

**THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

Case No. IT-05-88-T

IN TRIAL CHAMBER II

Before: Judge Carmel Agius, Presiding
Judge O-Gon Kwon
Judge Kimberly Prost
Judge Ole Bjørn Støle, Reserve Judge

Registrar: Mr. Hans Holthuis

Date filed: 8 April 2008

THE PROSECUTOR
v.
VUJADIN POPOVIĆ
LJUBIŠA BEARA
DRAGO NIKOLIĆ
LJUBOMIR BOROVCANIN
RADIVOJE MILETIĆ
MILAN GVERO
VINKO PANDUREVIĆ

PUBLIC

**NOTICE ON BEHALF OF DRAGO NIKOLIĆ
OF FILING OF REVISED ENGLISH TRANSLATION OF
EXPERT WITNESS REPORT PURSUANT TO RULE 94bis**

The Office of the Prosecutor

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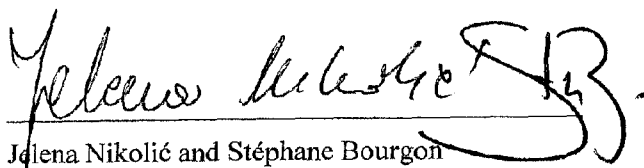
Further to the filing of the *Notice of Disclosure of An Expert Witness Report Pursuant to Rule 94bis* on 31 March 2008 (the “Defence Notice”), Counsel for the Defence of Drago Nikolić (the “Defence”) hereby files this *Notice on Behalf of Drago Nikolić of Filing of Revised English Translation of Expert Witness Report Pursuant to Rule 94bis*.

1. As mentioned in the Defence Notice,¹ the Defence has submitted the English translation of the expert report prepared by Mr. Petar Vuga to CLSS for further review on 31 March 2008.
2. On 7 April 2008, CLSS has provided the Defence with a final revised English translation enclosed herein as Annex A.
3. Following a review of the revised CLSS translation, the Defence notes that CLSS did not accept the proposition of the Defence regarding the translation in English of the word “*rukovodjenje*”.²

Word Count: 340

RESPECTFULLY SUBMITTED ON THIS 8TH DAY OF APRIL 2008

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¹ Para. 2, Defence Notice.

² Translation of the word “*rukovodjenje*” /management/ was translated as “control”, and the word “*strucno rukovodjenje*” /specialist management/ was translated as “specialist control”.

ANNEX A

EXPERT REPORT

Retired Colonel
Petar Vuga

Belgrade, 31 March 2008

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I GENERAL SECTION

1. DEFINITION OF SECURITY AND ITS SPECIAL CHARACTERISTICS

1.1. At the request of the Defence of Vujadin POPOVIĆ and Drago NIKOLIĆ, this report presents the function, scope of work, tasks and powers of VRS /Army of Republika Srpska/ security organs and the competences of security organs of the Drina Corps Command (KDK) and the Command of the 1st Zvornik Infantry Brigade (ZB) in June and July 1995.

1.2. During its existence, the Army of Republika Srpska (VRS) applied for the most part and without any significant changes the conceptual and doctrinal solutions and regulations of the former Yugoslav People's Army (JNA). The same was also true of regulations in the field of military security and defence of Republika Srpska (RS). In spite of similarities with defence and security systems in other countries, doctrinal solutions in these fields also had significant distinct characteristics. The entire defence and security system of the Socialist Federative Republic of Yugoslavia (SFRY) was based on the original concept of all-people's defence (ONO) and social self-protection (DSZ). ONO was the view of the Yugoslav self-managed society on war and its attitude toward war. ONO represents a theoretical elaboration and practical application of the theses of the classics of Marxism on the armed people. Social self-protection (DSZ) was a function of the self-managed society of the SFRY and included an organised system of measures and activities aimed at achieving security. DSZ, together with ONO, constitutes a unified defensive and protective system. The basis for the organisation and creation of ONO and DSZ is defined in the SFRY Constitution and the constitutions of the republics and autonomous provinces.¹

1.3. In accordance with this, the security service in the armed forces of the SFRY, and thus the VRS, differed significantly from other military services, which will be explained in more detail in the next sections of this report.

1.4. The complexity of security activities and their significance require expert and comprehensive analysis.

1.5. Definition of security

With regard to its essence and real meaning, security is defined as **a condition, an organisation and a function.**²

(i) As **a condition**, security is the state of protection of an asset, value or heritage of society. Therefore, conceptually and practically security implies **a threat, which** causes the need for **protection and safeguarding**, that is, for security.

(ii) Security as **an organisation** implies a specialised structure or special organs linked into a functional whole that carry out certain activities and tasks in a specific way prescribed by the law.

¹ Military Encyclopaedia, Military Publishing House, Belgrade, pages 118 and 366, ERN 0400-2219-0400-3347

² Military Encyclopaedia, Military Publishing House, Belgrade, page 56, ERN 0400-2219-0400-3347

(iii) Security as a **function** is a permanent, systematic, conscious and rational activity aimed at achieving a state of security (protection).

(iv) The function and organisation constitute **the security system**.

(v) In practical terms, the concept of security in the VRS meant that security entities had to act in response to a demonstrated threat in order to achieve the necessary or specified level of protection of commands, staffs and units of the Army and the territory of the RS /Republika Srpska/, each within the scope of work and tasks assigned to them.

1.6. Security entities

1.7. Action by security entities was mandatory against all threatening activities and those responsible for them from outside or inside the VRS and in the territory in its zone of responsibility.

1.8. The organisation of the security system encompassed all security entities, i.e. individuals, commands, staffs and institutions, specialist services (intelligence organs, security organs and the military police), as well as the population in the zone of combat operations.

1.9. The role, tasks, competence and method of action of security entities were either defined by means of appropriate rules, guidelines, instructions and orders inherited from the former JNA and the SFRY, or own regulations were prescribed based on them, depending on the concrete conditions.

1.10. Security organs (OB) and the military police performed the security function as an independent function, while all other security entities performed the security function within their establishment duties and tasks, as well as the roles they performed in the military organisation.

1.11. Security occurrences and processes

1.12. A more detailed and complete knowledge of the characteristics of security occurrences and processes, their appearance and the activities of their organisers and perpetrators is one of the most important prerequisites for a qualified discussion and understanding of the problems which are the subject of this report.

1.13. Security occurrences and processes are the result of conscious and voluntary human activity.

1.14. The above-mentioned causal relationship and interdependence between **the threat and protection (security)** is the key starting point for understanding and interpreting this activity.

1.15. The characteristics and methods of action of the organisers and perpetrators of threats almost imperatively influence organisational solutions and operational methodologies for the protection of threatened values

1.16. Human practice has shown that there are a large number of organisers and perpetrators of threatening activities, and their destructive activities are present in almost all segments of society and aimed against its significant values.

1.17. Experience has confirmed that the organisers and perpetrators of destructive activities (threats) do not have any moral, legal or methodological restrictions, and that they are comprehensively perfecting their destructive activity.

1.18. In opposition to that, protection from the previously described activity is provided in accordance with prescribed rules and organisational forms, which are standardised, and therefore significantly restricted and static in comparison with the diverse and surprising methods, means and goals of activities of those responsible for destruction (instigators, organisers, perpetrators, accomplices).

1.19. Threatening protected social values, features and institutions is forbidden by law and other regulations and is subject to legal sanctions, so those responsible for these activities strive to remain undetected and inaccessible to the security system and prosecution organs.

1.20. For this reason, very wide-spread and sophisticated secret methods of organised destructive activity have appeared and with the engagement of small forces, it is possible to cause exceptionally high human casualties, as well as devastating physical and moral consequences on the attacked side. Secret methods include organised destructive activities which are skilfully concealed behind other regular and everyday social activities and are thus very difficult to detect. As such, they are unrecognisable and inaccessible to people who are not professionally educated about this or not informed at all.

1.21. A special problem lies in the fact that secret threatening processes and occurrences are deeply hidden in other areas and layers of social reality, and their organisers and perpetrators are camouflaged and “concealed” behind various common public and regular roles and activities.

1.22. For this reason, prompt detection and prevention of this kind of hidden destructive activity is one of the most difficult, complex and important parts of the security function, and a special methodology and special organisation is necessary for achieving this.

1.23. This part of the security function in the VRS, known under the name “counter-intelligence work” (same as in the JNA and the SFRY), was performed by security organs, which were responsible for these activities and tasks. Nobody else could take

over their role, competence and powers in that domain. This had absolute priority in comparison with all other tasks within the prescribed scope of work of the OB.³

1.24. The armed forces of the RS, and especially the VRS, as the most important part of the defence system, were a priority target for the enemy and were always the main target of the activities of those responsible for secret and other kinds of threats to security, especially at times of armed conflict. In such circumstances, the command system and security organs must fully establish clear priorities in confronting threatening activities and those responsible for them.

1.25. This is especially important because the secrecy and links between threatening occurrences and other social occurrences and the lack of easily detectable, clear and firm borders between them create huge difficulties in ascertaining when and where secret threats to security begin and who their real organisers and perpetrators are.

1.26. To those with little knowledge of this field, secret threats to security remain invisible and inaccessible until their visible consequences occur. When they occur, the security system has not achieved its protective goal, because its preventive role has not been fulfilled.

2. REGULATIONS ON THE FUNCTION OF SECURITY ORGANS AND THE MILITARY POLICE IN THE ARMY OF REPUBLIKA SRPSKA

Introduction

2.1. This part of the report will present the relevant provisions of the regulations governing security and protection in the VRS, or rather, the provisions adopted from the former JNA that were used without any significant modifications in VRS commands, units and staffs.

2.2. This part will also draw a distinction between the scope of work, competence and powers of security organs and the scope of work, competence and powers of the military police.

2.3. Finally, this part of the report will explain more concretely the relationship between command organs on the one hand and security organs and the military police (VP) on the other hand.

2.4. By October 1994, inadequate and inconsistent application of regulations governing command and control over security and intelligence organs in the VRS was observed. For this reason, on 24 October 1994, the VRS GŠ /Main Staff/ issued Instructions⁴ which were mandatory for all officers in organisational and establishment units of the VRS who had security organs and exercised command over them. The instructions prescribed the strict application of existing regulations on the

³ Instructions on command and control over the security and intelligence organs of the VRS, item 1, ERN DA01-0961-DA01-0963, English ERN 0308-9290-0308-9292, Exhibit P02741

⁴ Instructions on command and control over the security and intelligence organs of the VRS, item 1, ERN DA01-0961-DA01-0963, English ERN 0308-9290-0308-9292, Exhibit P02741

work of security and intelligence organs in the VRS, and defined the essence of their relations and their engagement on duties within their competence.

2.5. In spite of the Instructions, based on the documents which were shown to me, I came to the conclusion that individual command organs did not consistently implement the duties defined in the Instructions. This will be discussed in the following parts of the report.

Provisions on security in the Law on Defence of the RS

2.6. *The Law on Defence* is the basic legal document dealing with defence issues, including the issue of security.⁵

2.7. Article 4 of the above-mentioned Law prescribes among other things that the Republic [...] *“organises, commands and controls the army [...] takes steps to eliminate the causes and consequences of any danger to the population, property and cultural heritage in peace- and wartime ...”*

2.8. In addition, Article 7, item 3, of this Law states that in the organisation of defence preparations, the President of the Serbian Republic of Bosnia and Herzegovina [...] *“commands and controls the army both in peace- and wartime”*.

2.9. Therefore, it is stated unambiguously that security in the field of defence is within the area of competence of the highest authorities of the RS, and also that the President of the Republic, as the commander-in-chief, has full command and control over the Army, and thus also the security function in the Army.

2.10. The Law on Defence prescribes that *“the organisation of the Army of the Republic shall be regulated by a special law, in accordance with the Constitution”* (Article 5 of the Law on Defence).

2.11. It is important to note that the Law on Defence regulates the field of security in general terms and that it should be further detailed by other regulations.

2.12. It should be emphasised that not a single provision in the Law on Defence of the RS changes or excludes the application of the concept of security of the former JNA and the SFRY in the VRS, or rather in the field of defence in the RS.

Security provisions in the Law on Defence of the RS

2.13. With regard to regulating relations in the security domain, the Law on the Army of the RS⁶ does not contain any provisions or paragraphs regulating the field of security concretely and in detail. In this domain, only the section covering the use of weapons by authorised personnel in the military security service and the military police is concretely prescribed. Article 26 of that Law states: *“Authorised military*

⁵ Law on Defence, *Official Gazette of the Serbian People in BH*, number 7, 1 June 1992, Sarajevo, ERN 0353-6537-0353-6592, English ERN Y001-9125-Y001-9222

⁶ Law on the Army, *Official Gazette of the Serbian People in BH*, number 7, 1 June 1992, Sarajevo, ERN 0353-6537-0353-6592, English ERN Y001-9125-Y001-9222

personnel in the military security service and the military police may use, while performing military security or military police duties, weapons and other means of coercion under conditions prescribed for authorised officials of the interior.”

Security provisions in the Provisional Service Regulations of the VRS

2.14. The Provisional Service Regulations of the VRS ⁷, adopted by the VRS GŠ in August 1992, regulate certain issues in the security field. Unlike the previous documents, this legal document treats these issues in such a way and to such an extent that the duties and tasks of the competent organisational levels or individuals in the VRS are elaborated and specified in some more detail.

2.15. In Section *V – Providing security for personnel and facilities*, item 44 states: *“Providing security for personnel, facilities and technical equipment and materiel (TMS) is the most important task of the Army. This is done continuously by specific forces, means, measures and procedures for protection against attack, destruction and damage or the disclosure of confidential information. The organisation, composition and strength of security depends on: (1) the importance of the facility and of the threat against it, (2) the ratio of required to available security forces and assets, (3) the establishment of cooperation with civilian authorities and the local population, and (4) the specific tactical and operative situation in the zone where the facility to be guarded is located.”*

2.16. The second paragraph of item 44 concretely regulates the duties of command and control organs providing security for personnel and facilities, as follows: *“The commands of corps, logistics bases and brigades, and commands (institutions) of equal rank, (underlined by P.V.) shall regulate the security of facilities under their jurisdiction, which they shall specify in a special order.”* This paragraph is important from the point of view of the duties of commands which were responsible for regulating the security of facilities in which captured Muslims were located during Operation *Krivaja-95*, because the facilities in which they were located were temporarily used during that period for military purposes and /were/ under military supervision.

2.17. Paragraph 3 of item 44 states: *“In time of war or of imminent threat of war, security of personnel and facilities shall be increased in line with the provisions of the combat regulations and the particular circumstances.”* Concrete measures to be undertaken for that purpose are mentioned in further text: *(1) employ a large number of personnel to ensure the security of units and facilities, (2) employ a duty unit or some other unit for intervention at the facility or in the area under threat, (3) electrify wire fencing, (4) set up multi-level barrage fire, (5) lay minefields around the guarded facilities, and (6) ensure permanent reconnaissance of the immediate surroundings and wider area around the facilities to be guarded.*

2.18. The key point is that all duties specified for providing security for personnel and installations are within the area of competence of command and control organs.

⁷ Provisional Service Regulations of the VRS, ERN 0066-2560-0066-2592; English ERN 0091-3649-0091-3679, Exhibit 7DP00417

Conclusion on the contents of the regulations:

2.19. Analysis of the contents of the regulations adopted in the RS in the relevant period leads to the conclusion that the regulations of the former JNA and the SFRY were fully applied in the field of defence security in the VRS, in accordance with the situation in the RS.

2.20. *The fact that certain inconsistencies were present in the practical application of regulations in the security field in the VRS does not change the general conclusion on the application of regulations and doctrinal positions of the former JNA and the SFRY in this field. This is also confirmed by individual legal documents issued by the competent leading officers in the VRS with the objective of ensuring full application of the adopted systemic solutions.*

2.21. It is therefore important to clarify and differentiate fully among the scope of work, tasks, competences and powers of command organs, security organs and the military police.

