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1 Tuesday, 7 July 2009

2 [Open session]

3 [The accused entered court]

4 [The Accused Coric not present]

5 [The witness entered court]

6 --- Upon commencing at 9.01 a.m.

7 JUDGE ANTONETTI: [Interpretation] Registrar, could you call the
8 case, please.

9 THE REGISTRAR: Good morning, Your Honours. Good morning,
10 everyone in and around the courtroom.

11 This is case number IT-04-74-T, the Prosecutor versus Prlic et
12 al. Thank you, Your Honours.

13 JUDGE ANTONETTI: [Interpretation] Thank you, Registrar.

14 Today is Tuesday. I would first like to greet Mr. Praljak, and I
15 would also like to greet the accused, as well as the counsels, and
16 Mr. Stringer and all the members of the OTP. I shall not forget
17 Mr. Coric, and I hope that he gets better soon, because as you are aware,
18 he will not be in this courtroom for quite a while. I would also like to
19 greet everyone who is assisting us, the court reporter, the interpreters,
20 as well as everybody else in this courtroom.

21 We shall resume the cross-examination of Mr. Coric

22 [as interpreted], represented by his counsel, and I give her the floor

23 immediately.

24 WITNESS: SLOBODAN PRALJAK [Resumed]

25 [The witness answered through interpreter]

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1 MS. TOMASEGOVIC TOMIC: [Interpretation] Thank you, Your Honour.

2 Cross-examination by Ms. Tomasegovic Tomic: [Continued]

3 Q. Good morning, Mr. Praljak. Good morning to all.

4 At the beginning of my cross-examination today, I would like to
5 go back to something that the President asked yesterday, and that is why
6 I have distributed a new binder, in a bid to shed more light on a
7 particular situation. May the binder please be handed to the witness.
8 It consists of a mere two documents. I will try to use these two
9 documents to demonstrate my point, and demonstrate it through the
10 examination of Mr. Praljak. Otherwise, I would, myself, be testifying,
11 which is certainly not my intention.

12 Mr. Praljak, first of all, may I ask you to look at the names of
13 both these documents. The first document is 2D00906. This is the
14 Criminal Code of the Socialist Federal Republic of Yugoslavia.
15 Mr. Praljak, are you aware of this law and its existence?

16 A. Yes, I am.

17 Q. Can we please move on to 2D00907.

18 Mr. Praljak, is this the Criminal Code of the Socialist Republic
19 of Bosnia and Herzegovina?

20 A. Yes, that's what it says, madam.

21 Q. Let us now go back to the first document and look at Article 7 of
22 that document. Have you found it?

23 A. Yes.

24 Q. Article 7 reads:

25 "Provisions of the general part of this Code are applicable to

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1 all criminal acts defined in the laws of the federation, republics, and
2 autonomous provinces."

3 Mr. Praljak, you were a citizen of the Socialist Federal Republic
4 of Yugoslavia, were you not? Therefore, what I would like to know is
5 whether you knew of the existence of criminal acts defined by the federal
6 laws as well as those criminal acts defined by the laws of the republics
7 and autonomous provinces, as stated in this Article.

8 A. Yes.

9 Q. Can we now please go to Article 104 of that same law. Have you
10 got it?

11 A. Yes.

12 Q. Paragraph 1 of Article 104 reads:

13 "Yugoslav criminal law applies to anybody who has committed a
14 criminal act on the territory of the SFRY."

15 Were you aware of this, Mr. Praljak?

16 A. Yes.

17 Q. Can we now please go to Article 110 of that same law, paragraph 1
18 of that Article, which reads:

19 "Criminal codes of republics and autonomous provinces apply to
20 anybody who, on the territory of the republic or autonomous province,
21 commits a criminal act for which the law provides a punishment,
22 regardless of where he is tried for the act."

23 Mr. Praljak, were you aware of the existence of the Criminal Code
24 of the republics and autonomous provinces that were applied in relation
25 to crimes committed in those same republics or autonomous provinces?

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1 A. Yes, I was aware of that. In relation to the first Article, that
2 the law being applied -- the local law being applied whenever a crime is
3 committed in a particular area, I was not aware of that.

4 Q. Let us move on to our following document, 2D00907. Article 3,
5 please. Article 3 reads -- this is the Criminal Code of the Socialist
6 Republic of Bosnia-Herzegovina. Article 3 reads:

7 "In the application of the provisions of this law, and provisions
8 of other laws of the republics that contain provisions of the criminal
9 law, provisions of the general part of the Criminal Code of the Socialist
10 Federal Republic of Yugoslavia are also to be applied."

11 Mr. Praljak, do you know what this means and were you aware of
12 this? Do you agree with me that this means that at the same time, both
13 these laws are applied that we are looking at, each in its own respective
14 domain?

15 A. I don't see that written as clearly in Article 3. The
16 Article reads that a certain set of laws applies, but also the general

17 provisions of the Criminal Code. I find this counter-intuitive, because
18 the provisions in relation to the first law and then the other law are
19 not specified.

20 Q. Very well, Mr. Praljak. The Chamber is aware of the law behind
21 this, and they will be looking into that. I do not expect you to
22 interpret these regulations. All I want to confirm is that you, as a
23 citizen, were aware of both these laws.

