CONCLUSIONS

of the 13th Sitting of the Security Services Control Committee

1. Considering that the Ombudsman failed to offer valid proof for the allegations that the Military Security Agency had not acted in accordance with the law in the implementation of procedures and measures for the collection of confidential data toward the leaders of trade unions, certain party leaders and bearers of prosecutor’s and judiciary office, the Committee believes that the Military Security Agency had not acted unlawfully in the implementation of said measures.

2. Within the counterintelligence and security protection of protected persons and implementation of legally prescribed measures in the incident involving members of the Ministry of Defence and the Serbian Armed Forces, the members of the Military Security Agency, within the mixed team set up by order of the Minister of Defence, collected data and information on the incident of 28 September 2014. The witness interviews were not part of any court proceedings, there have been no official notes on them or records of witness questioning, therefore they cannot be used as evidence in any trial. The members of the Military Security Agency did not “take down” cameras from the surrounding buildings near the site of the incident, but, as part of collecting necessary information on the event, they officially requested the videos, in writing, from the “Komercijalna” and “Alpha” bank offices, covering the critical period. After the videos had been delivered, accompanied by appropriate documents, the Military Security Agency forwarded them to the public prosecutor’s office conducting the pre-trial proceedings.

3. Regarding the Ministry of Defence and Military Security Agency’s refusal to deliver the statements, cameras and all other information relating to the incident of 28 September 2014 to the Ombudsman, at his request, the Committee believes these not to be the intentional disregard of the law, but a different interpretation of it. Namely, the Ministry of Defence and Military Security Agency’s position rests on the provision of Article 43, paragraph 2, item 1 of the Criminal Procedure Code according to whichthe public prosecutor as the person managing pre-investigation proceedings is the only person authorised to conduct the handling of information concerning a case, as well as Article 17, Paragraph 3 of the Law on the Ombudsman according to which he is not authorised to control the work of the public prosecution. On the other hand, the Ombudsman’s position is based on the provision of Article 17, paragraph 1 of the Law on the Ombudsman according to which he is authorised to control the respect of the rights of citizens, establish violations resulting from acts, actions or failure to act by administrative authorities, if they are violations of the laws, regulations and other general acts.

4. In order to continue the good cooperation existing previous to the critical event between the relevant state authorities, Ministry of Defence and the Ombudsman included, the Committee finds it desirable that the public prosecutor in charge, as the person managing the pre-investigation proceedings, give specific orders to the Military Security Agency as regards the Ombudsman’s request, after which the Agency and the Ministry of Defence could immediately act on them.

5. The Ombudsman is invited to conduct the announced control of the Military Security Agency of the Ministry of Defence of the Republic of Serbia on the issues it had been announced on but had been postponed due to the discord in the interpretation of the authority for legal action.

6. Aware of the Ombudsman’s role in the enforcement and protection of civil rights and freedoms guaranteed by the Constitution, sure of the continued good cooperation, the Committee invites the Ombudsman to, in future, inform the Committee and other authorities in charge of controlling the security services on all information on irregularities and unlawful actions of the security services before publicizing said irregularities and unlawful actions because that causes unnecessary public outrage and damages the security services’ image.

COMMITTEE CHAIRMAN

Momir Stojanovic