2.22. *These issues will be clarified in the following parts of this report.*

Rules of Service of Security Organs in the Armed Forces of the SFRY

2.23. The Rules of Service of the OB in the OS of the SFRY⁸ (Rules) are intended for security organs and officers of VRS commands, units and staffs which include security organs over which they have control. These rules fully regulate all issues relating to the position, role, scope of work, tasks, powers, competences and methods of work of security organs in the performance of their function.

2.24. This report shall only deal with issues which are directly or indirectly related to the work of security organs of the DK and the ZB in June – July 1995.

2.25. At the same time, relevant paragraphs of the Instructions on command and control over the security and intelligence organs of the VRS will also be analysed.

Scope of work of security organs in the VRS

2.26. Security organs are defined by the Rules of Service of the OB as specialist organs of commands, units, institutions and staffs of the VRS that carry out duties of state security that are placed within their competence by the law and regulations issued pursuant to the law.

2.27. Security organs perform state security duties *for the purposes of detecting and preventing activities aimed at subverting or threatening the security of the Army and the defence of the RS, if such an activity is carried out in the Army or against the Army and the defence of the RS from within the country or from abroad, and for the*

⁸ Rules of Service of the OB in the OS of the SFRY, 1 January 1984, SSNO /Federal Secretariat of National Defence/, Belgrade, ERN 0090-9817-0090-9843, English ERN 0092-0099-0092-0131, Exhibit P00407

purposes of detecting and preventing activities aimed at breaching the secrecy of plans and preparations for the defence of the RS.

2.28. The preceding paragraph contains the essence and the purpose of the function of security organs and also defines the competence of the OB with regard to the direction and character of threatening activities regardless of their origin or who is responsible for them.

2.29. In detecting and preventing activities aimed against the security of the VRS and preparations of the RS for defence, the OB rely on all security entities in the VRS and the RS⁹. Security entities must assist the OB, within the obligations prescribed by the law, in detecting and preventing activities which may undermine the security of the Army and the defence of the RS.

2.30. Security organs apply the methods and means of work defined in the **Instructions on the methods and means of work of the JNA security organs**¹⁰ and take measures and actions to detect and prevent the activity mentioned in item 2 of the Rules [...] *“When there is knowledge that such an activity is being applied or carried out by individuals, groups or organisations in or against the Army and the defence of the RS, or that a crime has been attempted or committed in the execution of such an activity, and also for the purposes of detecting the instigators, accomplices, organisers and perpetrators of these activities or acts.”*

2.31. This definition makes concrete the legal obligation and competence of the OB to act without special orders against concrete persons responsible for threatening activities, regardless of their status and affiliation (ethnic, state, gender, profession, etc.). *It is important that their activity is directed against the VRS or that it is carried out in the VRS.*

2.32. Security organs establish cooperation in accordance with the regulations with other organs and services performing state security duties in the RS.

2.33. The scope of work of the OB is further elaborated and categorised into groups of duties and tasks through which the goals of state and general security within the area of competence of the OB of the VRS are achieved.

2.34. The scope of work and tasks of the OB are also included in individual provisions of combat and other rules and instructions regulating the actions of VRS commands, units and staffs within which the OB acted. These issues will be discussed as part of the duties performed by individuals during the relevant period.

2.35. *CONCLUSIONS ON THE SCOPE OF WORK OF THE OB:*

2.36. *The place of the OB is in VRS commands and units to which they were assigned according to the establishment;*

⁹ Instructions on command and control over the security and intelligence organs of the VRS, item 1, ERN DA01-0961-DA01-0963, English ERN 0308-9290-0308-9292, Exhibit P02741, item 3

¹⁰ Instructions on the methods and means of work of the JNA security organs, SSNO, UB-17, 1986, ERN 0090-9844-0090-9878, English ERN 0092-6833-0092-6874, Exhibit 3D00275

2.37. *The OB are specialist organs for state security duties;*

2.38. *The OB detect and prevent threatening activities and those responsible for them that are directed against the security of the Army and the defence of the RS (instigators, accomplices, organisers and perpetrators);*

2.39. *The OB rely in their work on security entities and provide specialist assistance to these entities;*

2.40. *The OB apply the prescribed methods and means of work when performing tasks within the prescribed scope of work;*

2.41. */.../ establish cooperation with services and organs in the RS performing state security duties, which will be discussed in more detail.*

Duties of security organs

2.42. OB tasks prescribed by the Rules of Service of the OB are categorised into two groups. **The first group** consists of duties **for which the OB is responsible**. In practice, this group of duties are called “**counter-intelligence duties**”.

2.43. **The second group** of duties belonging to the scope of work of the OB are categorised into so-called **general security**. **Command organs are responsible for these duties**. **The OB participate in these tasks as specialist organs** for state security duties. The regulations do not define security organs as those responsible for these duties and tasks.

2.44. The duties for which **command organs are responsible**, and in which **the OB participate** are the following:

- (i) *administrative and staff duties* (known as staff security /duties/)
- (ii) *military police duties* (specialist control of the military police) and
- (iii) *duties in preliminary and criminal proceedings* (or so-called criminal-legal duties).

2.45. **Counterintelligence duties**, or rather the group of duties for which **the OB are responsible**, have priority and security organs should **dedicate about 80%** of their total resources to them **compared to 20%** for duties and tasks in which they participate, but for which command organs are responsible.¹¹

¹¹ Instructions on command and control of the security and intelligence organs of the VRS, item 1, ERN DA01-0961-DA01-0963, English ERN 0308-9290-0308-9292, Exhibit P02741, item 1. On the basis of a study carried out in 1984-1985 by the Research and Development Organ of the Intelligence and Security School Centre (OBŠC) of the JNA, it was concluded that optimal engagement of the OB on duties in their scope of work is achieved when they use 70-80% of their resources for work on counter-intelligence duties. Commanders exercising command and control over security organs were trained in workshops in the OBŠC to achieve in practice this ratio in the engagement of security organs. Therefore, the ratio of engagement of the OB in the VRS was roughly the same as in the JNA.

2.46. Security organs carry out without a special order or request all duties and tasks for which they are responsible and for which only they are competent, authorised and specialised.

2.47. Nobody else can replace them in that temporarily or permanently, and OB powers cannot be transferred to another person.

2.48. All of the prescribed duties and tasks, all methods, means of work, measures and actions applied and implemented by the OB have a single goal – to enable unimpeded and secure functioning of the commands and units of the Army and the defence of the RS. All OB duties and tasks must be subordinated to that goal.

Tasks of security organs:

2.49. Security organs are responsible for the following tasks:
(state security and counter-intelligence duties)

- (i) the detection, tracking and prevention of intelligence activities and other activities of foreign military intelligence and /non-military/ intelligence services carried out in the country or from abroad, which are aimed against the Army and the defence of the RS;
- (ii) the detection and prevention of hostile activities by individuals, groups or organisations against the Army and the defence of the RS;
- (iii) the implementation of measures and operations of counterintelligence protection for tasks and duties, documents, materiel and technical equipment, zones and features of particular importance for the defence of the RS;
- (iv) the gathering and verification of information for the operational needs of the OB;
- (v) the security preparation of members of the VRS with respect to their relations with foreign countries or foreign persons;
- (vi) the organisation and maintenance of the OB's information system;
- (vii) their own preparations for work in war, an imminent threat of war and other exceptional circumstances.

2.50. Security organs perform duties and tasks for which they are responsible *ex officio*, autonomously and without a special order.

2.51. The planning of these tasks is based on an assessment of realistic security needs of their organisational unit, available information and information on the characteristics of the threatening activity and those responsible for it, and on the basis of specialist guidance by the superior OB.

2.52. Counter-intelligence duties, i.e. methods and means of work, measures and actions, sources of information and results of counter-intelligence work are strictly confidential and their use is restricted even within security organs.

2.53. CONCLUSION ON OB TASKS:

2.54. *The OB are clearly defined as those responsible for counter-intelligence duties and tasks to which they should dedicate about 80% of their total resources;*

2.55. *The OB participate in administrative-staff and criminal-legal duties and provide specialist control over the military police, and should dedicate about 20% of their total resources to this. It is not defined or envisaged that the OB are responsible for these tasks, and they do not even have the necessary human or material and technical resources for this. Command organs are responsible for these duties.*

2.56. *In the duties and tasks for which the OB are responsible, there are no directly or indirectly prescribed obligations of the OB with regard to prisoners of war.*

Control of security organs

2.57. The security organ is directly subordinated to the officer of the VRS command or unit to which he is assigned according to the establishment and is responsible for his work to this officer.

2.58. The superior officer may not authorise another officer to exercise on his behalf command and control over a security organ directly subordinated to him.

2.59. The following concepts will be clarified here: control; command; specialist control.

2.60. Control:¹² In the OS of the SFRY, control was defined as [...] “an organised activity aimed at implementing the policy, goals and tasks defined by management entities in the fields of ONO /All-people’s Defence/ and DSZ /Social Self-protection/.” Command and control are not synonyms. Control also contains and conceptually embraces the function of command as a function of the process.

2.61. Command¹³: is a function (activity) of control which exists only in a military organisation. **Command implements the function of control.**

2.62. Command includes **the right to make decisions and assign tasks**. This is its essence and its purpose. It is implemented by means of specific command acts: orders, commands, directives and instructions. **They are issued only by superior officers – individuals**, and not by commands, staffs, administrations or other group structures. Even when a collective control organ does exist, the head of that organ, **(always an individual)** exercises command on its behalf.

2.63. The legal basis for command are the assignment of an officer to a certain command post and the laws governing relations in the field of defence, as well as

¹² Textbook for Military Academies, SSNO, IV U-24, Military Secret – Internal, Belgrade, 1983, item 3, ERN 0214-8123-0214-8517 (pages 17-19), CLSS English Translation (pages 16-18)

¹³ Textbook for Military Academies, SSNO, IV U-24, Military Secret – Internal, Belgrade, 1983, item 3, ERN 0214-8123-0214-8517 (pages 17-19), CLSS English Translation (pages 16-18)

regulations adopted pursuant to the law defining the competences, rights and duties for a given organisational level and establishment role in the VRS.

2.64. The principles of command are unity of command, subordination, unity, continuity, etc.

2.65. A unit commander may transfer his powers of command over units directly subordinated to him to certain officers from the command.

2.66. A unit commander may not transfer his responsibility for the consequences of orders issued on his behalf by an officer authorised by him.

2.67. In a military organisation, control is exercised over exercises, mobilisation activities, training, education and armed combat, and command has major significance in that. For this reason, these two functions are often mentioned together, where command is the single process function of control. Command implements the goals and tasks of control.

2.68. *Specialist control*: covers elements of control referring to certain specialist aspects. The word control must always be accompanied by the attribute “specialist”, which defines more precisely the character of control. “The security organ provides specialist control over the military police,”¹⁴ which means that he has certain specialist skills and that he can recommend its use to the unit commander. Only the commander takes decisions on the use of the unit and assigns tasks to the subordinate commander of the military police /VP/ unit. The commander of the VP unit commands his unit in accordance with command regulations and implements tasks assigned to him, i.e. he implements the decision of the commander.

2.69. Therefore, *only the commander of the unit in which a military police unit is placed has the right to command the military police – the right to make a decision on the use of the VP. The officer (commander) of the military police unit has the right to command the military police unit. He proposes to the military commander, directly or through the security organ, the use of the military police unit.*¹⁵

2.70. In this process, the security organ performs the role of a specialist organ of the command for security affairs and has no command competence – he does not decide on the use of the military police and does not assign tasks to the military police. He carries out specialist supervision and gives specialist advice and recommendations, for which he answers to his superior commander. The commander is not obliged to accept any proposals from the OB on the use of the military police unit.

2.71. The Commander of the GŠ of the VRS, or a person authorised by him, controls security organs with regard to the application of the methods and means of work. The Commander of the GŠ of the VRS had an “assistant for security and intelligence”, whose area of competence included specialist control of the above-mentioned sector.

¹⁴ Service Regulations of the Military Police, Chapter II, ERN 0207-2092-0207-2115, English ERN 0304-1627-0304-12654, Exhibit P00707

¹⁵ Instructions on the Use of the Service Regulations of the Military Police of the OS of the SFRY, UB-2/4, 1986, item 18, ERN 0467-5853-0467-5968, Exhibit 3D00276

2.72. Security organs of the superior command or unit of the VRS exercise specialist control over security organs in subordinate VRS commands or units, provide specialist assistance to these organs and organise, guide, coordinate and control their work. Specialist control over subordinate OBs refers to tasks for which the OB are responsible within their prescribed scope of work, or rather, to counter-intelligence duties.¹⁶

2.73. This control does not alter the essence or the character of the command relationship between the commander and the OB so much as bring it into line with the priorities and real security needs of the VRS command or unit. At the same time, it connects security organs into a functional whole at the level of the VRS from a specialist point of view.

2.74. In accordance with the rights and responsibilities established by the law and regulations issued pursuant to the law, the authorised officer of an OB is obliged to carry out tasks within the scope of work of security organs assigned to him by the competent officer regardless of whether or not these tasks are included in the work normally carried out at this establishment post.¹⁷ The term “competent officer” refers to all persons exercising command and control over VRS commands or units which include security organs in their organisation and establishment.

2.75. *CONCLUSIONS ON COMMAND AND CONTROL OVER THE OB:*

2.76. *A security organ is directly subordinated to the officer of the unit to which he belongs and is responsible to him for his work.*

2.77. *A commander, within the rights and responsibilities established by the law and other regulations, may only assign tasks within the prescribed scope of work of the OB to a subordinate security organ.*

2.78. *Commanders of organisational units in the VRS exercising command and control over the OB were obliged to adhere strictly to Instructions 18/20-414/94 of the GŠ of the VRS, dated 24 October 1994.*

2.79. *Security duties and tasks in which the OB participate as specialist command organs for state security matters are not subject to the chain of specialist control over security organs, but exclusively to the chain of command.*

2.80. *The OB were functionally connected into a unified system of control from a specialist point of view, but this had no direct effect on the prescribed command and control over security organs in the organisational and establishment structure in VRS commands and units.*

¹⁶ Instructions on command and control over the security and intelligence organs of the VRS, item 1, ERN DA01-0961-DA01-0963, English ERN 0308-9290-0308-9292, Exhibit P02741, item 2

¹⁷ Rules of Service of the OB in the OS of the SFRY, 1 January 1984, SSNO, Belgrade, ERN 0090-9817-0090-9843, English ERN 0092-0099-0092-0131, Exhibit P00407, item 48

2.81. *The hierarchical structure in specialist control over the OB of the VRS was established by the GŠ of the VRS, or rather the assistant commander of the GŠ for security and intelligence, through the Security Administration (chief of the Administration), to whom the OB of corps (chiefs of OB) were subordinated from a specialist standpoint, and extended vertically through assistant commanders of brigades for security, all the way to assistant commanders of battalions (administrative assistants) for security and intelligence.*

Powers of security organs

2.82. Authorised officers of security organs have the right and duty to undertake the prescribed measures and actions toward individuals, groups and organisations whose activity is aimed at threatening the security of the Army and the defence of Republika Srpska, as well as breaching the secrecy of plans and preparations for the defence of VRS commands and units.

2.83. Authorised officers of VRS security organs are authorised by law to act and work on tasks from their scope of work analogous to the authority of the members of the RS MUP's /Ministry of the Interior/ State Security Department.¹⁸

2.84. In performing his duties, an authorised officer of an OB is obliged, when necessary, to show his identity card in advance. This means that the authority is personal and cannot be transferred to another person.

2.85. For the purpose of carrying out tasks within his competence, an authorised officer of an OB has the right to:

- (i) Check the identity cards of members of the VRS or other persons outside the armed forces when it is necessary to establish the identity of such a person, or when he is called to assist organs of the interior.
- (ii) Arrest a person who committed a crime within the competence of the military court, under the conditions prescribed by the Law on Criminal Procedure and the Guidelines for Determining Criteria for Criminal Prosecution (exhibit no. P00028 of the Prosecution), as well as other regulations.
- (iii) Detain persons suspected on reasonable grounds of having committed a crime within the competence of the military court, for a period of up to three days, before the initiation of an investigation under the conditions determined by the law regulating criminal procedure, and he will inform his superior officer of this.
- (iv) Use physical force for the purposes of overcoming resistance by a person who is to be taken into custody or for the purposes of repelling an attack against himself or a person for whom he is providing security.