24 We shall be dwelling on this, but let us for a moment go back to
25 the document where it all began, and that is in my binder number 2,

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1 3D03027. It is the binder that you have in front of you.

2 While we're looking for that document, Mr. Praljak, and this is
3 something that the Prlic Defence has been using, you are aware of the
4 fact that Bosnia-Herzegovina and the HZ-HB adopted both these laws
5 through their own provisions, are you not?

6 You didn't hear me?

7 A. Yes, yes, yes, I knew that the laws were adopted.

8 Q. Have you located this document, 3D03027?

9 A. Yes.

10 Q. Let us try to look what there is right after number 1. It reads:

11 "Criminal reports for violent behaviour, as described under
12 Article 204, paragraph 2, of the adopted KZSRBH, Criminal Code of the
13 Federal Republic of Bosnia-Herzegovina, were filed against Ranko
14 Milicevic, Branko Milicevic, Davor Trogolic [phoen] ..., " and so on and

15 so forth.

16 Mr. Praljak, what about this abbreviation, KZSRBH? That should
17 read "Criminal Code of the Federal Republic of Bosnia-Herzegovina";
18 right?

19 A. That's right.

20 Q. All right. Let's move on for a moment to the 907 document, it is
21 the Criminal Code of Bosnia and Herzegovina, 2D0907.

22 We saw that this is a document by Colonel Blaskic about violent
23 behaviour. Could you please locate Article 204 in the last document, the
24 law of the socialist -- the Criminal Code of the Socialist Republic of
25 Bosnia-Herzegovina, and tell me as soon as you've got it. It reads

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1 "Violent Behaviour," and what the Article describes is that particular
2 criminal offence.

3 Mr. Praljak, am I right in stating that the criminal offence in
4 relation to which a criminal report was filed in D03027 is in relation to
5 the crime described in Article 204, defined here as violent behaviour?

6 A. Yes, that's right.

7 Q. Thank you very much, Mr. Praljak. You can leave the binder
8 containing the two laws aside for the time being. Thank you.

9 JUDGE ANTONETTI: [Interpretation] General Praljak, counsel has
10 stated that Article 204 had to do with violent behaviour, but while
11 commenting on Article 3 of this law, you asked yourself a series of
12 questions and discover, as things are going along, that you are a legal

13 expert yourself. If I understand correctly, as regards the Criminal Code
14 of the Socialist Federal Republic of Yugoslavia, the law is applicable in
15 all the republics, but in each and every republic you could have
16 autonomous laws that could solve -- or that could deal with certain
17 behaviours.

18 Now, when dealing with the refusal to execute an order, which
19 appears in the federal code, Article 204, the JNA has a role that
20 stretches over all the republics. So as far as you are concerned, the
21 behaviour of a JNA soldier who would be positioned in Mostar and who
22 would refuse to execute an order from General Perisic, if we assume this
23 for a moment, would this behaviour be dealt with by Article 204 of the
24 federal code or would it be dealt with by a specific text from the
25 Republic of Bosnia-Herzegovina, when we deal with a soldier from the JNA?

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1 THE WITNESS: [Interpretation] The federal law alone, Your Honour.
2 No republican or provincial laws apply to the army.

3 JUDGE ANTONETTI: [Interpretation] Thank you.

4 MS. TOMASEGOVIC TOMIC: [Interpretation] Thank you, Your Honours.

5 Let us move along where we left off yesterday. That's in the red
6 binder.

7 THE INTERPRETER: Interpreter's note: Could counsel please speak
8 closer to the microphone. We can't hear counsel properly. Thank you.

9 MS. TOMASEGOVIC TOMIC: [Interpretation] P03409. I do apologise
10 to the interpreters. I wasn't sufficiently close enough to the

11 microphone. 3409.

12 Q. Have you got that document, sir?

13 A. Yes.

14 Q. This is a decision to launch a disciplinary investigation,
15 adopted by Commander Colonel Tihomir Blaskic, addressed to the assistant
16 commander for the SIS of Central Bosnia Operations Zone. If we look at
17 the first two paragraphs, they read:

18 "1. I nominate and appoint Mr. Anto Sliskovic to conduct a
19 disciplinary investigation of the 4th Military Police Battalion
20 commander, Mr. Pasko Ljubicic."

21 Your Honours, there's something going on with the transcript.
22 It's not running. Oh, it's running again now.

23 "I nominate and appoint Mr. Anto Sliskovic ..."

24 Paragraph 2:

25 "Task: Establish the factual situation, including a written

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1 record of the interview with the perpetrator of disciplinary offence and
2 report accordingly to the superior officer."

3 And then we go on to point 3, which gives the dead-line by which
4 this order is to be carried out.

5 And point 4 says that upon completion of the investigation, the
6 disciplinary file, report and proposal are to be forwarded to the
7 superior officer.

8 At the top of the document, before we see the title "Decision,"

9 it says that the decision was passed pursuant to the Code of Military
10 Discipline, and it refers to some articles within that Code.

