been involved in cases at the ICTY and Rwandan Tribunal, where I am Lead Counsel for the former President of the Rwandan Parliament. For what it is worth, I am listed in the publication *Best Lawyers in America* and have the highest rating for legal ethics.

Thank you for your consideration.

Yours truly,

Peter Robinson  
Legal Advisor for Radovan Karadzic

ANNEX "D"

Dr. Radovan Karadzic  
International Criminal Tribunal for the former Yugoslavia  
The Hague, Netherlands

24 August 2010

Mr. Miroslav Tadjman  
Zagreb, Croatia

By e-mail

Dear Mr. Tadjman,

I hope this letter finds you doing well.

I am writing to request that you assist the International Tribunal for the former Yugoslavia by agreeing to be interviewed by my defence team concerning the shipment of arms to the Bosnian Muslim Army during the war.

When we requested that the Croatian government make you available for an interview, they told us to contact you directly. My Legal Advisor has contacted you by e-mail on 11 January 2010 and 29 June 2010 to request an interview, but has not received any response from you.

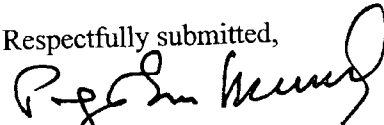
Last week, the Croatian government informed the Trial Chamber that it had now disclosed all of the documents which it had located concerning the arrangements, "green light", and conduct of these arms shipments. The documentation was very sparse.

I believe that the best way forward is to have my Legal Advisor interview you about these matters. That way, we can determine whether to withdraw, or to further pursue, our request for a binding order for documents from Croatia. I would very much appreciate it if you could voluntarily agree to such an interview. If you prefer to come to The Hague and speak with me directly, I would also be pleased to do it that way.

Please feel free to contact my Legal Advisor Peter Robinson at [peter@peterrobinson.com](mailto:peter@peterrobinson.com) with your response. If we have not heard from you by the end of the month, we will proceed to seek a subpoena from the ICTY Trial Chamber.

Thank you for your consideration of this request.

Respectfully submitted,



Dr. Radovan Karadzic