¹⁸ Instructions on command and control over the security and intelligence organs of the VRS, item 1, ERN DA01-0961-DA01-0963, English ERN 0308-9290-0308-9292, Exhibit P02741, item 2, paragraph 2

- (v) Use firearms only if he has no other way of:
 - (v.1.) protecting people's lives,
 - (v.2.) preventing the escape of a person caught in the act of committing a crime that carries a penalty of 15 years' imprisonment or more severe punishment,
 - (v.3.) preventing the escape of a civilian caught in the act of committing a crime that carries a penalty of 15 years' imprisonment or more severe punishment;
 - (v.4.) repelling a direct life-threatening attack against himself.

2.86. Apart from the above-mentioned powers, in preliminary and criminal proceedings the OB acted in accordance with the Law on Criminal Procedure of the SFRY, pursuant to Article 49 of the Law on Internal Affairs.

2.87. After the use of physical force or firearms in performing their duties, authorised officers of security organs are obliged to submit a written report to their superior officer in the security organ, who will inform the officer of the unit to which the security organ belongs. This also confirms that the principle of unity of command is present in command over the OB.

Military police in the VRS

Command and control over the military police

2.88. Item 12 of the Service Regulations of the Military Police of the OS of the SFRY¹⁹ states: "The officer in charge of the military unit and institution within whose establishment the military police unit is placed or to which it is attached commands and controls the military police."

2.89. It should be noted that the terms "commands and controls" were used in this formulation, which means that all aspects and elements of these concepts are covered without any restrictions.

2.90. Item 13 of the Instructions on the Use of the Service Regulations of the VP in the OS (VRS)²⁰ states: "The officer of the military police unit commands his unit and is responsible for the overall state of combat readiness directly to the commander or through the officer in charge of the security organ of the unit in which the /military police/ unit is placed or to which it is attached."

2.91. In connection with this, item 18 of these Instructions states: "*The scope of work of the military police is prescribed by the Rules, **however the officer of the military police unit, directly or through the security organ of the command, staff, unit or institution in which the military police unit is placed, proposes to the superior***

¹⁹ Service Regulations of the Military Police, ERN 0207-2092-0207-2115, English ERN 0304-1627-0304-12654, Exhibit P00707

²⁰ Instructions on the Use of the Service Regulations of the Military Police, UB-2/4, 1986, item 13, page 15, ERN 0467-5853-0467-5968, Exhibit 3D00276

military officer the use of the military police for carrying out duties and tasks within its scope of work, bearing in mind the significance of the task, the available forces, the weather and the equipment of the military police.” Therefore, the key role in proposing the use of the military police unit belongs to the officer of that unit (commander).

2.92. Therefore, bearing in mind and consistently applying the principles of command, the commander is exclusively competent for making decisions on the use of the VP /military police/ and assigning tasks to the officer of the VP unit. The officer (commander) of the military police unit executes the decision of the superior officer and commands his unit in the execution of the assigned tasks.

2.93. Item 13 of the Rules of Service of the OB in the OS (VRS) states: “*From a specialist standpoint, control over the military police is exercised by the officer of the security organ of the military unit in whose establishment the military police unit is placed or to which it is attached.*” The concept of specialist control means: (i) proposing the use of the VP to the unit commander; (ii) responsibility to the commander for the level of training, manning, equipment and combat readiness of the VP unit, (iii) initiating proposals through the chain of specialist control over the OB relating to military police issues and problems within the area of competence of the chain of specialist control over it.

2.94. The above applies only when the military police is engaged on carrying out tasks within their prescribed scope of work and competence. However, when the military police are engaged on carrying out tasks outside their prescribed scope of work and competence, the OB is not competent, nor can it be considered qualified for exercising specialist control over the military police. The person who proposes the non-standard use of the military police and the person who makes a decision on such use are responsible for these tasks.

2.95. The engagement of military police units or individual members on carrying out tasks within the scope of work of security organs is determined by the officer of the security organ which exercises specialist control over the military police unit, with the approval of the superior military officer.²¹

2.96. The term determines has a specialist meaning in this case, because it refers to the selection of a task of the security organ on which the military police can be engaged, but their practical engagement depends on the approval (read: order) of the superior officer. Without this approval – order of the commander, there can be no real engagement of the military police on tasks within the scope of work of security organs.

2.97. The unit commander may authorise the security organ to make decisions on his behalf on the use of the military police or a part of it during a specified period of time and on specified tasks.

²¹ Service Regulations of the Military Police, ERN 0207-2092-0207-2115, English ERN 0304-1627-0304-12654, Exhibit P00707, item 19

2.98. The commander may not transfer to the OB his responsibility for decisions and the consequences of decisions issued by the security organ pursuant to his authorisation.²²

CONCLUSIONS ON COMMAND AND CONTROL OF THE MILITARY POLICE:

2.99. *The commander of the unit in which a military police unit is placed commands the military police – decides on its use and assigns its tasks;*

2.100. *The commander of the military police unit commands the military police unit and is responsible for his unit to his superior military commander, directly or through the officer of the security organ, with regard to its condition and the execution of tasks;*

2.101. *The officer of the security organ exercises specialist control over the military police unit and in this capacity he is responsible to his superior commander for specialist issues relating to the military police unit;*

2.102. *The commander may authorise the OB to command the military police on his behalf with regard to certain issues and for a certain period of time, but the commander remains responsible for decisions and consequences resulting from the given authorisation.*

Scope of work of the military police

2.103. The Service Regulations of the Military Police²³ prescribed that “*the military police performs certain security duties for the needs of the JNA*” and *this was the same in the VRS* and will be treated as such in further text. These security duties referred to the following: *protection of people and property; military traffic safety; military order and discipline; the detection of crimes and their perpetrators pursued ex officio within the jurisdiction of the military court of the RS /Republika Srpska/; participation in providing security for high-ranking officers of the VRS, documents and combat equipment of the highest degree of secrecy, sectors,, zones, axes and military facilities of special importance for the Army and the defence of the RS.*

²² Textbook for Military Academies, SSNO, IV U-24, Military Secret – Internal, Belgrade 1983, page 25, item 5 under 1) unity of command, ERN 0214-8123-0214-8517 (page 25, item 5 under 1), CLSS English Translation (pages 24-25, item 5 under 1)

²³ Service Regulations of the Military Police, ERN 0207-2092-0207-2115 (page 16, item 17), English ERN 0304-1627-0304-12654 (page 12, item 17), Exhibit P00707

Tasks of the military police of the VRS

2.104. The military police of the VRS perform tasks in peacetime, during an imminent threat of war and in wartime.

2.105. In peacetime, the military police perform the following tasks:

- (1.1.) Provide direct physical security for:
 - (i) commands, institutions and staffs which include military police;
 - (ii) high-ranking military officers, by a special order;
 - (iii) the highest state officials, and certain heads of foreign delegations during their visit to military facilities, or when they are within the competence of the VRS;
 - (iv) foreign military delegations;
- (1.2.) Provide internal security for military prisons at military courts;
- (1.3.) Provide security for:
 - (i) military documents, weapons and military equipment when prescribed by regulations or ordered by the competent officer;
 - (ii) the transport (transfer) of dangerous substances and mines and explosives;
- (1.4.) Take part in securing military facilities, axes and sectors of special importance for defence;
- (1.5.) Within the prescribed jurisdiction, escort persons taken into custody;
- (1.6.) Control and regulate military traffic on roads;
- (1.7.) Check, find or take into custody members of the VRS who have wilfully abandoned their unit;
- (1.8.) Take part in combat against sabotage, terrorist and other armed groups in the sector of military facilities under attack, as decided by the officer of the military unit within which the military police unit is placed (item 22, under "a", Service Regulations of the Military Police)
- (1.9.) Uncover, find and take into custody the perpetrators of crimes within the jurisdiction of military courts who are prosecuted *ex officio*, secure evidence, collect any information and material evidence which may be used in criminal proceedings, and act in accordance with the request of a military court or another competent body in criminal proceedings.
- (2.1.) In addition to the above-mentioned tasks, during an imminent threat of war, the military police shall also carry out the following tasks:
 - (i) secure and defend facilities assigned to it and execute tasks envisaged by plans for an imminent threat of war;
 - (ii) engage in combat against and overcomes the resistance of armed persons who raid military facilities;

- (3.1.) In addition to tasks performed in peacetime and during an imminent threat of war, in wartime the military police also perform the following tasks:
- (i) directly provide security for the command post, commander of the military unit and messengers, when ordered by the competent military officer;
 - (ii) take part in combat against the hostile activity of inserted enemy groups or individuals or armed groups or individuals left behind in deployment sectors of commands or on routes of movement of Army commands and staffs;
 - (iii) take part in checking and ensuring security measures ordered for waiting sectors and routes of movement;
 - (iv) take part in directing the movement of refugees and *detect any members of enemy units infiltrated among refugees*;
 - (v) *take part in providing security for prisoners of war* in prisoner of war camps.

2.106. In all cases when it is envisaged that the military police take part in carrying out tasks belonging to the prescribed scope of work, the competent officer determines the scope and contents of the participation of the military police and relationships among the participants carrying out a concrete task.

2.107. The participation of the military police means that other military organs and units are responsible for the task, while the military police carry out part of the (specialist) duties and tasks within their scope of work and area of competence that correspond by their character and contents to their technical material resources and prescribed scope of work.

Military police services

2.108. The military police perform tasks within their prescribed scope of work by means of the following:

- (1) Security service,
- (2) Search service,
- (3) Patrol service,
- (4) Escort service,
- (5) Duty service of the military police,
- (6) Military traffic safety service,
- (7) Crime prevention service.

2.109. For the purposes of assessing the activities of the military police of the DK and the ZB in the execution of tasks within their prescribed scope of work in June – July 1995, analysis of the security service and the escort service is of key importance.

2.110. Other military police services will be covered by this analysis only to the extent and only including those elements which touch upon the concrete problems at hand.

2.111. Security service

Includes the planned undertaking of measures, actions and procedures for the purposes of providing security for and protecting:

- (i) VRS commands, staffs and institutions;
- (ii) military prisons;
- (iii) axes, sectors and features;
- (iv) persons;
- (v) documents.

2.112. Security is provided for the purposes of preventing: access by uninvited persons to a protected facility; escape by persons who are in military prisons; and observation and reconnaissance of certain axes, sectors and features in them.

2.113. A security plan is drawn up for providing security and it contains: the forces and equipment, time and location for providing security, manner of cooperation, actions by organs and units in certain cases, the person and organ in control of the security operation, his location and the manner of maintaining communications.

2.114. The military police perform the security service by means of:

- (i) guard service,
- (ii) reception and patrol service,
- (iii) ambushes, observers and outguard sentinels,
- (iv) means of technical protection.

2.115. The security service also includes participation by the military police in providing security for prisoners of war at collection stations, in prisoner of war camps and while escorting them.

2.116. "The military police provide security only for certain categories of prisoners of war and when this is ordered by a special order."²⁴

2.117. This paragraph defined that providing security for prisoners of war may be a task of the military police when this is ordered by a special order and that this refers only to certain categories of prisoners of war, or concretely, to important prisoners of war. That is not a regular or prescribed duty of the military police, but a special case. It should be noted that only the commander of the unit in which a military police unit is placed, or a person authorised by him, may issue an order to the military police to provide security for prisoners of war.

2.118. The duties and tasks which the military police perform within the security service are also contained in combat rules and other regulations governing the manner of functioning of the security system of VRS commands and units in peacetime, during an imminent threat of war and in wartime.

²⁴ Instructions on the Use of the Service Regulations of the Military Police, UB-2/4, 1986, page 53, item 129, ERN 0467-5853-0467-5968, Exhibit 3D00276

2.119. Search service

With regard to the search service, the VRS military police had considerable tasks which they carried out intensely during the entire period of armed conflict in the territory of BH /Bosnia and Herzegovina/. The system of recruitment for VRS units was territorial, meaning that able-bodied men from the territory where combat operations were taking place were mobilised during combat operations. As a consequence, due to the vicinity of their homes and families and for various reasons and for various needs, some individuals often abandoned their combat positions and defence lines wilfully and without getting approval from or informing their officers. The military police in VRS units were required by regulations to undertake measures to find and bring into custody these persons.

2.120. Patrol service

The patrol service (item 57 of the Service Regulations of the Military Police) represents planned and organised performance of tasks for the purposes of:

- (i) checking order and discipline,
- (ii) /ensuring/ the safety of military traffic on roads, and finding and bringing into custody perpetrators of crimes under the jurisdiction of military courts,
- (iii)escorting arrested persons who are under the jurisdiction of military courts,
- (iv)escorting prisoners of war,
- (v) providing security for documents and military equipment of the highest degree of secrecy.

2.121. Concrete tasks performed by the military police in wartime through the patrol service are detailed in item 216 of the Instructions on the Use of the Service Regulations of the Military Police.

2.122. In wartime, the patrol service is organised pursuant to an order of the unit commander and as part of security and safety measures in the zone, sector or area of combat operations and on certain axes; and among others, the following tasks are carried out:

- (i) control of movement in the sector of the command post, and of the deployment of units and materiel and technical equipment,
- (ii) participation in identifying persons for the purposes of detecting inserted enemy groups or individuals, or those left behind, and preventing their subversive activity,
- (iii)undertaking measures of banning or restricting movement in certain sectors,
- (iv)preventing grouping of refugees on roads used by units and identifying enemy individuals or small groups among them,
- (v) detecting and taking into custody persons who escaped from the VRS /Army of Republika Srpska/ and other perpetrators of crimes,
- (vi)identifying refugees in cooperation with MUP /Ministry of the Interior/ organs, and bringing into custody suspicious persons and handing them over to security organs of the command.

The military police also carry out other tasks ordered by the competent superior officer.

2.123. Escort service

The escort service is about taking over persons and property, providing security during their escort and handing them over to the competent organ.

2.124. Persons and property are escorted from the place where they are taken over to the place where they are handed over, in one leg.

2.125. In exceptional circumstances and in wartime, escort may also be provided in several legs.

2.126. Item 57 of the Service Regulations of the Military Police states: "*the military police may also, upon a special order, escort prisoners of war.*"²⁵

2.127. This means that there is a possibility for the competent officer (commander) to order the use of the military police for escorting prisoners of war, or rather, that this is not part of the regular tasks which the military police carry out regularly and automatically within the escort service; therefore, they participate in them only when ordered to do so by the superior commander in whose unit the military police unit is placed.

2.128. This is defined even more precisely in item 255 of the Instructions on the Use of the Service Regulations of the Military Police, which states: "*The military police participate only in escorting important prisoners of war from division collection stations to prisoner of war camps.*"²⁶

2.129. According to the above, the Instructions restrict the use of the military police to "important prisoners of war".

2.130. The officer of a security organ who exercises specialist control over the military police unit has the duty to inform as necessary, using information available to him, the officer of the military police unit escorting prisoners of war of security problems which may threaten the execution of the concrete task and to propose measures required for resolving them.

2.131. The officer who orders the escort of prisoners of war has the duty to inform the officer of the unit assigned for providing escort of the following: the number and category of prisoners who need to be escorted, the escorting method, the route and how food and other necessities will be provided.

²⁵ Service Regulations of the Military Police, ERN 0207-2092-0207-2115, English ERN 0304-1627-0304-12654, Exhibit P00707, item 57; Instructions on the Use of the Service Regulations of the Military Police, pages 96-98, ERN 0467-5853-0467-5968, Exhibit 3D00276

²⁶ Instructions on the Use of the Service Regulations of the Military Police, item 255, pages 96-97, ERN 0467-5853-0467-5968, Exhibit 3D00276

2.132. After receiving an escort task, the officer of the escort unit undertakes the following measures:

- (i) calls out prisoners of war from a list received from the command organ,
- (ii) searches prisoners of war,
- (iii) warns prisoners of war that any escape will be prevented with the use of weapons.

2.133. Any escape attempt by prisoners of war is prevented with appropriate force.

2.134. After the escort is complete, prisoners of war are handed over to the command of the prisoner of war camp. All of this is registered in the prescribed records and documents.