11 Tell me, please, Mr. Praljak, did you know of cases of this kind,
12 and was this the procedure, in your opinion? Was this procedure in
13 conformity with the Code on Military Discipline to which Colonel Blaskic
14 refers?

15 A. I, of course, did not know about this specific case, and you
16 should always say, Oh, I'll do that, say which document you're going to
17 ask me about, whether it's when I was there, when I was the commander and
18 chief of the Main Staff, and which documents you'd like to hear my
19 comments on about what I knew of the functioning of the overall system of
20 the Croatian Community of Herceg-Bosna.

21 So yesterday we were looking at a document on discipline,
22 disciplinary measures and disciplinary rules, and disciplinary procedure,
23 in fact, applies to all the members of the armed forces of the HZ-HB.
24 Let me make myself clear. I could have punished, for example, in
25 disciplinary terms, General Petkovic and all the members down the line

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1 below General Petkovic in the Main Staff, and I could also discipline the
2 zone commanders, the area commanders. Of course, the area commanders,
3 those of the brigades, battalions, companies and so on, those commanders,
4 of course, punished and discipline their own soldiers, but a disciplinary
5 procedure also applies to the military police battalions and companies
6 and all those who had military ID cards. It wasn't limited to only the

7 military part of the HVO.

8 Now, as far as this is concerned, you have two things here, two
9 points. First of all, the form of the document and the form, well, of
10 the security services, which had assistance of the head of the Department
11 for Security, for instance.

12 Q. Mr. Praljak, I do apologise, but we've already heard all those
13 explanations in response to Ms. Alaburic and Ms. Nozica's questions, and
14 indeed during the examination-in-chief. All I'm interested in is to hear
15 whether, to your -- in your opinion, did Colonel Blaskic act properly and
16 was this in keeping with the rules and regulations and code governing
17 military discipline? That's all I'm interested in. This document does
18 not date back to the times that you were there, but the same provisions
19 and rules held true during your time.

20 A. If Mr. Blaskic considered that Pasko Ljubicic, for example, had
21 violated something that he considered to come under the Code on Military
22 Discipline, then here he asks the assistant SIS commander, which
23 according to establishment terms, he acted properly. He asked that this
24 commander, who was supposed to be in a superior position to the military
25 police, should act in such a way as that after conducting disciplinary

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1 investigations, a disciplinary sanction should have been pronounced.

2 JUDGE ANTONETTI: [Interpretation] General Praljak, we've seen
3 this document and we've seen other documents yesterday, and there's a
4 major point that the counsel of Mr. Coric is trying to bring to light,

5 and it is the following: The military police was reporting to whom? Was
6 it reporting to the brigade commander or was it an autonomous entity, not
7 reporting to the brigade commander? Depending on the answer, the legal
8 or criminal liability according to Article 7.3 will be different, so this
9 is what is at stake here.

10 We have a document before us, drafted by Mr. Blaskic, and it is
11 obvious that he has handed down a decision asking to have a fact-finding
12 mission or to issue a report, so it seems that he has decided to have
13 control over this matter. But I'm going to choose another case.

14 Let's assume that the military police of a brigade, whatever that
15 brigade may be, sees that soldiers are basically distributing watches and
16 wallets that have been stolen from people who were the subject of a
17 military operation, and the military police have several options. They
18 can say, Well, this is war booty, and if it is war booty, then a list
19 should be drafted. There's an entire procedure that you have to go
20 through, and I thank you very much for giving us this information
21 yesterday, for those who were not aware of this. But as you said
22 yesterday, a procedure should be followed, and in that case the military
23 police realises that the soldiers are not following this procedure and
24 that they are basically sharing the booty. My question is the following:
25 Should they start, proprio motu, an investigation, inform the SIS and

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1 wait for the SIS to refer it to the military prosecutor and leave the
2 brigade commander in the dark? The other option would be that they could

3 rush to the brigade commander and say, We have seen that some soldiers
4 were basically taking watches, money, wallets, and so on; you have to
5 give us some instruction in order to find out whether we should start an
6 investigation or not.

7 So you see that the situations may be different. So according to
8 you, do you think that the military police -- and I've already asked you
9 the question, but we have to go back to this question, so I'm going to
10 rephrase this. The military police, would they refer or report to the
11 brigade in its daily activities, which is also to make sure that law and
12 order is upheld, or do you think that the brigade commander has no
13 authority over the military police?

14 THE WITNESS: [Interpretation] Judge Antonetti, Your Honour, I
15 know that this is a very important issue and has to be fully clarified,
16 and I did do my best to do that.