2.135. The provisions of the Service Regulations of the Military Police and the Instructions on the use of the regulations define fully and in much detail the tasks and methods of work of the military police with regard to prisoners of war. At the same time, it should be noted that the military police are defined as participants in duties and tasks relating to prisoners of war, while other organs of Army commands and units are responsible for these tasks.

2.136. It should be stressed in particular that with regard to their complexity and method of execution, duties and tasks relating to prisoners of war performed by the military police are of such character that the engagement of security organs in their execution is not prescribed with the exception of providing information on the security situation and proposing measures for preventing threats to the safe execution of the task, but only when the security organ has information on expected threats and those responsible for them. Everything else with regard to the escort of prisoners of war is within the competence of the VP /military police/ and command organs.

2.137. Crime prevention service

The military police crime prevention service includes duties carried out by organs of the interior in accordance with the law regulating criminal procedure, and which refer to crimes within the jurisdiction of military courts.

2.138. In the execution of duties and tasks within the scope of the crime prevention service, the military police undertake the following:

- (i) If there are reasonable grounds for suspicion that a crime within the jurisdiction of a military court that is prosecuted *ex officio* has been committed, authorised military police officials are required to undertake the necessary measures to find the perpetrator of the crime, /to prevent/ the perpetrator or an accomplice from hiding or escaping, to uncover and secure traces of the crime (KD) and any objects that may serve as evidence, and to collect any information that may be of use in criminal proceedings. *In the case of those crimes on which security organs act, they immediately inform the competent security organ, while military police organs immediately undertake any measures which cannot be delayed.*

- (ii) Duties and powers *defined by the law regulating criminal procedure are exercised by authorised military police officials ex officio, at the request of the military prosecutor or the military court.*
- (iii) An authorised military police official may collect any information necessary on a crime within the jurisdiction of the military court that is prosecuted *ex officio* /and/ on the perpetrator of a crime who is a member of the Army from military personnel and other citizens of the RS who are not members of the RS Army, in accordance with the law regulating criminal procedure.
- (iv) When a person is unable to respond to the summons of an authorised military police official issued for the purposes of gathering preliminary information, this information shall be gathered at the person's location.
- (v) Authorised military police officials may apprehend a person if there are reasonable grounds for suspicion that a crime within the jurisdiction of a military court has been committed, when there are reasons for this as defined in the law regulating criminal procedure.
- (vi) Pursuant to the law regulating criminal procedure, an authorised military police official may carry out the following activities even before the initiation of an investigation of crimes within the jurisdiction of the military court: temporarily confiscate items, search apartments and persons, carry out an on-site investigation and determine what kind of forensic investigation is needed.
- (vii) If military personnel or other persons submit a report on a crime within the jurisdiction of the military court to an authorised military police official, he must receive it and deliver it without delay to the competent military prosecutor, and also, if possible, gather any information necessary and undertake other measures with regard to the reported crime and perpetrator.
- (viii) Commanding officers of military units and all VRS members must provide, within their rights, duties and powers, any assistance necessary to authorised military police officials and allow them to gather information and perform other duties prescribed by the law regulating criminal procedure and the Service Regulations of the Military Police.

2.139. Article 151 of the Law on Criminal Procedure defines the power of military police organs to carry out operative and technical activities in the case of crimes prosecuted *ex officio*, and Articles 67 to 92 of the Service Regulations of the Military Police state which activities and powers are included in the crime prevention service.

2.140. *While performing duties and tasks prescribed by the law, authorised military police officials must inform security organs only in the case of crimes and perpetrators on which security organs need to take action. In all other cases, they take action ex officio and at the request of the military prosecutor.*

Powers of the military police

2.141. When on duty, military police members take the following measures and actions:²⁷

- (1) warning,
- (2) checking identity documents,
- (3) submitting a report,
- (4) bringing into custody,
- (5) detention,
- (6) use of physical force,
- (7) use of rubber truncheons,
- (8) use of binding,
- (9) use of other means of restraint,
- (10) use of weapons,
- (11) use of specially trained dogs,
- (12) arrest,
- (13) search of persons and apartments, and
- (14) confiscation of items and documents.

2.142. Military police members are also obliged to undertake the above-mentioned measures and actions when off duty if they find a person perpetrating a crime which is prosecuted *ex officio*, while military police officers are obliged to do that when they find a VRS member seriously threatening the reputation of Army members in a public place.

2.143. In the execution of their duties, the military police will use only those powers which allow them to perform the task with as few consequences as possible. For the use of each power, basic conditions are prescribed, and so are the duties of an authorised official with regard to reporting to his superior officer.

Regulations governing the function of security organs and the military police in combat rules and instructions

Rule, Corps of Ground Forces – provisions on security (Provisional)

2.144. The Rules of Corps of Ground Forces²⁸, in the section on corps commands in item 73, prescribe: "*The security organ is a specialist organ in the Command which organises and implements measures and procedures of counter-intelligence support of the Corps, and participates in the organisation and implementation of measures of security support.*"

²⁷ Instructions on command and control over the security and intelligence organs of the VRS, item 1, ERN DA01-0961-DA01-0963, English ERN 0308-9290-0308-9292, Exhibit P02741, item 2, paragraph 2; Service Regulations of the Military Police, ERN 0207-2092-0207-2115, English ERN 0304-1627-0304-12654, Exhibit P00707, Chapter IV, items 26-40

²⁸ Rule, Corps of Ground Forces (Provisional), General Staff of the Armed Forces of the SFRY, *Maršal Tito* Centre of Higher Military High Schools, SSNO, 11 April 1990, ERN 0114-5728-0115-5932, English ERN 0091-3649-0091-3679, Exhibit 7DP00412, item 73

2.145. The following paragraph of this item defines the role of security organs in specialist control as follows: *“It exercises specialist control over the security organs in subordinated commands. It organises, guides, coordinates, supports and controls their counter-intelligence efforts. It controls the unit of the military police and proposes its use within the limits of its authority.”*

2.146. There are three important definitions which must be emphasised for clear differentiation: **organises and implements** (which means that it is responsible for these tasks and duties); **participates in the organisation** (somebody else is responsible here, and the security organ participates); **it exercises specialist control over** security organs in subordinate commands and the military police unit (deals with certain specialist problems, while the commander is commanding, or rather, taking decisions and assigning tasks).

Manual for the Work of Commands and Staffs (provisions on security) (Draft)

2.147. The Manual for the Work of Commands and Staffs²⁹ was at the same time both a methodological and a regulatory document on the work of commands and staffs, and as such it was mandatory for all commands and staffs of the armed forces of the SFRY /Socialist Federative Republic of Yugoslavia/ and for school and educational centres in which training was conducted.

2.148. Items 221 to 224 of this Manual govern the subject of security support and the duties of security entities. Special emphasis is given to the role of the command in organising security measures pursuant to commanders' decisions, instructions and orders from the superior command, assessments of the internal and external enemy – their activities and abilities, and the situation in units and in the zone, sector and theatre of operations.

2.149. With regard to the duties of officers, it states: *“Every officer must monitor and assess the security situation when carrying out tasks within his jurisdiction, propose and take appropriate measures and activities, constantly adjust them to the current situation, verify their implementation and report to the competent officers.”*

2.150. The planning of security measures is carried out within plans created by the command or its organs.

2.151. The role and tasks of security organs are the following: *“On the basis of the security situation assessment, /the security organ/ makes a counter-intelligence assessment to identify measures and activities to discover, monitor and prevent secret operation of the enemy and to protect the unit.”* Therefore, the role and tasks of security organs with regard to threatening secret operations of the enemy is clearly emphasised and concretely defined.

²⁹ Manual for the Work of Commands and Staffs, Draft, *Maršal Tito* Higher Military Schools Centre, SSNO, General Staff of the JNA, 1983, ERN K023-9361-K023-9576, English K011-1600-K011-1794, Exhibit 5DP00699

2.152. The security organ in the command draws up a special plan of counter-intelligence activities, which is approved by the army commander, and in wartime by the division commander. *When applied to the VRS, in wartime the plan could be approved by the corps commander.* In a regiment (brigade) or lower-ranking units, security is regulated verbally or in a separate in an order.

Brigade Rules (for infantry, motorised, mountain, alpine, marine and light brigades) - **security provisions**

2.152. The Brigade Rules³⁰, in the section containing provisions on the brigade command, in item 122, prescribe the place, role and duties of security organs of the brigade command.

2.153. According to the organisational structure of the brigade command, the security organ is directly subordinated to the brigade commander.

2.154. The security organ is defined as [...] *“a specialised organ of the command which organises and implements measures and procedures of counter-intelligence support. It also participates in recommending, organising and implementing security and self-protection measures for which the command and other subjects of self-protection are responsible.”*

2.155. The security organ **exercises specialist control over the intelligence and security organs of subordinate units** with regard to security-related activities, organises and guides their work, offers assistance to them and inspects their activities in the execution of counter-intelligence tasks.

2.156. The security organ **exercises specialist control over the military police unit**, monitors its level of training and readiness for carrying out combat and other tasks and recommends its most effective use to the commander.

2.157. Such a role can be summarised to say that the security organ is the specialist intermediary between the commander and the officer (commander) of the military police unit. The security organ of the brigade command performs this role as part of security support tasks which are planned, organised and carried out by the brigade command with the goal of eliminating all forms and sources of danger from the activities of external and internal enemies.

2.158. A unified security system is implemented this way in the zone of combat operations.

2.159. The command and other brigade organs organise security as a regular activity, and all officers are responsible for the security of their units.

2.160. **The security organ organises and implements counter-intelligence support** in accordance with the Rules of Service of Security Organs and orders from the

³⁰ Brigade Rules (for infantry, motorised, mountain, alpine, marine and light brigades), UP-54, SSNO, 1984, ERN 0114-7096-0114-7391(pages 63, 103, 104), English ERN 0303-0230-0303-0415 (pages 38, 66, 67), Exhibit P00694

superior command. Preventing action by enemy special forces, *in addition to counter-intelligence activities*, also includes other measures and activities with the goal of detecting and destroying them. It is concretely defined for the security organ of the brigade command that it is responsible for counter-intelligence duties and tasks, which activities it takes part in, and that it exercises specialist control over security organs in subordinate units and the military police unit.

2.161. *The purpose of presenting these definitions from the rules is /to show/ that in accordance with these criteria, the duties and tasks within the competence of security organs and the military police can be identified in practice and separated from other /duties and tasks/ assigned to other organs. On the basis of this, it is possible to determine clearly who is responsible for them and their competence and powers in a concrete case, and accordingly to assess and judge their responsibility.*

Legal provisions and other regulations on cooperation between VRS security organs and organs of the MUP /Ministry of the Interior/ of the RS

2.162. In the period covered by this report, several legal documents used in practice regulated relations and cooperation between VRS commands and units and organs of the interior in the RS.

2.163. Analysis of these documents points to very strict borders between these two state structures and their full vertical subordination.

2.164. All important issues and tasks which the VRS and organs of the interior were supposed to act on jointly were within the competence of the highest state organs, with the RS President, as the commander-in-chief, and the highest military officers – the Commander of the VRS GŠ /Main Staff/, on one side, and the Minister of the Interior and authorised organs in his ministry on the other side.

2.165. The consequence of this kind of defining of cooperation in detail at the highest level with regard to the execution of joint duties and tasks of VRS commands and units and MUP organs and units was that at operational levels, i.e. during implementation, only issues of technical cooperation were dealt with and mutual coordination was implemented through practical activities.

2.166. *The Law on Internal Affairs*³¹ - *Provisions on Cooperation*: This law defines the subject of collaboration by the MUP, separately for the sectors of public and national security. Article 8 of the Law prescribes that “*within its area of competence, the Ministry shall share with [...] government agencies [...] any information it may acquire in the line of duty, especially information in the area of public and national security which is relevant to their safety, whenever the circumstances allow.*”

Government agencies also include authorised organs of the VRS.

³¹ Law on Internal Affairs, ERN 0113-8924-0113-8926, English ERN 0084-8644-0084-8650, Article 8 and Article 21, Exhibit P00703

2.167. Article 21 of the Law prescribes and obliges the Ministry to collaborate with regard to duties and tasks within the scope of work of the State Security Service: *“In handling national security affairs, the Ministry shall collaborate with appropriate federal administrative agencies, [...] and security agencies in the armed forces. This collaboration shall particularly include mutual assistance in performing various tasks and duties, mutual informing, harmonisation of activities, and agreeing on the conduct of affairs which are pertinent to national security.”*

2.168. The fact that the above refers to tasks and duties pertinent to national security also indicates at which level it was envisaged that the prescribed collaboration would take place with regard to these tasks and duties. This was undoubtedly the highest state level, which is the only one competent for assessing and deciding what is “pertinent to national security”.

2.169. *Law on the implementation of the law on internal affairs in case of an imminent threat of war or a state of war;*³² This law specifies the use of police units in combat operations from the moment when a decision on their engagement is taken until its implementation, and the method of command during the whole procedure with regard to this.

2.170. Article 4 states: *“The Ministry shall be considered a part of the Armed Forces of Republika Srpska and its forces shall be under the command of the President of the Republic as the commander-in-chief.”*

2.171. The Minister of the Interior shall be responsible for taking care that the orders of the President of the Republic are implemented.

2.172. Article 13 prescribes that police units shall participate in combat operations pursuant to an order issued by the commander-in-chief of the Armed Forces and that the Minister of the Interior shall give orders police units through the Police Forces Command Staff.

2.173. Police units assigned to combat operations by an order of the commander-in-chief of the Armed Forces shall be resubordinated to the commander of the unit in whose zone of responsibility they are performing combat tasks.

2.174. A commander who is a member of the MUP shall command these forces, and during the time they are resubordinated to the VRS, they shall retain their organisation and may not be split up or separated.

2.175. In addition, these units shall be used *only for combat tasks established in advance by the commander-in-chief or the Minister of the Interior.*

2.176. The commander of the military unit to whom police units have been resubordinated shall provide logistic support for these units.

³² Decree on the promulgation of the law on the implementation of the law on internal affairs in case of an imminent threat of war or a state of war, *Official Gazette of Republika Srpska*, no. 1, special edition, page 3, 29 November 1994, ERN 0049-7350-0049-7406 (pages 3-5), English ERN 0086-0435-0086-0478 (pages 8-13), Exhibit 4DP00725

2.177. In accordance with these legal provisions, all issues with regard to the engagement of the police in combat operations were supposed to be resolved through the chain of command in the VRS and the MUP.

2.178. Security organs could participate in this within staff security duties on orders from the superior commander, while practical issues in the execution of the assigned tasks were in the area of competence of appropriate commands.

2.179. Cooperation in the domain of duties and tasks of the National Security Service and VRS security organs was established through the chain of specialist control over security organs and the National Security Service, and the contents and methods of implementation, as well as the competences of those responsible for them, were clearly defined in advance.

2.180. This is also an explanation of the contents and methods of implementation of the provision of Article 5 of the Rules of Service of Security Organs which refers to cooperation between the OB and services and organs performing state security duties.

2.181. *The order of the President of the Republic to the Main Staff of the VRS and the MUP of Republika Srpska*³³, referring to the establishment of cooperation which is specified by laws and other regulations, deals with problems and ambiguities with regard to the engagement of the MUP in combat operations.

2.182. This order specifically orders the GŠ of the VRS and the MUP of the RS to adhere, when cooperating with each other, to legal provisions governing this cooperation and /specifies/ that the contents and extent of cooperation must be defined concretely and precisely and on time.

2.183. The goal is to remove any arbitrariness in making requests which could exceed the limits of the above agreement, as well as to define in strict terms the role of command and control in the cooperation.

2.184. In the implementation of the prescribed cooperation, all other issues such as coordination and the engagement of police units, or exchange of information relevant for security in the Army or in the territory, had more of an operational nature, without giving broader powers or initiative to those implementing the tasks.

2.185. In addition, all issues relating to cooperation were dealt with at the highest command levels in the VRS and the MUP, both with regard to issues in the public security sector and issues in the state security sector, or rather, in the National Security Service of the RS and security organs of the VRS.

2.186. In combat rules and instructions defining command in the VRS, all issues of cooperation in the zone of combat operations were defined exactly as stated above. These provisions do not specify how cooperation should be established, because that

³³ Order of the President of the RS, Strictly Confidential no. 01-175-1/95, 22 April 1995, ERN 0062-7730-0062-7733, English ERN 0088-8578-0088-8579, Exhibit P00008

is subject to concrete needs and possibilities, in contrast to explicitly formulated requirements in that respect in the laws mentioned above and the order of the President of the RS.

CONCLUSIONS ON COOPERATION BETWEEN THE VRS AND THE MUP OF THE RS

2.187. *Cooperation is precisely defined in laws, combat rules and instructions, and is explicitly ordered by the commander-in-chief of the armed forces of the RS;*

2.188. *All issues relating to the contents and extent of cooperation between the VRS and the MUP of the RS are handled in accordance with plans adopted in advance at the highest command levels;*

2.189. *The engagement of police units in combat operations and command over these units are clearly defined, because units are engaged as complete establishment entities and they cannot be split up; during combat operations they are under the command of an officer who is a member of the MUP of the RS, and when they are resubordinated to the Army, they may be engaged only on tasks defined in advance by the Minister of the Interior. The commander of the military unit to whom the police unit is resubordinated commands this unit through its commander and he must provide logistics support to that unit;*

2.190. *Coordination³⁴ (alignment) of the actions of police units and VRS units is in the area of competence of command organs, because that is a function of command and control. This also fully applies to organising, maintaining and controlling the security regime in the zone of responsibility of VRS commands and units. Therefore, security organs may be engaged in their commands as participants in staff security duties, i.e. as specialist organs for security duties, on orders from the superior commander and in accordance with the plan of the command;*

³⁴ Command and Control, Textbook for Military Academies, SSNO, IV U-24, Belgrade, 1983, ERN 0214-8123-0214-8517 (page 34), CLSS English Translation (page 34)

II SPECIAL SECTION

3. THREATS TO SECURITY IN THE ZONE OF THE 1st ZVORNIK INFANTRY BRIGADE BEFORE AND DURING THE *KRIVAJA 95* OPERATION

3.1. Introduction

3.1.1. This part of the report will address the threatening activities and their agents in the zone of the 1st Zvpbr /Zvornik Infantry Brigade/ and the activities of the security organs of the command and the OB /security/ units of the Brigade aimed at uncovering and preventing these activities and their agents within the prescribed range of responsibilities in the period covered by the report.

3.1.2. On the basis of documents which the defence of 2nd Lieutenant Drago NIKOLIĆ placed at my disposal, I came to the conclusion that in the threats to security in the zone of the 1st Zvpbr, the following two characteristic periods can be distinguished:

- a) The first one was before the *Krivaja 95* operation. The general characteristics and the contents of the threatening activities were then more or less the same as in other areas of the zone of the DK /Drina Corps/ as a whole³⁵.
- b) The second period began with the launching of the *Krivaja 95* operation and it lasted after the Serbian forces took control of Srebrenica and until the execution of the prisoners of war.

There were significant differences in the way threatening activities arose and the way their agents acted between the first and the second periods in the zone of the Zvpbr, but also in comparison with other parts of the z/o /zone of responsibility/ of the Drina Corps.

In the second period, during and immediately after Srebrenica fell under the control of the Serbian forces, there were significant changes in the sense that the threat to the command, units and territory in the zone of the Zvornik Brigade rapidly escalated. The OB /security organ/ was then forced to carry out much more extensive and complex duties and tasks in taking counter-intelligence security measures, as well as security measures that were the responsibility of all security subjects in the Brigade, and in large part of the superior command (DK).

3.1.3. We should always remind ourselves of the basic principles of carrying out counter-intelligence duties and tasks. I now note only those that were of particular importance and influence at the given moment. In addition to secrecy, which has

³⁵ Original minutes from the 16th sitting of the National Assembly of the Serbian people in BiH, 12 May 1992, ERN 0844-7711-0844-7761 (page 6), English ERN 0091-3501-0091-3562 (page 10), Exhibit P00025; Circumstances in BiH before the beginning of the war, ERN 0064-1755-0064-1774, English ERN 0084-0170-0084-0191; Forming of the Bratunac Brigade, ERN 0064-1731-0064-1754, English ERN 0083-9620-0083-9653.

already been described, these were: creative and original ways of applying the methods and /?means/; priorities in counteracting enemy activity, implying immediate and energetic counteraction against those threatening activities and their agents which produce most destructive and quickest effects on an object protected by the OB /security organs/; continuous application of methods for counteracting the agents of threatening activities which are carried out on a long-term basis and therefore must be constantly checked by the OB; timely organisation for the application of OB methods against the expected threatening activities and their agents, aimed at excluding the possibility of sudden destruction and the like in a preventive and timely fashion.

3.2. Threats to security in the zone of the 1st Zvpbr before the beginning of the *Krivaja 95* operation

3.2.1. Defence positions in the zone of the Zvpbr facing the Muslim forces were manned and held by infantry battalions which were deployed frontally, in one line, with reserve positions which were fortified but unmanned. Disruption of the first line left gaps in the defence³⁶. The Muslim side used this for the covert infiltration of IG /reconnaissance groups/ and DTG /sabotage and terrorist groups/ deep within the z/o.

3.2.2. The zone of defence of the Zvpbr was used for the covert supply of the "protected" Srebrenica zone with UBS /weapons, ammunition and explosives/ and MTS /materiel and technical equipment/, which represented a special security problem because the groups bringing up the supplies were resolute and willing to carry out the assigned task at any cost, which implied even the most unscrupulous means and methods without any limitations³⁷.

3.2.3. As part of the overall activities of the A RBH /Army of Bosnia and Herzegovina/, an order for carrying out offensive b/d /combat operations/ was given through RiK /command and control/ on 17 June 1995. Considering the previous operations of the forces of the 28th Division of the ABH from Srebrenica in the zone of the Zvpbr, it was realistic to expect that the operations would be intensified and that the threat to security in the part of the zone facing Srebrenica would be significantly increased and diversified³⁸. These operations were regularly preceded by intelligence and reconnaissance and sabotage and terrorist actions behind the first defence lines and deep within the z/o.

3.2.4. Armed groups from the 28th Division of the A BH infiltrated from the so-called "protected zone" of Srebrenica and murdered and terrorized Serbian civilians, plundered, torched houses and attacked smaller units which were carrying out tasks in the area, including the zone of the Zvpbr. According to the operations report of the command of the 28th Division, which was sent to the 2nd K /Corps/ of the A BH in

³⁶ Zvornik Infantry Brigade Command, strictly confidential no. 06-218, 16 July 1995, Interim combat report, item 3, ERN 0068-4874-0068-4875, English ERN 0081-5841-0081-5842, Exhibit 7DP00330.

³⁷ G[ARBiH /General Staff of the Army of the Republic of BiH/, No. 1-1/V-169, Kakanj, 28 May, Report on supply of UBS /lethal assets/ and MTS /materiel and technical equipment/ to the @epa and Srebrenica enclaves, ERN 0185-4593-0185-4594, English ERN 5D03-0833-5D03-0835, Exhibit 5D00265.

³⁸ General Staff of the Army of the Republic of BiH, Analysis and chronology of events in Srebrenica, ERN 0185-4504-0185-4511.

Tuzla, 71 members of the VRS /Army of Republika Srpska/ were liquidated in these actions and other losses in weapons and equipment were inflicted³⁹.

3.2.5. On 2 July 1995 the command of the DK sent a Warning Order⁴⁰, operational number 1, ordering that forces equivalent to a light battalion be detached from the Zvpbr together with the necessary combat hardware and strong support, in order to conduct combat operations on an independent axis.

With the formation⁴¹ of this unit and its departure to carry out its task outside the defence zone, the Brigade was left without a part of the forces that had been maintaining the necessary control of the territory, which was one of the very sensitive security issues. This required an increased involvement of the VP /military police/ in control in the defence zone of the Zvpbr, and of security organs in the counter-intelligence security of the territory.

3.2.6. Volunteers who had various goals and intentions joined the VRS ranks from among the Serbian people from the FRY /Federal Republic of Yugoslavia/ and from abroad, including persons with a criminal past. Their joining the VRS units was, to a lesser or greater degree, a security risk. All this had to be covered by the security organs' methods of work and it was not allowed on any account that they remain outside the reach of control and monitoring during their stay in units to which they were assigned.

In addition to this, there were official and other connections with persons from abroad, representatives of various organisations, the media, and the like. Intentional collection and unintentional leakage of information and other negative influences through these connections and relations were a constant source of threat to the security of the Brigade⁴².

3.2.7. The Main Staff of the VRS dispatched two volunteers, Poles, to the command of the DK so that they would be deployed to the reconnaissance and sabotage detachment of the DK, and the command of the DK dispatched them to the Manoeuvre Battalion of the 1st Zvpbr (to JOLOVIĆ)⁴³.

The chief of the OB of the Zvpbr did not receive any information about them on the basis of which he could draw a reliable conclusion about their suitability in terms of security and for tasks carried out by the unit to which they were assigned. They were

³⁹ Army of the Republic of BiH, Command of the 28 Division, strictly confidential no. 04-114/95, 30 June 1995, Operations report to the 2nd Corps Command Tuzla, ERN 0084-2157-0084-2158, English ERN 0084-2838-0084-2839, Exhibit 1DP00428.

⁴⁰ Drina Corps Command, strictly confidential no. 01/4-156-1, 2 July 1995, ERN 0430-3382-0430-3383. See 0091-7863-0091-7864, English ERN 0092-2930-0092-2931, Exhibit 5DP00106.

⁴¹ Order by the Commander of the Zvornik Brigade from 02 July 1995, ERN 0071-0229-0071-0236, English ERN 0085-0060-0085-0064, Exhibit P00318.

⁴² Drina Corps Command, Security Department, strictly confidential no. 17/141, 11 February 1995, ERN 0428-4576-0428-4576.

⁴³ G[VRS /General Staff of the Army of Republika Srpska/, confidential no. 09/31/12-3/75, 20 April 1995, ERN 0433-3820-0433-3820, English ERN 0433-3820-0433-3820_EDT, Exhibit P02468; and Drina Corps Command, confidential no. 05/1-134, 20 April 1995, ERN 0433-3819-0433-3819, English ERN 0433-3819-0433-3819_EDT, Exhibit P02467.

volunteers who had undergone top quality training for special tasks, as former members of the Foreign Legion. The motives, purposes and intentions behind their joining the VRS unit were unclear.

These foreigners, Poles, were an unknown for the OB and they represented a significant security risk. Their assignment to the manoeuvre unit of the ZV BR /Zvornik Brigade/ meant that there were realistic possibilities of all kinds of surprises.

3.2.8. The security administration of the GŠ /Main Staff/ of the VRS had information that a contract murder of the commander of the GŠ, General Ratko MLADIĆ, and his assistant for security and intelligence, General Zdravko TOLIMIR, had been ordered.

This information represented a priority task for all OB in the VRS and implied that this was a complex security problem⁴⁴.

3.3. Threats to security in the z/o of the 1st Zvpbr during the *Krivaja 95* operation

3.3.1. Preparations for the participation of the Zvpbr in the Krivaja 95 operation began on the basis of the Warning Order from the command of the Drina Corps of 2 July 1995, when the security situation in the zone was very unfavourable, as noted briefly in the previous section and in item 1. of the said Order⁴⁵.

3.3.2. The entry of DK units in Srebrenica and the decision that the combat forces which participated in taking over Srebrenica immediately move on to a new task, i.e. the takeover of the Žepa enclave⁴⁶, may be considered as the beginning of the escalation of threatening activities and a mass appearance of their agents, directed against the command and units of the Zvpbr as well as the facilities and population in its zone of defence. Namely, at the moment when this decision was made, it was known that the 28th Division of the A BH had left Srebrenica, i.e. that it had not been taken prisoner and disarmed.

3.3.3. Namely, the command of the 28th Division separated men fit for military service from other civilians. With them, it formed a mixed column and took them in an organised way, with armed security, to break through the territory under the control of the Serbian forces towards the territory under the control of the Muslim forces in the Tuzla and Kladanj sector. According to the legal regulations which were then in force, this action practically represented a mobilisation of these persons as war forces that were placed under the command of the 28th Division of the 2nd K of the A BH. It should be taken into account that on 20 June 1992 the incomplete Presidency of BH /Bosnia and Herzegovina/ declared a state of war and issued an order on the

⁴⁴ Drina Corps Command, Security Department, strictly confidential no. 17/469, 20 April 1995, ERN 0066-3714-0066-3715, English ERN 0086-0341-0086-0342, Exhibit P03033.

⁴⁵ GJ VRS, strictly confidential no. 03/4-1629, 13 July 1995, ERN 0091-7858-0091-7859, English ERN 0092-0411-0092-0412; Drina Corps Command, strictly confidential no. 01-04-156-1, 2 July 1995, ERN 0430-3382-0430-3383. See ERN 0091-7863-0091-7864, English ERN 0092-2930-0092-2931, Exhibit 5DP00106.

⁴⁶ Drina Corps Command, strictly confidential no. 02/4-158-1, 13 July 1995, Order to attack the @epa enclave Op-br /Operations number/ 1, ERN 0091-7870-0091-7873, English ERN 0092-0249-0092-0253, Exhibit P00114.

declaration of general public mobilisation in the whole territory of BH⁴⁷. Otherwise, all non-mobilised men fit for military service would have been in Srebrenica and Potočari together with other civilians.

3.3.4. On 13 July 1995 the Main Staff of the VRS sent an order to prevent the passage of Muslim groups to Tuzla and Kladanj to the commands of the DK, IKM /Forward Command Post/-1 of the DK, the Zvpbr, the 1st Bpbr /Birač Infantry Brigade/ and the Vlpbr /Vlasenica Light Infantry Brigade/, addressed personally to the commander or the chief of staff.

The fact that the GŠ simultaneously sent the order to the command of the DK and the brigade commands testifies to the gravity of the situation, the urgency and importance of the task and the GŠ's direct interest in it being consistently and fully carried out.

On 13 July 1995, based on the order of the GŠ VRS, the command of the Drina Corps sent to the commands (i.e. commanders and chiefs of staff) of all subordinated units its own Order for preventing passage of Muslim groups to Tuzla and Kladanj. The Order warns that "*...able-bodied men from the enclave*" were tasked "*with retreating, armed, and in groups, towards Tuzla and Kladanj. There are hard-core criminals and felons among them, who will go to any lengths to evade capture and reach the territory under Muslim control...*"⁴⁸ (According to some estimates, there were between 12,000 and 15,000 men). In both orders, the threat to security in the zone of the Zvpbr along the axis of the Muslim column's breakthrough is presented as dramatic.

3.3.5. After this, the transfer of prisoners of war from Srebrenica to the zone of the Zvpbr and their accommodation there began. In addition to the threatening activities that were already under way, this also had a very negative impact on the security situation in the units in the zone of the Zpbr /Zvornik Infantry Brigade/.

Accommodating and securing prisoners of war required the detachment of some of forces that were already insufficient in number and overstrained because they had to carry out difficult combat tasks.

3.3.6. The accommodation of a great number of prisoners of war was a danger to the population in the places where they were detained and at the same time it could result in the spreading of alarming news, cause panic and make the soldiers leave the front lines and go to their villages in order to protect their families and property.

The more so as on 15 July the command of the DK made an urgent request with the Secretariat of the Zvornik MO /local board/ to mobilise v/o /men liable for military service/ in the z/o of the DK for securing the territory⁴⁹.

⁴⁷ *Official Gazette of the Republic of BiH*, number 7, 20 June 1992, pp 234-235, paragraphs 158 and 159., ERN 0052-0783-0052-0786.

⁴⁸ Drina Corps Command, strictly confidential no. 03/156-11, 13 July 1995, ERN 0084-7295-0084-7296, English ERN 0088-3603-0088-3605, Exhibit P00117.