17 The military police is an autonomous organisation which has its
18 chief, it has its professional component, it is to be found in the
19 military police battalions, divided into companies, and part of the men
20 are to be found in the brigade, which is called the brigade military
21 police. Now, the brigade military police, as far as the brigade
22 commander is concerned or the area commander is concerned, performs his
23 daily duties. He doesn't have to ask permission on a daily basis as to
24 who's going to stand guard over a command post, for example, or a forward
25 command post, or whatever, who will escort a convoy of soldiers up to

1 their positions or from their positions, and the like, or who is going to
2 set up a blockade on a road if an operation is underway, and so on and so
3 forth. So tasks of that kind, as far as the brigade commander is
4 concerned, or the commander of the operations zone, is performed by the
5 military police as their daily tasks, but the military police, with
6 respect to its composition, appointments, the salaries the men receive,
7 and the duties performed by the military police, in those terms the
8 military police is duty-bound to take all steps and action described
9 within their daily tasks, within their tasks generally; that is to say,
10 to take down the particulars of individuals, to take people into custody,
11 to request an investigation, and so on and so forth. And as we're
12 dealing with HVO soldiers in this case, or an officer, or whatever, they
13 have to inform the commander of a brigade, or battalion, or whoever else.

14 MS. NOZICA: [Interpretation] Good morning, Your Honours. I just
15 would like to say that we have a technical hitch in the courtroom. The
16 transcript isn't working properly, or, rather it stopped at 11.22. So we
17 don't want to lose what Mr. Praljak said, although the transcript that we
18 see on our screens is working properly.

19 JUDGE ANTONETTI: [Interpretation] General Praljak, could you
20 please finish your answer.

21 THE WITNESS: [Interpretation] Yes. I don't know what has been
22 recorded and what has not. Everything I hear -- I'm being told that
23 everything is recorded on the transcript that we see on our screens.

24 So as I was saying, that part of the SIS and the military police,
25 according to its establishment and its competence and authority and its

1 duties, was one body, a single body in charge of security. And at the
2 head of that body, there was the assistant head of the Defence
3 Department, or should have been. I don't know why that didn't exist.
4 All we had were the chiefs for the SIS and the military police who, in
5 turn, had to maintain close cooperation in security matters, overall
6 security matters.

7 JUDGE ANTONETTI: [Interpretation] General Praljak, let me discuss
8 another case even more specific. This is a very important topic, and we
9 don't want to make mistakes. When Judges will have to deliberate on
10 this, they want to have all the information at hand.

11 So say there's a military operation going on in a village called
12 X. It's an operation with orders and everything is done regularly. In
13 the framework of this operation, the brigade commander is asking the
14 military police to do its job, as it usually does. So the military
15 operation is carried out, the enemy is captured, and in this village
16 there are civilians that are hiding in their houses. And then a number
17 of soldiers enter into a house, carry out crimes, for example, let's say
18 they rape a woman. They leave the body in the house, and they just leave
19 the premises and go about their military operation. The military police
20 then enters after them, enters into the village after them, check what is
21 happening, and when they enter into this house they see that there is the
22 body of this woman. It's a civilian, and obviously she was the victim of
23 a crime. But at this very moment, the brigade command is not aware of

24 the fact. He's in his headquarters and he has no idea that anything went
25 on. But the military police has noted that a crime was committed.

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1 If the military police decides to do nothing and remains silent,
2 and decide not to report to the brigade commander, nothing will happen,
3 or maybe the military police can decide to carry out an investigations to
4 find out who entered the house and then they report to the brigade
5 commander that a war crime was committed. The brigade commander now is
6 informed.

7 Now, as far as you're concerned, were you ever confronted with
8 this kind of situation? Did you ever run into this similar -- and in the
9 example that I described, what should the military police do and what
10 should the brigade commander do? After an operation of the kind, isn't
11 the brigade commander duty-bound to check whether collateral damage
12 occurred or not?

13 THE WITNESS: [Interpretation] The commander is duty-bound to do
14 something; to check and see if that is at all possible, if there's no
15 fighting going on. Now, that's a question. But if he did learn about
16 something like this having taken place, if he learned about it
17 personally, he's duty-bound to inform the military police about it.

18 Let's look at it this way: If he happened to be fighting, came
19 across a situation of this kind, then pursuant to Article 20 whatever,
20 he's going to secure the location, place two soldiers to stand guard
21 there, and then he's going to wait for the military police to arrive or,

22 rather, the crime section of the military police, to take down the facts
23 on site, and the brigade commander himself does not go any further than
24 that. He just secures the spot.

25 Now, once the military police has established the facts, it

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1 launches an investigation against perpetrator or perpetrators unknown, if
2 they are unknown, and it is the SIS that goes on to pursue the
3 perpetrators, and this is when an investigation is actually launched
4 because the person perpetrating the crime --

5 MR. STRINGER: I apologise sincerely for the interruption,
6 Mr. President.

7 My colleague, Ms. Nozica, was right. A few minutes ago, anyone
8 who's trying to work in e-court with LiveNote is not able to do so, I
9 don't think. I'm getting some nods from around the courtroom, which for
10 those of us who are trying to do that, it's highly frustrating, and I
11 wonder if we could get that fixed while the general continues his
12 testimony.

13 Thank you.

14 THE REGISTRAR: Your Honours, just for the record, I've informed
15 the IT Department and they're currently working on the issue. Thank you.

16 JUDGE ANTONETTI: [Interpretation] Very well. We'll take this
17 technical aspect on board.

18 General Praljak, please continue with your answer. You told us
19 what would happen if the brigade commander was informed of the situation.

20 Now, let's imagine the case where he was not informed. Is he
21 duty-bound to check, himself, that anything happened or is he supposed to
22 just trust the military police, at the risk of not being informed?