⁴⁹ Drina Corps Command, strictly confidential no. 057/1-242, 15 July 1995, ERN 0430-3471-0430-3471.

The previously collected intelligence indicated that it was possible that the Muslim forces might even attack the town of Zvornik in order to capture it and have it under their control⁵⁰.

3.3.7. The intelligence organs of the Muslim side, i.e. the A BH, were constantly interested in the prisoners of war. There were grounds to expect that after the place where they were detained was discovered, members of the A BH would try to rescue the prisoners of war, either by infiltrating armed groups or by engaging armed groups from the column that were already in the zone of the Zvpbr.

3.3.8. Units of the 2nd Corps of the A BH which attacked the first defence lines of the Zvpbr launched strong offensive operations and, by exerting pressure on the front, made it easier for the column which was moving towards the front line to break through.

The result of such coordinated operations by the Muslim side was that the situation in the zone of the Zvpbr became critical and that there was danger of the Muslim forces breaking through the defence line and providing conditions for supplying weapons and ammunition to able-bodied men in the column. That would cause a change in the balance of forces in the area. The defence and security in the z/o of the Brigade would be placed in an untenable position⁵¹.

3.3.9. From the moment when the first conflicts occurred between the mixed armed Muslim column and the units of the Zvpbr in its defence zone, bigger and smaller armed and unarmed groups of soldiers from the 28th Division of the A BH began to separate from the column so that they could more easily and independently break through to the territory under the control of the Muslim side.

These groups hid and secretly stayed in the defence zone of the Zvpbr, some of them for more than a month. They were determined not to surrender themselves to the Serbian forces and they were waiting for a propitious moment to cross⁵² /into Muslim-controlled territory/. Even the smaller groups of soldiers from the 28th Division of the

⁵⁰ Drina Corps Command, strictly confidential no. 03/157-6, 15 July 1995 (intelligence report), ERN 0430-3476-0430-3476.

⁵¹ Zvornik Infantry Brigade Command, strictly confidential no. 06-218, 16 July 1995, Interim combat report, ERN 0068-4874-0068-4875, English ERN 0081-5841-0081-5842, Exhibit 7DP00330.

⁵² Combat report Zvornik Infantry Brigade: strictly confidential no. 06-216, ERN 0068-4866-0068-4867, English ERN 0081-5845-0081-5846, Exhibit 7DP 00326; strictly confidential no. 06-217/1, ERN 0068-4868-0068-4869, English ERN 0081-5835-0081-5836, Exhibit P00329; strictly confidential no. 06-218, ERN 0068-4874-0068-4875, English ERN 0081-5841-0081-5842, Exhibit 7DP00330; strictly confidential no. 06-229, ERN 0068-4908-0068-4911, English ERN 0081-0703-0081-0703, Exhibit 7DP00340; strictly confidential no. 06-230/1, ERN 0068-4912-0068-4915, English ERN 0081-0710-0081-0711; strictly confidential no. 06-231, ERN 0068-4916-0068-4921, English ERN 0081-0833-0081-0834; strictly confidential no. 06-232, ERN 0068-4922-0068-4925, English ERN 0081-0701-0081-0702; strictly confidential no. 06-233, ERN 0068-4926-0068-4929, English ERN 0081-1214-0081-1215; strictly confidential no. 06-234, ERN 0068-4930-0068-4933, English ERN 0081-1216-0081-1217; strictly confidential no. 06-235, ERN 0068-4936-0068-4939, English ERN 0081-1212-0081-1213; strictly confidential no. 06-238, ERN 0068-4944-0068-4945, English ERN0086-0480-0086-0481.

A BH hidden in the zone of the ZVBR /Zvornik Brigade/⁵³ were a great danger to undefended Serbian villages and the local population which moved across the territory, but also to smaller units which were carrying out tasks in the areas where these groups were.

3.4.0. The security regime in the z/o of the DK and particularly in the z/o of the Zvpbr was threatened to such a degree that defence was on the verge of collapsing, with a realistic threat that the situation could become untenable.

On 15 July 1995, the command of the DK issued an order for "*...all men to be mobilised in Zvornik and head to a defensive position.*"⁵⁴

Also on 15 July 1995, the command of the DK made a very urgent request for a mobilisation of v/o for the purpose of securing the territory in the zone of responsibility of the Corps.⁵⁵

The focus of defence and mobilisation tasks was in the zone of the Zvpbr, where the situation was the most difficult⁵⁶. The existing situation suggested that there was a realistic threat to carrying out mobilisation safely and a need to take urgent measures from the range of responsibilities of the OB.

Remarks on threats to security in the zone of the Zvornik Brigade

- the threats to security in the zone of the Zvornik Brigade until the beginning of the Krivaja 95 operation on 6 July 1995 were essentially identical with the same enemy activity in other parts of the DK defence zone;

*- a general characteristic of the threatening activities and their creators and agents was that these activities included almost all components, means and ways that could threaten the command, units, population, property and other assets that could be of use for the defence and the survival of people in the area. It was a total threat.*⁵⁸

⁵³ Report to the Bijeljina Military Prosecutor's Office, strictly confidential 17/94, 16 July 1995, ERN 0071-0343-0071-0346, English ERN 0085-0107-0085-0108, Exhibit P00345.

⁵⁴ Drina Corps Command, strictly confidential no. 03/157-6, 15 July 1995, ERN 0430-3476-0430-3476. See ERN 0293-5573-0293-5573, English ERN 0308-5466-0308-5466.

⁵⁵ Drina Corps Command, strictly confidential no. 05/1-242, 15 July 1995. ERN 0430-3472-0430-3472.

⁵⁶ 1st Zvornik Infantry Brigade Command, regular and interim combat reports of 14, 15, and 16 July 1995. See footnote 52.

gg: 1st Zvornik Infantry Brigade Command, strictly confidential no. 06-216/2, 14 July 1995, ERN 0068-4864-0068-4865, English ERN 0081-5847-0081-5847, Exhibit 5DP00327; strictly confidential no. 06/217-1, 15 July 1995, ERN 0068-4868-0068-4869, English ERN 0081-5835-0081-5836, Exhibit P00329; strictly confidential no. 06-218, 16 July 1995, ERN 0068-4874-0068-4875, English ERN 0081-5841-0081-5842, Exhibit 7DP0030; Intelligence report, strictly confidential no. 17/104, 18 July 1995, ERN 0071-0201-0071-0204, English ERN 0085-1320-0085-1321; Drina Corps Command, strictly confidential no. 03/157-6, 15 July 1995 (intelligence report), ERN 0430-3476-0430-3476; Army of the Republic of BiH, Command of the 24th Division. Army Division, strictly confidential no. 02/1-01/95-KZ, 14 July 1995. ERN 0262-8188-0262-8189.

- involvement of parts of the Zpbr in the Krivaja 95 and Stupčanica 95 operations, the breakthrough of the armed mixed column from the 28th Division of the A BH across the Brigade's zone of defence and the simultaneous accommodation of a great number of prisoners of war in facilities in the general area of the zone, as well as the increase of all forms of subversive activity on part of the Muslim side deep behind the defence line, coordinated with activities at the front, created a critical security situation and brought the defence to the limit after which the positions could not be kept. That was the newly arisen situation which required urgent and comprehensive measures of command and security organs, within their range of responsibility, as well as of all other defence structures (the MUP /Ministry of the Interior/, government organs and others).

- in the sphere of security activities in the zone of the Zvpbr, at the critical period, protection was very much conditioned by the ultimate threats, i.e. measures of counter-intelligence security were taken and the KPMR /combined application of methods of work/, for which the OB were responsible, was put in place; other security measures were also taken, for which other organs and individuals were responsible as part of their functional duties in Brigade commands and units.

4. ACTIVITIES OF THE CHIEF OF THE OB COMMAND OF THE 1st Zvpbr, 2nd LIEUTENANT DRAGO NIKOLIĆ, AND THE MILITARY POLICE DURING THE PERIOD FOR WHICH HE IS ACCUSED BY THE ICTY

(4.1.) Introduction

4.1.1. For a more thorough knowledge and understanding of the activities of the chief of the OB of the Zvpbr, 2nd Lieutenant Drago NIKOLIĆ, in discharging counter-intelligence duties, it is necessary to explain in more detail the essence and the practical importance of **secrecy** in the application of the methods and means of work of security organs.

Secrecy is the most important **principle**, based on overall experiences from the work of secret services and in particular the work of security organs during the national liberation and anti-Fascist struggle and the civil war of 1941-1945. The conditions which prevailed at the time were the most difficult ones that could arise in an occupied country for its enslaved, divided and feuding peoples, in their struggle for freedom and a common state. These experiences were both tested and confirmed for many decades. Secrecy became the absolute **condition** for efficiently uncovering and opposing secret enemy activity and its agents. Secrecy therefore became an explicit **legal obligation**. Secrecy is a constant and **real need**. Accordingly, in OB practice secrecy is defined as the "ultimate condition," without which there can be no application of the methods of work of the OB /security organs/, or effective counteracting the secret enemy activity.

In compliance with this, the following is prescribed in Chapter II, item 8 of the Directions on the Methods and Means of Work of the JNA /Yugoslav People's Army/ Security Organs: ***"The methods of work of the security organs are constant and***

planned secret procedures for systematically gathering, processing and using information in carrying out counterintelligence duties and tasks."⁵⁷

It should be particularly noted that these are: *secret procedures for gathering information*, which means that the environment must not notice this activity and outsiders should have no specific knowledge about it; *secret procedures for processing information*, which means that persons outside the security organs and persons within the security organs who are not responsible for this must be excluded from the process of processing certain information; *secret procedures for using information*, which means that the information may be used in ways that will prevent the smallest chance of threat to the secrecy of the procedures for gathering the information, of the source of the information, and of the procedure for processing it. Leakage of information on the work of the OB, or that they have information about a specific enemy activity, may be a warning to their organisers and persons discharging their duties that they have been uncovered. In this case, the application of the methods and means of work of the OB most often becomes ineffectual.

Secrecy is imposed by the characteristics of the enemy activity, in particular its secret planning, secret organisation, secret selection of agents and assistants and secret, unlimited selection of methods and means of activity. The following factors should also be added: the enemy's advantage in choosing the time for a secret attack, his own selection of the goal that he wishes to achieve and the independent selection of the target of the attack, and others.

It is precisely these characteristics of the k/o /counterintelligence/ activity, a misconception of secrecy in applying the methods of work of security organs on the one hand, and, on the other, a lack of real information on this outside the OB, that may cause individuals to doubt, misunderstand and draw wrong conclusions about the actual essence and character of the OB work in discharging the k/o duties for which they are responsible.

4.1.2. In the period relevant for this report, the chief of the security organ in the Zvornik Brigade was affected by the following factors while performing his duty: **the characteristics of the threatening activities and their agents** directed against the command units, facilities, population and territory in the zone of the Zvpbr; **legal definitions of the function**, remit, duties, tasks, responsibilities and powers of the OB, which are provided in the first part of the report; **orders and requests** for engaging security organs for duties and tasks relating to general security within the command of the Zvpbr; **assessments and conclusions of the chief of the OB of the Zvpbr** concerning existing and expected secret enemy activity against the Brigade command and units, and, based on this, the need to apply the methods of work of the OB in order to uncover and prevent enemy activities and their agents; **specialist guidance by the superior OB**, control, reporting, organisation of the work and provision of specialist assistance.

⁵⁷ Instructions on methods and means of JNA /Yugoslav People's Army/ security organ operations, SSNO /Federal Secretariat of National Defence/ UB /Security Administration/-17, 1986, ERN 0090-9844-0090-9878 (page 11, item 8), English ERN 0092-6833-0092-6874 (page 8, item 8), Exhibit 3D00275.

**(4.2.) Characteristics of threatening activities
and their agents in the zone of the Zvpr:**

4.2.1. Judging by the way they acted and the means applied, the enemy activities acquired the characteristics of special forces' action and typical terrorist actions of armed groups (ambushes, sudden surprise attacks, terrorist actions, murder of civilians, destruction of property, torching of houses and other forms of destruction, sowing fear and causing insecurity)⁵⁸.

4.3. Legal definitions and requests for engaging the OB in the Zvpr Brigade

4.3.1. Legal definitions of the function of the OB are presented in detail in the general section of the report.

The essence of legal definitions is that the OB /?is/ the proponent of DB /State Security/ duties to prevent enemy activity directed against the commands, units and facilities of the Zvpr and the security regime in the zone of defence⁵⁹.

4.3.2. Actual threatening activities and their agents in the zone of the Zvpr made it necessary to apply the way of engaging the OB in full accordance with the Instruction, at the time when the said enemy activity was under way.

In July 1995, highest measures of b/g /combat readiness/ were declared in the Army and the whole RS, and these measures also ordered a rational engaging of the OB⁶⁰; and in the whole z/o /zone of responsibility/ of the Drina Corps, v/o /men liable for military service/ were mobilised⁶¹. All military and other government organs and organisations were obliged to apply legal provisions regulating activities in the conditions of a state of war and an ongoing mobilisation.

Item 231 of the Brigade Rules specifies the following: "In addition to counter-intelligence activities, prevention of the operation of the enemy special forces includes other measures and activities designed promptly to discover and destroy the enemy special forces."⁶²

According to the quoted text, counter-intelligence activity was specified as D. NIKOLIĆ's first and main activity.

4.3.3. Orders of the superior army commander to the security organ of the Zvpr were supposed to be in accordance with the rules regulating the range of responsibilities,

⁵⁸ Forming of the Bratunac Brigade ERN 0064-1731-0064-1754 (page 2), English ERN 0083-9620-0083-9653 (page 2).

⁵⁹ See instructions, ERN DA01-0961-DA01-0963, English ERN 0308-9290-0308-9292, Exhibit P02741.

⁶⁰ President of the RS /Republika Srpska/ Order, confidential no. 01-1118/95, 16 June 1995, ERN 0073-3660-0073-3665, English ERN 0092-6972-0092-6974, Exhibit 4DP00001.

⁶¹ Drina Corps' Command request for drafting of v/o /men liable for military service/ in the z/o /zone of responsibility/ of the Corps, strictly confidential no. 05/1-242, 15 July 1995 ERN 0430-3471-0430-3471.

⁶² Same Brigade Rules, ERN 0114-7096-0114-7391 (pp. 103-104, item 231), English ERN 0303-0230-0303-0415 (page 66, item 231), Exhibit P00694.

powers and authorities of security organs.⁶³ These issues are particularly emphasised in the Instruction of the GŠ VRS for the command and control of security and intelligence organs, and a consistent compliance with the regulations concerning the work of the OB is expressly ordered⁶⁴. There were certain deviations from the application of these regulations in the Zvpbr.

4.3.4. Security organs of the Zvpbr, 2nd Lieutenant Drago NIKOLIĆ and Captain Milorad TRBIĆ, were assigned the duties of duty operations officer and duty officer at the IKM /Forward Command Post/, which means outside the range of duties and the prescribed range of responsibilities of security organs⁶⁵. This was a significant deviation from regulations and the usual practice in commanding security organs in the VRS⁶⁶. Assigning the OB the duty of a duty operations officer puts into question the application of authorities which the OB have according to the ZKP /Law on Criminal Procedure/ and the Law on Internal Affairs, because while discharging a duty outside the function of the OB, they cannot apply their authority in cases which would require this as part of these duties.

In addition to this, in such a case the security organ is unable to engage continuously in k/o duties which were extremely important and in which no one else could have replaced him.

4.3.5. On 2 July 1995, the Command of the DK gave to the Command of the Zvpbr a Warning Order⁶⁷ in which a part of the duty to detach forces for offensive operations had a security character, considering the responsibilities of the chief of the OB of the Zvpbr, 2nd Lieutenant Drago NIKOLIĆ, concerning the specialist chain of control in operation JUDA. On the basis of the Warning Order of the DK, the commander of the Zvpbr issued his own order to form TG /tactical group/⁶⁸ I of the zvp/?br/, which regulated all issues concerning the preparation and organisation of the TG1 except the role of the security organ in the formation of this TG1 and the carrying out of its duties.

4.3.6. On 2 July 1995, the Command of the DK issued to the commands of subordinated brigades an Order to carry out active b/d /combat/, Op. br. 1⁶⁹, in which security support measures are specified under item 10 b), including the "*secrecy of the*

⁶³ Rules of service OB /Security Department/, ERN 0090-9817-0090-9843 (page 31, item 48 and page 51, item 93), English ERN 0092-0099-0092-0131 (pp. 19-20, item 48 and page 32, item 93), Exhibit P00407.

⁶⁴ Same as footnote 3 (Instructions on command and control of security-intelligence organs of the VRS).

⁶⁵ Intercept from 17 July 1995 at 06:15, ERN 0320-5437-0320-5437, ERN 0800-1274-0800-1275, English ERN 0800-1274-0800-1275-ET, Exhibit P01205; IKM /Forward Command Post/ Kitovnice, Diary of operations duty, ERN 0076-0268-0076-0316, English ERN 0084-2270-0084-2313, Exhibit P00347.

⁶⁶ Rules of service in JNA/VS /?Military Adviser/, ERN 0090-9817-0090-9843 (page 31, item 48) and (page 51, item 93), English ERN 0092-0099-0092-0131 (pp. 19-20, item 48 and (page 32, item 93), Exhibit P00407.

⁶⁷ Drina Corps command, strictly confidential no. 01/04-156-1, 2 July 1995, ERN 0430-3382-0430-3383. See ERN 0091-7863-0091-7864, English ERN 0092-2930-0092-2931, Exhibit 5DP00106.

⁶⁸ Order of the Commander of the Zvornik Brigade, 2 July 1995, ERN 0071-0229-0071-0236, English ERN 0085-0060-0085-0064, Exhibit P00318.

⁶⁹ Drina Corps command, strictly confidential no. 04/156-2, 2 July 1995, ERN 0084-7289-0084-7294, English ERN 0088-3593-0088-3602, Exhibit P00107.

decision and preparation for the execution of the task." This is what follows in paragraph two: *"Security organs and military police will indicate the areas for gathering and securing prisoners of war and war booty. In dealing with prisoners of war and the civilian population behave in every way in accordance with the Geneva Convention."* The tasks specified in this Order refer to the TG1 of the Zvbr, as its tasks and operations were carried out outside the z/o of the Zvpbr. The chief of the OB in the command of the Zvpbr, 2nd Lieutenant Drago NIKOLIĆ, stayed in the zone of the Brigade in Zvornik, discharging his regular duties.

In case there were any prisoners of war in the zone of the Zvpbr, the Instruction of the UB /Security Administration/ of the GŠ of the VRS and the D /Drina/ Corps of 1 April 1994 was applied⁷⁰. Places for collecting RZ /POW/ are specified by commanders of units from a battalion upwards, on the basis of the plan of b/d and the assessment of the developments. These places should be in accordance with the security criteria provided in the Instruction. Security support of RZ is part of the command authority and it is exclusively the commander's responsibility to decide on engaging military police to carry out these tasks. These are simple soldier's tasks which have the character of guarding. When these duties are carried out, it is neither necessary nor prescribed to engage the security organ, as the specialist organ of the brigade command responsible for duties relating to state security. Bringing prisoners of war to the Zvornik zone, putting them up and providing security for them do not constitute a crime, nor is that suggested. The security organ who was assigned this task was under an obligation to carry out the order.

4.3.7. Pursuant to the order by the DK command on the mobilisation in Zvornik carried out on 15 July 1995, the chief of OB of the Zvpbr was required to take security and counter-intelligence support measures in accordance with the provisions of the Regulation for Mobilisation of the Armed Forces of the SFRY /Socialist Federative Republic of Yugoslavia/, items 427 and 319-323.⁷¹

4.3.8. Pursuant to an order by the DK command, the chief of OB of the Zvpbr, 2nd Lieutenant Drago NIKOLIĆ, was assigned as the OB /security organ/ to take part with part of brigade forces in b/d in the zone of the Krajina Corps in mid-September 1995. It was ordered that the march start on 14 September 1995.⁷² There is no other information that the chief of OB of the Zvpbr left the z/o of his brigade in the critical period during b/d in the *Krivaja 95* and *Stupčanica 95* operations.

Treatment of prisoners of war in July 1995

⁷⁰ Drina Corps command OB, strictly confidential 17/450, 15 April 1995, ERN 0425-8673-0425-8675, English ERN ET 0425-8673-0425-8675, Exhibit P00196. (Instructions on capture and escort of POW and other persons)

⁷¹ Regulation for Mobilisation of the Armed Forces of the SFRY, SSNO /Federal Secretariat of National Defence/, 1986, p. 123, item 427 and p. 98-99, items 319-323, ERN 0117-4140-0117-4255.

⁷² DK command, strictly confidential no. 038/94-142 dated 9 September 1995, ERN 0430-4159-0430-4162, English ERN 3D19-0001-3D19-0005, Exhibit 3D00165.

4.3.9. On 13 July 1995 the VRS Main Staff issued an order⁷³ marked as “Very urgent”, stating the following in item 2: “*In the Serbian villages lying on the path of these groups, engage all available men fit for military service to detect, block, disarm and capture detected Muslim groups and prevent them from crossing over to Muslim territory...*”

Item 3 states as follows: “*Detain the captured and disarmed Muslims in appropriate facilities that can be secured by a small number of troops. Immediately report to the superior command.*”

This order was sent to the command of the DK, IKM-1 of the DK, the 1st Zvpbr and the 1st Vlpbr (to the Commander or NŠ /Chief of Staff/) at the same time.

To secure prisoners of war with “*a small number of troops*” meant that they should be secured with “sufficient troops”. Lack of troops needed for physical security of RZ could not be compensated for by other security measures, let alone k/o measures falling within the scope of work of the OB. Security of prisoners of war is classic physical security, that is, a guard service.

4.4.0. Under their remit and responsibility, unit commanders or NŠ were obliged to take prescribed and ordered measures concerning prisoners of war, and inform their superiors in the chain of command of everything relating to prisoners of war. I found no written indications in combat and operative documents about the escort of prisoners of war and their accommodation in the Zvpbr zone of defence.

In accordance with regulations, this should have been one of the phases in escorting⁷⁴ prisoners of war to temporary detention facilities, until they were exchanged with the enemy side or sent to a POW camp.

4.4.1. Combat and operative documents contain no information about the treatment of prisoners of war in the Zvpbr zone. The treatment of prisoners of war after they were put up in facilities in the Zvpbr zone was against the written orders of superiors and the provisions of the Geneva Conventions.

There were killings of prisoners of war in the detention facilities and their surroundings, which were against the orders and the set goals and tasks of the *Krivaja 95* operation. The killings may have been committed by groups and individuals acting outside the task of “*demilitarising Srebrenica and disarming Muslim terrorist gangs*” and against any written orders.

4.5 Specialist guidance by the superior security organ

4.5.1. Simultaneously with carrying out counter-intelligence support of b/d through an independent application of methods of work of security organs, the chief of OB of the Zvpbr command carried out some counter-intelligence work through a combined

⁷³ VRS Main Staff, strictly confidential no. 03/4-1629 dated 13 July 1995, ERN 0091-7858-0091-7859, English ERN 0092-0411-0092-0412; VRS G[, Accommodation of prisoners of war, strictly confidential no. 04-520-51/95 dated 13 July 1995, ERN 0293-5555-0293-5556, English ERN 0308-3803-0308-3804, Exhibit P00131.

⁷⁴ Instructions on the application of the PS /Rules of Service/ of the VP of the OS /Armed Forces/ of the SFRY, SSNO UB-2/4, 1986, ERN 0467-5853-0467-5968, Exhibit 3D00276 (p. 85, item 222).

application of methods of work (KPMR) of security organs. This is about a systematic and continuous and linked and coordinated application of several methods of work of OB.⁷⁵

4.5.2. Specialist guidance of the security organ of the Zvornik Brigade was carried out by the OB of the DK command, as part of counter-intelligence tasks.

4.5.3. The priority task in KPMR and the most complex form of OB engagement in the period relevant to this report was the operative action (OA) codenamed *Juda*.⁷⁶ This OA included all security organs in the VRS. As it referred to the protection of high-ranking military leaders of the VRS, the focus of the KPMR OB had to be on the places where they stayed and moved.

All activities of OB relating to carrying out tasks in the *Juda* OA were centrally directed, along the chain of specialist control of VRS OB.

4.5.4. As part of tasks carried out as KPMR of OB, the Zvpbr OB were given several additional tasks which were carried out at the same time as the above.

These were long-term tasks whose implementation required a continuous application of methods of work of OB and this primarily referred to guidelines and requests for the treatment of prisoners of war, in accordance with the direction of the DK⁷⁷, to people infiltrated into VRS ranks with certain tasks, to the prevention of any leakage of secret military information, and so on.⁷⁸

Obligatory k/o work of national security in the Zvbr was also applied on Serb volunteers who came outside the BH. There were cases that their motives, goals and intentions were at odds with the goals and tasks of the VRS or were not quite clearly defined. In addition, there was a need to apply methods of work of OB on persons whose business and other links led to the VRS.⁷⁹ In all of these cases the OB of the brigade command usually had the need and obligation to apply KPMR as part of Preventive Operative Work in accordance with item 5 of a document by the OB of the DK command regarding reception of volunteers.⁸⁰

4.5.5. The combined application of methods of work the Zvpbr OB on the basis of his own counter-intelligence assessment of anticipated enemy activity, in order to prevent

⁷⁵ Instructions on the methods and means of work of the JNA OB, SSNO UB-17, 1986, (p. 44-45, items 94 and 95), ERN 0090-9866-0090-9878, English ERN 0092-6833-0092-6874, Exhibit 3D00275.

⁷⁶ DK Command, Security Department, strictly confidential no. 17/469 dated 20 April 1995, ERN 0066-3714-0066-3715, English ERN 0086-0341-0086-0342, Exhibit P03033.

⁷⁷ Instructions, Command of the DK, OB, strictly confidential no. 17/450 dated 15 April 1995, ERN 0425-8673-0425-8675, English ERN ET 0425-8673-0425-8675, Exhibit P00196 (instructions on arresting and escorting RZ and other persons); Telegram IBG/?[/ /expansion unknown/ of the VRS 18/20-145-1/94 dated 1 April 1994.

⁷⁸ ERN 0428-4638-0428-4638; ERN 0428-4502-0428-4502; ERN 0428-4570-0428-4570.

⁷⁹ DK command, Security Department, strictly confidential 17/141 dated 11 February 1995, ERN 0428-4576-0428-4576.

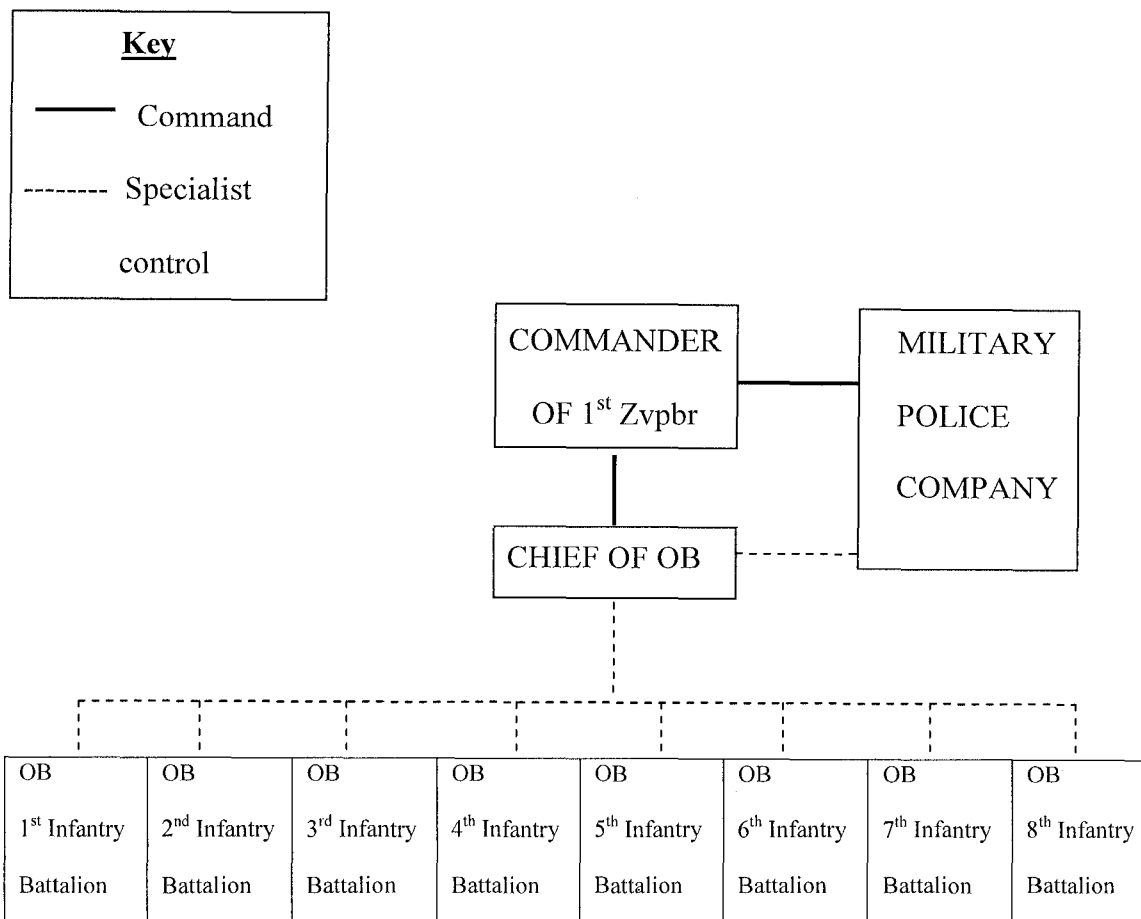
⁸⁰ DK command, Security Department, strictly confidential 17/638 dated 20 May 1995, ERN 04284631.

in time any destructive activity by individuals and groups directed against the command and units of the brigade and the VRS as a whole /as printed/.

4.6. Specialist control over security organs and military police in the 1st Zvpbr

4.6.1. The chain of specialist control over security organs and military police in the Zvpbr is shown in the diagram below in order to provide insight into the control network. Specialist direction of security organs in battalions of the Zvornik Brigade was carried out by the OB of the Zvornik Brigade command as part of counter-intelligence tasks.

***Lines of specialist control over security organs and
military police in the 1st Zvpbr***



4.6.2. The 8th Battalion should be excluded from the units shown in the diagram of specialist control. It was resubordinated to the Command of the Bratunac Brigade.

4.6.3. Under the regulations and in practice, the scope of work of the security organs was separated from the scope of work of the military police, and regulated by special regulations. There are no grounds for identifying the scope of work and method of work of the security organs with the scope of work and method of work of the military police. *“The officer in charge of the military unit and institution within whose establishment the military police unit is placed or to which it is attached commands and controls the military police.”*⁸¹ *“The officer of the military police unit commands his unit and is responsible for the overall state of combat readiness directly to the commander or through the officer in charge of the security organ of the unit in which the military police unit is placed or to which it is attached.”*⁸²

⁸¹ Service regulations of the military police, p. 13. (Chap. II, p. 13, item 12), ERN 0207-2092-0207-2115, (Chap. II, p. 10, item 12), English ERN 0304-1627-0304-12654, Exhibit P00707.

⁸² Instructions on the application of the PS of the VP, SSNO, UB-2/4, 1986, (Chap. II, item 13, p. 15), ERN 0467-5853-0467-5968, Exhibit 3D00276.

4.6.4. As chief of OB of the Zvpbr, 2nd Lieutenant Drago NIKOLIĆ exercised specialist control of the military police unit only when the military police was engaged in military police duties and tasks falling within the prescribed scope of work of the VP. In the critical period these tasks were carried out usually by a small number of military policemen from the company, because almost 3/4 of the VP company were engaged in b/d and in tasks outside the brigade zone.