23 THE WITNESS: [Interpretation] I'm afraid I don't understand your
24 question. How can he take action if he doesn't know about something? He
25 has to receive information either from soldiers -- he must have the basic

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1 information, and only once he has the basic information concerning a
2 particular case can he react in one way or another.

3 JUDGE ANTONETTI: [Interpretation] Very well. I understand your
4 surprise.

5 Let's imagine a situation where the brigade commander, the
6 commander of the operational zone, or yourself, as HVO commander, are
7 busy with a number of activities, but that on the field -- but you're not
8 kept abreast of what happened on the field. In the example I gave, you
9 know, let's say that the military police turns a blind eye and decides
10 not to do anything. So my question is the following: Isn't the brigade
11 commander duty-bound to check for himself to make sure that his order was
12 correctly executed and that, for example, there were no civilian
13 casualties, and so forth and so on, or does he just blindly trust the
14 military police, at the risk that the military police could not do the
15 job properly or could decide to hide a number of facts from the military
16 commander?

17 THE WITNESS: [Interpretation] I don't know how precisely to

18 answer this question. For instance, when I was in combat, I verified the
19 facts where I was. This is supposed to be done by the brigade commander
20 if he's taking part in a fight and receives reports that this -- and this
21 has happened, if the SIS has given information. Most frequently, for
22 example, we would receive information that -- in Rama, for instance, it
23 happened to me. The chief of the SIS centre, Luka Markesic, would
24 approach me, and he was a very responsible person in that respect. He
25 would learn of a crime. Most frequently behind the front-line, when

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1 there's fighting going on, usually there is no civilians in the area
2 where the two armies clash. And he would tell me, desperate, that he'd
3 learned that something had happened in a certain village. I would ask
4 him, Okay, who committed the crime? Now the chase for that perpetrator
5 begins. But it means to have people within the structures who are
6 working for you. Perpetrators will not volunteer their identity. They
7 did it in the dark, with a mask on. They removed number plates from
8 their vehicle. They're trying to cover up their tracks. But after
9 certain statements are given, identification is organised, or people may
10 blurt out something after drinking in cafes and something will be
11 learned.

12 Investigation, in a case of murder or a rape, takes some time.
13 The commander would be familiar with this because they would be informed
14 along the command line of the SIS and their departments, and
15 investigation starts. And once the prosecution is involved in a certain

16 way, then the commander of the brigade or some other unit has nothing to
17 do with it, doesn't have the time to deal with it. Of course, if they
18 have information, they will furnish it. I see no complication in terms
19 of who does what and what is the respective purview of each structure.

20 What you asked me about, if a brigade commander, military police,
21 or SIS, were to see something and some structures want to white-wall a
22 piece of information or some facts, then they have to report to their
23 superior officer and the superior officer of that military police unit.

24 JUDGE ANTONETTI: [Interpretation] Very well.

25 Ms. Tomic.

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1 MS. TOMASEGOVIC TOMIC: [Interpretation] Thank you, Your Honour.

2 I meant to visit all these issues in good time. His Honour
3 Antonetti pre-empted my endeavours in that respect. I will revisit some
4 of those issues on the basis of some documents in the binder.

5 Let's take a look at document P044 -- P04494.

6 Q. Mr. Praljak, on several occasions during your testimony, you
7 answered questions. The number is P04494. On several occasions, you
8 said that operative commanding is one thing, and it's another thing to
9 have a commander positioned in terms of reporting, and this is what you
10 explained in the case of the military police; is that right?

11 A. That's correct.

12 Q. Now let's take a look at this document. This is a document dated
13 25th of August, 1993, dating from the period while you were in charge,

14 authored by Tihomir Blaskic again. Mr. Blaskic says that:

15 "Pursuant to Article 34, paragraph 2, of the Bylaw on the
16 Military Forces, and pursuant to the authority of the commander of the OZ
17 Central Bosnia, he appoints as commander of the 3rd Light
18 Assault Battalion Military Police, Mr. Vlado Cosic," date of birth,
19 et cetera, and there's the date of this order. It says that it appears
20 to be addressed to the addressee, to the Main Staff of the HVO, and the
21 PPP. I do not know what it understands for. It's PPP of the OZ SB.

22 Are you familiar with the fact that such situations occurred,
23 Mr. Praljak?

24 A. Madam, such cases did occur in the Central Bosnia Operations Zone
25 because Mate Boban, the supreme commander of the armed forces of the

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1 HZ-HB, through a particular and special order of his, authorised
2 Tihomir Blaskic, entitling him to appoint brigade commanders and
3 commanders of light assault battalions, because this is more of a
4 military unit.

5 MR. STRINGER: I apologise for the interruption.

6 Mr. President, just a clarification for the record, because
7 I think it's an important one.

8 We have in the English transcript that the general has just said
9 that Mr. Boban issued a special order authorising Tihomir Blaskic to
10 appoint brigade commanders, and I see the document relates to a
11 battalion, and I don't know whether there was -- whether it's "brigade

12 commander" is the word the general said or whether there was a
13 translation issue there.