4.6.5. As far as specialist control was concerned, the engagement of the military police in b/d and outside its unit-specific tasks did not come under the security organ.⁸³

4.6.6. The decision to engage the military police in securing or escorting prisoners of war rested with the unit commander /*komandant*/, and he assigned tasks to the unit commander /*komandir*/ directly or through the security organ. Depending on the manner of task assignment, the security organ could have the role of a link between the commander and the commanding officer of the military police unit, and in that case he takes specialist control of the military police unit. On the basis of the facts and information available to him in connection with the VP task, the OB gives proposals and specialist advice to the commander on the use of the VP unit. The OB gives specialist guidelines to the commanding officer of the military police unit on an optimum way of carrying out the task received, and conducts specialist supervision in connection with that.

5. S U M M A R Y

Second Lieutenant Drago NIKOLIĆ carried out security-related establishment duties as assistant commander of the 1st Zvpbr for security and chief of the security organ of the brigade command.

The function, scope of work, duties, tasks, authorities and powers of the security organ and the manners of their implementation in VRS brigades are clearly and precisely defined in the regulations.

On the basis of this report, I can summarise the following important conclusions:

I

Definition of terms

1. In the period relevant to the report, the Army of Republika Srpska applied the rules and regulations, operational doctrine and organisational solutions inherited from the former SFRY and JNA without major changes. This also entirely applies to security work in the Army of Republika Srpska.

2. Security work was defined as a specific part of the social reality in which **fundamental relations regularly play out in the domain in which threat causes**

⁸³ Command of the Zvpbr, strictly confidential. no. 06/215 dated 12 July 1995, Regular combat report, ERN 0068-4856-0068-4859, English ERN 0081-5850-0081-5851, Exhibit P00322.

the need for protection. For a true knowledge of such a specific part of the social reality, equally specific routes, ways and methods need to be taken. In short, security work in practical terms cannot be precisely uncovered through simple observation, especially as far as secret threatening activities and those responsible for them are concerned.

3. Security is defined as a condition, a function, and an organisation. It is important to point out that security as a condition implies the absence of activities threatening the object of protection, that is, the condition of its protection in which any new threat causes the need for appropriate protection.

4. Threatening the security of the state and its institutions and functions is prohibited by law, so those who organise and carry it out apply secret methods and procedures to overcome protection measures and avoid responsibility.

II

Constitution of the function and organisation of security

5. The constitution of the function and establishment of the organisation of security in the SFRY ran in parallel with the preparations for an anti-Fascist uprising, and the process continued vigorously during the 1941-1945 anti-Fascist struggle and civil war. The conditions under which the security function was constituted and implemented were very difficult, which resulted in gaining the best and most valuable authentic experience and building solid foundations for a future security system.

6. The persons in charge of security from the start of its constitution and implementation came from all the nations and nationalities living in the former SFRY. In its essence, the system was Yugoslav-oriented in terms of its programme/,/ organisation, and practice. As such, it was not ethnically biased or discriminatory.

Generations of JNA and TO security organs were brought up and trained on these traditions in the SFRY while it existed.

7. From its creation until it ceased to exist, the function of the security organs in the JNA was implemented exclusively in the interest and for the needs of security of commands, staffs/,/ units and institutions in which security organs were placed as specialists in charge of it. Security organs were always subordinated to military commanders and were answerable to them for their work.

The main goal and task of OB activity was to protect the organisational unit in which they were placed from the most dangerous, usually secret, threatening activities and those who organised and carried them out.

III

C o n t r o l of security organs

8. The Rules of Service of Security Organs in the Armed Forces of the SFRY was the basic regulation document which uniformly defined the scope of work, duties and tasks of security organs, and ensured the uniformity of action in carrying out tasks from the prescribed scope of work. The rules were applied in the Army of Republika Srpska in their entirety and without any significant changes.

In October 1994 the VRS Main Staff issued the Instructions on command and control over the security and intelligence organs of the VRS. The Instructions fully supported the provisions of the Rules of Service of OB in the OS and defined in greater detail the scope of engagement of VRS security organs in duties and tasks within the prescribed scope of work and responsibilities.

In accordance with the Instructions, all commanders and other officers exercising control over security and intelligence organs were obliged to adhere strictly to the letter of the Instructions.

These obligations primarily involved defining and facilitating the OB focus on counter-intelligence duties and tasks, which took up about 80% of the total engagement, and about 20% was taken up by participation in general security work, that is, administrative-staff, military police, and criminal-legal duties and tasks.

9. The Rules of Service defined that a security organ is directly subordinated to the commanding officer of the command, unit, institution or staff within whose establishment he was placed.

In accordance with that, 2nd Lieutenant Drago NIKOLIĆ was directly subordinated to the commander of the Zvornik Infantry Brigade, Colonel Vinko PANDUREVIĆ, and was answerable to him for his work.

10. In counter-intelligence work, the chief of OB, Lieutenant Colonel Vujadin POPOVIĆ, was 2nd Lieutenant Drago NIKOLIĆ's superior officer in specialist terms.

The commander of the VRS GŠ, or the officer authorised by him, decided on the application of methods and means of OB work.

In specialist terms, control over OB work has no characteristics or character of a command relationship, nor can be identified with it.

11. As part of specialist control, the chief of OB of the DK, Lieutenant Colonel Vujadin POPOVIĆ, was responsible and obliged to provide specialist assistance, guide, align and control the work of 2nd Lieutenant Drago NIKOLIĆ in the counter-intelligence domain. This is solely about the specialist-functional connection between security organs in a unified security system of the VRS.

12. In specialist terms, 2nd Lieutenant Drago NIKOLIĆ exercised control over the military police company of the Zvpbr, and for this work he was responsible to the brigade commander, Colonel Vinko PANDUREVIĆ. 2nd Lieutenant NIKOLIĆ was responsible for exercising specialist control over the military police only when the

military police was engaged in carrying out duties and tasks from the prescribed scope of work and responsibilities.

In specialist terms, control over the military police is not subject to the chain of specialist control over security organs.

The decision on the use of the military police rests with the commander */komandant/* of the unit in which a military police unit is placed, and the principle of unity of command is fully applied. The commander is not obliged to accept any proposals from the security organ on the use of the military police unit.

In carrying out the tasks assigned, the commander */komandir/* of the military police company commands the military police unit and is answerable to the brigade commander directly or through the security organ. The commander */komandir/* of the military police unit proposes to the military commander */komandant/*, directly or through the security organ, the use of the police unit.

13. Second Lieutenant Drago NIKOLIĆ was required to carry out tasks falling within the prescribed scope of work of the security organ ordered to him by the brigade commander, Colonel Vinko PANDUREVIĆ, regardless of whether the tasks were included in the duties regularly carried out in the establishment post held by 2nd Lieutenant Drago NIKOLIĆ. K/o duties and tasks were excluded from this, because the brigade commander was not responsible for them.

14. Putting up prisoners of war and distributing war booty did not fall within the scope of work of the security organs. Regulations did not provide for designating the security organs as responsible for these tasks.

This task defined for the security organs in this way is not in accord with their special function and scope of work, or with the Instructions of the UB of the VRS /Army of Republika Srpska/ GŠ and the OB of the DK command on arresting and escorting RZ and other persons⁸⁴ which states that “...*All commands at the battalion level and above shall designate places behind the front line where captured members of the enemy army will be collected.*” The Instructions in the UB of the VRS GŠ are dated 1 April 1994. The places should correspond to the security criteria given in the Instructions. Providing security for RZ falls within the scope of command authority. The decision on the engagement of the military police in carrying out these tasks rested solely with the commander. For carrying out these tasks, no engagement of the security organ as the specialist organ of the brigade command for state security was needed or prescribed.

The participation of 2nd Lieutenant Drago NIKOLIĆ in tasks relating to specialist control over the military police unit when it secured or escorted prisoners of war

⁸⁴ Command of the DK, Security Department, Strictly confidential no. 17/450 dated 15 April 1995, Instructions on arresting and escorting RZ and other persons, ERN 0425-8673-0425-8675, English ERN ET 0425-8673-0425-8675, Exhibit P00196 (refers to telegram by the UB of the VRS G[18/20-145-1/94 dated 1 April 1994).

belonged to the scope of work of the OB, when he had information relevant for carrying out the task in question.

The military police has specialist training for carrying out duties and tasks of securing RZ, and regulations lay down the manner of VP work on their implementation in detail. These tasks are not particularly complex. They are simple military tasks which have the character of a guard service and do not require the engagement of security organs, except as stated above.

15. As the authorised officer in the OB, 2nd Lieutenant Drago NIKOLIĆ should have had knowledge only of the facts and information essential for carrying out duties in the establishment post which he held.

According to the same definition from the Rules of Service of OB, 2nd Lieutenant NIKOLIĆ could inform authorised officers in the Zvpbr OB and security organs in subordinate units only of the facts and information essential for carrying out duties in the establishment posts which they held, or which were specially assigned to them to carry out.

16. 2nd Lieutenant Drago NIKOLIĆ was obliged to report and inform the commander of the Zvornik Brigade of enemy activity directed against the command and units of the brigade.

As far as facts and information obtained through the application of methods of work of OB are concerned, 2nd Lieutenant Drago NIKOLIĆ should inform the brigade commander of the level of threat, or security of the command and units of the brigade, with prior approval from the superior OB in specialist terms, Lieutenant Colonel Vujadin POPOVIĆ, paying attention to secrecy and protection of methods and means of work of security organs.

IV

Scope of work and tasks of security organs

17. 2nd Lieutenant Drago NIKOLIĆ was obliged to carry out two basic groups of tasks in the Zvpbr, as follows:

a) Tasks under the responsibility of the security organs, that is, counter-intelligence tasks, which are called counter-intelligence support in combat operations or war.

In carrying out counter-intelligence duties and tasks, 2nd Lieutenant Drago NIKOLIĆ had the powers and obligation to apply methods and means of work of the security organs according to the Instructions on the methods and means of work of security organs. Item 8 of Chapter II of the Instructions on the methods and means of work of security organs lays down that "The methods of work of the security organs are

constant and planned secret procedures for systematically gathering, processing and using information in carrying out counter-intelligence duties and tasks”,⁸⁵

Tasks under the responsibility of the security organs do not involve or refer to the duties, tasks and obligations of the security organs relating to prisoners of war. Therefore, 2nd Lieutenant Drago NIKOLIĆ was not responsible for tasks relating to prisoners of war, except in the case when they threatened the security of the command and subordinate units of the brigade in a way which come under the OB, that is, when secret threatening activities were concerned. In the concrete case, RZ demonstrated no such threat to the command and units of the brigade. A large number of RZ in itself is not a reason to engage the OB in putting up and securing them.

b) Tasks in which security organs participate but which are under the responsibility of other organs of the command:

This is a group of tasks of so-called general security, which includes the following: staff-security (referred to in the Instructions as administrative-staff) and criminal-legal tasks, in addition to specialist control over the military police of the Zvornik Brigade.

As part of specialist control over the military police of the Zvornik Brigade, 2nd Lieutenant Drago NIKOLIĆ could have been indirectly linked to the task of securing prisoners of war, as stated in the preceding part.

2nd Lieutenant Drago NIKOLIĆ should have participated in criminal-legal duties in accordance with his powers as the authorised officer in the OB by virtue of his office (he had the powers which, in accordance with the RS Law on Internal Affairs, were vested in authorised officials of internal affairs organs – see the paragraph under “Powers of OB”), in accordance with the Law on Criminal Procedure, and at the request of the relevant investigating judge of the military court.

In the concrete case, it involves possible participation in actions and procedures to discover and find members of the BH Army and Muslim armed units reasonably suspected of having committed crimes in the zone of defence of the Zvornik Brigade and the Drina Corps.

All aspects and elements of the special function, scope of work, tasks, jurisdiction and powers of the assistant brigade commander for security and the chief of security of the brigade command of the VRS are clearly and precisely defined in regulations.

In his daily activities, 2nd Lieutenant Drago NIKOLIĆ was under direct command of the Zvpbr commander, Colonel Vinko PANDUREVIĆ, who was his immediately superior officer. The Zvpbr commander, Colonel Vinko PANDUREVIĆ, had no right or powers to check the application of the methods and means of work of the

⁸⁵ Instructions on the methods and means of work of the JNA OB, SSNO UB-17, 1986, Item 8 (p. 8), ERN 0090-9844-0090-9878, English ERN 0092-6833-0092-6874, (p. 8), Exhibit 3D00275.

OB, or to control k/o work of the brigade security organ, that is, 2nd Lieutenant Drago NIKOLIĆ.

Approval for the application of the methods and means of work of the OB in the VRS rested with the commander of the VRS GŠ or an officer authorised by him.

The security organ of the superior command exercised specialist control over security organs and, as part of that, checked the application of the law in their work.

In line with that, the chief of OB of the DK, Lieutenant Colonel Vujadin POPOVIĆ, exercised specialist control over the work of 2nd Lieutenant Drago NIKOLIĆ (in the domain of counter-intelligence work, application of the methods and means of work, and application of the law in the work of the OB).

In the combat and operative documents given to me to use, there are no grounds to conclude that in carrying out duties and tasks within his functional duty, 2nd Lieutenant Drago NIKOLIĆ deviated from the regulations defining the place, role, scope of work, tasks, powers and authorities of security organs of the VRS.

However, there is information that the engagement of 2nd Lieutenant Drago NIKOLIĆ as duty operations officer and in duties and tasks relating to prisoners of war was not in conformity with the special function and scope of work of the OB, nor was it in accordance with the orders by the highest command levels in the VRS (Instructions by the VRS GŠ, the Order by the RS Government on measures of the highest degree of b/g, and the Declaration of a state of war by the RS President). Carrying out tasks assigned outside the scope of work of the OB did not constitute a crime, nor did their execution suggest such a thing, so 2nd Lieutenant Drago NIKOLIĆ had to obey the orders of his superior officer.

2nd Lieutenant Drago NIKOLIĆ was in charge of exercising specialist control over the military police company of the Zvpbr only when the unit was engaged in tasks as part of the special function and prescribed scope of work. In this capacity, he was answerable to the commander, Colonel Vinko PANDUREVIĆ, who decided on the use of the military police.

The military police company of the Zvpbr was commanded by company commander, Lieutenant Miomir JASIKOVAC. He was answerable for his work to the brigade commander, Colonel Vinko PANDUREVIĆ, directly or through 2nd Lieutenant Drago NIKOLIĆ. Lieutenant JASIKOVAC was responsible and obliged to propose to the Brigade commander, directly or through the security organ, the use of the military police unit.

Coordination between units of the Zvpbr and units of the MUP engaged in the zone of defence of the Zvpbr was carried out as part of command authority, because these were combat operations. I found no information in the documents that Lieutenant /as printed/ Drago NIKOLIĆ, as part of the special function and prescribed scope of work of the security organ, carried out coordination with

organs and units of the MUP in the zone of defence of the Zvpbr in the critical period.

In the end, I particularly emphasize that the report only analyses the function of the security organ in the brigade of the VRS, as prescribed in the regulations and represented in combat and operative documents made available to me to examine and use, and which directly or indirectly relate to the 1st Zvornik Infantry Brigade. The goal and task of the report is to show the reader the scope within which the practical activity of the security organ is considered to be the execution of duties and tasks within the prescribed scope of work and powers, or as the execution of military duties, in order to differentiate among and separate the activity of groups or individuals outside or contrary to that.

Killings of prisoners of war committed in the facilities where they were detained or in their surroundings constitute serious violations of the orders of superior officers and are against the goals and tasks given to the commands and units which took part in the Krivaja 95 military operation.

Consequently, it could be concluded that the killings were committed by groups and individuals acting against written orders by the VRS GŠ and the command of the Drina Corps, in order to take revenge on prisoners for the crimes previously committed in Srebrenica and the surrounding area by Muslim armed units.

The chief of security of the Zvpbr, 2nd Lieutenant Drago NIKOLIĆ was not responsible for deciding the fate of prisoners of war. Under his responsibility or command, 2nd Lieutenant Drago NIKOLIĆ had no forces to take any measures against prisoners of war.

Combat and operative documents contain no reliable indicators on the basis of which it can be concluded beyond doubt that 2nd Lieutenant Drago NIKOLIĆ was authorised, in the name of the commander, to command the military police unit in the concrete case.

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