14 JUDGE ANTONETTI: [Interpretation] General Praljak, what did you
15 say, exactly? I thought I understood, in French, that Mate Boban had
16 delegated the authority to Blaskic to appoint brigade commanders, whereas
17 normally it was a remit of Mate Boban. Is this what you wanted to say?

18 THE WITNESS: [Interpretation] That's correct, and I meant to
19 continue; brigade commanders, battalion commanders, et cetera. And to
20 the best of my knowledge, in that order Colonel Blaskic received
21 authority to execute operative command over military police and the light
22 assault units without seeking permission from Valentin Coric,
23 Bruno Stojic, et cetera. So whether, in that order, there was his
24 entitlement to appoint commanders of light assault battalions, that I do
25 not know, but I do know that he was authorised to appoint and organise

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1 the army as it should have been structured according to rules and
2 regulations and to execute operative command in terms of using the
3 military police units in Central Bosnia. Whether he was entitled to
4 appoint commanders of light assault battalions or not, I do not know
5 that.

6 JUDGE ANTONETTI: [Interpretation] General Praljak, what you're
7 saying is not unsequential. Let's imagine we're in a situation where
8 the commander of the HVO personally notes that one of his subordinates,
9 i.e., Colonel Blaskic here, is directly in contact with Mate Boban and

10 gives himself the authority to appoint whoever he wants, without you
11 having anything to say in this. This means that you, as commander of the
12 HVO, are placed in a delicate situation. Is that the situation you
13 encountered, when it comes to Colonel Blaskic?

14 THE WITNESS: [Interpretation] No, no, I wouldn't be placed in an
15 inconvenient situation for the simple reason that Central Bosnia was
16 completely cut off from the rest. It was physically impossible to reach
17 that area to execute control, inspect. People were not known. And in my
18 opinion, Mr. Boban did the right thing. I could not personally appoint
19 brigade commanders, and Mate Boban did the right thing by giving him such
20 authority. Central Bosnia was completely encircled. There was no time
21 for correspondence. The telephones were down. On occasions, he had to
22 react militarily within five minutes, and in such situations it is only
23 logical to delegate authority to somebody to increase military
24 efficiency.

25 JUDGE ANTONETTI: [Interpretation] General Praljak, I fully

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1 understand what you're saying. Unfortunately, the reality of military
2 events does not coincide with international law. Normally, you have a
3 chain of command, with the commander of the HVO and all his subordinates.
4 Now, here you're telling us what probably happened. In reality, we'll
5 see that later, you know, at the end of the cross-examination. But
6 you're developing a case according to which Central Bosnia was fully
7 encircled, that there was a direct connection between Blaskic and Boban

8 without anyone like you, General Petkovic, or maybe Mr. Stojic or
9 Mr. Coric, having anything to say in this, because the situation was an
10 emergency, and because of this emergency there was a direct chain that
11 had been set up between Blaskic and Boban. I can understand that, you
12 know, when it comes to military operations are concerned. The question
13 now is whether the law should be applied or not in this kind of
14 situation.

15 If events occur in Central Bosnia, for example, war crimes, and
16 the normal chain of command is totally bypassed,
17 Mr. Bypass [as interpreted] is directly in contact with Mr. Boban, and
18 senior officers can say, Well, I wasn't told about anything, I wasn't
19 kept informed, I wasn't aware of anything; you're raising a new problem.
20 And I believe that the Judges will have to deliberate on this, and during
21 the cross-examination I'm absolutely sure that Mr. Stringer will come
22 back to this.

23 So I'll stop here. We understand exactly what you said, but as
24 far as conclusions are concerned, we'll see that later.

25 MR. KOVACIC: [Interpretation] If I may facilitate things. I've

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1 held myself back, but it may be helpful to point out that the document
2 P04494, which is at the basis of this, has been mistranslated into
3 English. There are serious deficiencies, and this is the gist of my
4 intervention.

5 In the introductory sentence in the Croatian language, Blaskic

6 says:

7 "On the basis of Article 34, paragraph 2, of the Bylaw on the
8 Armed Forces of the HVO HZ-HB," a consolidated version, "and pursuant to
9 the authority of the commander-in-chief of the Armed Forces of HVO HZ-HB,
10 number 396," et cetera, but in English the second leg of the second
11 ground has been omitted. So the grounds are not just Article 34,
12 paragraph 2, but also the legal grounds for adoption of this document was
13 the authority or authorisation given by the commander-in-chief, and this
14 is what General Praljak rightly pointed out.

15 So unlike other commanders of operation zones, Mr. Blaskic had
16 such authority, and this is an atypical.

17 Furthermore, the order of things has been mixed up later in the
18 document, and you do not have to know both languages to notice that this
19 is a very shabby translation, translated by the Prosecution. We should
20 not rely blindly on them. So that authorisation that Mr. Blaskic
21 invokes, and that authorisation coming from the commander-in-chief, has
22 been adduced as an exhibit as P00280. I believe had we noticed this at
23 the very beginning, it would have shortened the discussion on this.

24 I apologise, but I first had to check whether this was correct or
25 not.

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1 JUDGE ANTONETTI: [Interpretation] General Praljak, Mr. Kovacic is
2 saying that there's a translation problem. He's telling us that the text
3 in B/C/S says that Colonel Blaskic appoints Vlado Cosic in application of

4 Article 34, but according to the order of June 27, 1992, written by
5 Mate Boban, and this is P0280. This text can be found there. Do you
6 agree with this analysis of the document, because then Colonel Blaskic
7 would be acting according to the powers that were given to him directly
8 by Mate Boban?

9 THE INTERPRETER: Interpreter's correction. At page 21, line 12,
10 replace "Mr. Bypass" with "Mr. Blaskic."

11 THE WITNESS: [Interpretation] And this is what I said,
12 Your Honour. Because of the situation, Mr. Blaskic had such authority
13 and he acted on it.

14 If I may add on what you said. In wartime circumstances, there
15 are two options or two possibilities. Either you face up to the facts
16 and the reality, and adjust your structures to such reality in order not
17 to use the war to reduce the level of evil, or, as you say, say, No, the
18 structure will be as it is and I will stick to it, irrespective of
19 whether it's functioning or not, for millions of reasons.

20 I would like us to -- to give me a minute to be more precise in
21 my explanation.

22 So if at one place three houses are burning and three people are
23 standing there, one can escape abroad and he's not guilty. The other
24 waits for the fire brigade to arrive, but they're not arriving for some
25 reasons. And the third one will jump and into the flames, he will put

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1 out the fire, although this is not his duty. He will rescue the people

2 from those houses. And when he emerges, all singed and blackened, he
3 will realise that he hasn't put out the fire in the third house. He may
4 face the situation that, You are guilty because you have not saved all
5 three houses, and this is the essence of the war. Unfortunately, for many
6 reasons, the essential structures of organisations did not function. Either
7 people did not know how to do those things, they're incompetent, they lack
8 either courage or energy or funds or manpower, et cetera, et cetera. And
9 then you find yourself in a situation - let me finish this - to see that the
10 structure does not function, and you react.

11 For instance, you remember the convoy in Citluk. So it was the
12 civilians that stopped the convoy. For the convoy to go through, one
13 should first talk to the civilians, and the person to do that should have
14 been Mate Boban. So that was a political issue. But Mate Boban fails to
15 appear for the talks, so Dr. Jadranko Prlic addresses the crowd.
16 Dr. Jadranko Prlic fails because they're not listening to him. The next
17 one up should be the head of the civilian police, because this is a
18 crowd, it's got nothing to do with the military. Nevertheless, for one
19 reason or another, the minister of the civilian police is just not
20 around. Maybe he doesn't want to know about it or whatever. The whole
21 situation is not working. Maybe the military police was in charge of
22 making sure the convoy got through. I don't know. But I know that it
23 wasn't the commander of the Main Staff who was in charge of making sure
24 the convoy got through.

25 Nevertheless, when they, for whatever reason, not necessarily a

1 bad reason, fail, what I will do in a situation like that is get onto
2 that convoy. I will run the risk of being shot by an angry parent,
3 perhaps, but I will make sure the convoy gets through. In the process,
4 I'm not changing anything structural about the fact that I am not
5 technically the person in charge of that. I assume upon myself a duty
6 that is outside any legal norms as to who should be doing what, exactly.

7 So what happens is the following, Your Honours: The next problem
8 crops up again. It's nothing to do with my job description. They
9 realise that I took care of the previous one, so they come to speak to me
10 again, the international community and whoever. Two options: You say, I
11 refuse to do this, I don't care whether the convoy ever gets to Mostar or
12 not, and people will go hungry; or you go back again and do something
13 that you feel is your duty, although not necessarily under the law,
14 because the commander of the Main Staff is in no way duty-bound to climb
15 all over convoys and make sure they get through. But it was my duty as a
16 human being, and that's what mattered in this war. When there was
17 something that wasn't working, whoever is in a position to take over in a
18 bid to save something, this doesn't mean -- it is not tantamount to
19 relieving of his duty another person who should have done this in a line
20 of his or her duty.

21 Unfortunately, there were a great many situations like that, and
22 I dealt with them myself, quite a number of those. I had to do someone
23 else's job and assume upon myself someone else's duties, because for all
24 sorts of reasons that other person was not willing or able to perform

25 their task.

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1 These are the facts as we know them, and I will be telling you
2 more about that later on.

3 MS. TOMASEGOVIC TOMIC: [Interpretation] Thank you very much, Your
4 Honours.

5 First of all, I would like to thank Mr. Kovacic for setting the
6 English translation to right. Regardless of the English translation,
7 I think everyone will agree that my reading of the Croatian document was
8 accurate, the way I read it into the transcript. Therefore, everybody
9 had a chance to hear what the phrasing was in the original text.

10 We see here Mr. Blaskic invoking the authority of the supreme
11 commander, and we know the document number as well. I have not lined up
12 this document in my binder because I didn't believe that it would be of
13 any relevance, but could we please call it up briefly in e-court.
14 I think it would be useful for everyone here to see P00280 briefly, at
15 least.

16 Q. Mr. Praljak, the e-court copy is somewhat poor. Can you actually
17 read the document? If not, we'll try and tackle the English, and then it
18 will be interpreted to you by our interpreters.

19 A. I see it, I see it.

20 Q. Oh, so you do. Fine. Mr. Praljak, I want to know about
21 paragraph 2. Paragraph 2 reads:

22 "The main commander appoints commanders of the HVO in Central

23 Bosnia and is fully responsible for a complete articulation."

24 All right. What I've been meaning to ask you is this: We've
25 heard you say several times that the military police, with the exception

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1 of combat operations outside the HVO's military structure. Nevertheless,
2 in paragraph 2 we see no mention of the military police. There is talk
3 there of HVO commanders. I want to know: Is that in reference to the
4 military police as well or is the military police simply not included in
5 the substance of this order?

6 A. Madam, the order is poorly written and it lacks the required
7 technical background. What exactly is meant here by a complete
8 articulation, good heaven knows, or the late Mate Boban. I have no idea
9 who lined this document up for him. I really have no clue. It says what
10 it says. I personally find it unclear. The commanders of this or that,
11 a complete articulation. I don't think we would be getting very far if
12 we looked further into that. Only the people who actually produced this
13 could tell us.

14 Q. Mr. Praljak, I'm not interested in this bit that says "a complete
15 articulation." I'm interested in the bit about the commanders. You said
16 a while ago that you knew Mr. Blaskic had the authority to appoint
17 military police commanders based on this order.

18 A. No.

19 Q. Please allow me to finish. That was my understanding of your
20 answer at the time. That is why I'm coming back to it. I'm looking at

21 this document, I'm looking at paragraph 2, and I see no mention there of
22 the military police. What about these HVO commanders? Does the category
23 include HVO military police commanders or does it only include ordinary
24 commanders in ordinary, regular units? That's what I want to know. Had
25 you not said that any authority Blaskic had derived from this order by

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1 Mr. Boban, I would never have thought to ask the question.

2 A. I think there is another order by Mate Boban, a later one, a much
3 later one, issued sometime in the spring of 1993.

4 Q. Mr. Praljak, I don't --

5 JUDGE ANTONETTI: [Interpretation] General Praljak, we have an
6 order the 27th of June, 1992, and it raises a few issues.

7 We could understand that Colonel Blaskic has been appointed as
8 chief of staff of the HVO, but there's a clarification that the person in
9 charge is Ante Roso, but he is in charge of Central Bosnia, so he's
10 wearing two hats. And as the person in charge of Central Bosnia, he's
11 going to appoint the brigade commanders. Was that the situation? Was
12 that how things had been split between the various people then?

13 THE WITNESS: [Interpretation] Well, Your Honour, I don't know.
14 Paragraph 1 of this order is clear. Paragraph 2 is unclear. I'm unable
15 to comment on the meaning of this word here "articulation." Quite
16 simply, you're asking me to interpret something that I find unclear. I
17 did tell Ms. Tomic that I knew of Blaskic's authority in relation to the
18 appointment of brigade commanders. He also had the power to use the

19 military police in an operative way. Nevertheless, I said nothing about
20 his power to appoint military police commanders. I didn't say it because
21 I didn't know it. I did know, as a matter of fact, that he had the
22 following two powers: A, to appoint HVO commanders, without necessarily
23 seeking anyone's approval; that was the other thing, to use the military
24 police in an operational sense.

25 Your Honours, I only know what we see here. Mate Boban appoints

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1 the operation zone commanders and brigade commanders following proposals,
2 nominations, you know, the usual procedure. We know all of the rest.
3 What General Ante Roso was doing in this context is not something that
4 I can tell you about.

5 MS. TOMASEGOVIC TOMIC: [Interpretation]

6 Q. Mr. Praljak, something brief about this document.

7 A while ago, you told us you believe that there was a later
8 authorisation written by Mr. Boban in relation to Mr. Blaskic. Can you
9 look at this document, please, by Mate Boban. It's 396, it's right there
10 in the header, and the date is the 27th of June, 1992.

11 Can you now please go back to the other document authored by
12 Mr. Blaskic, the appointment document. That is P00 -- P04494. I think
13 we all have that one in front of us, but I think it invokes this specific
14 document, 396, dated the 27th of June, 1992.

15 Isn't it only logical -- hold on a minute. I'm about to ask you
16 a question, because we're looking at this and we can all read, thank

17 heavens. What I want to know is the following: Following this,
18 Mr. Blaskic received another authorisation from Mr. Boban. Had that been
19 the case, would he not have invoked the later order?

20 A. Ms. Tomic, I said that with great precision. I said "perhaps."
21 I didn't actually assert that there was another one. I said perhaps
22 there was another one. Why did I say that? I actually talked to
23 Mr. Boban about this in March 1993, following my return from Central
24 Bosnia.

25 Q. Yes, you told us about that.

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1 A. Well, there you go. That's why I said "perhaps."

2 MS. TOMASEGOVIC TOMIC: [Interpretation] Can we now have P --
3 D04089. That's the next one up.

4 Again --

5 JUDGE TRECHSEL: I'm sorry. I would like to see whether I
6 understood the last passage of this testimony.

7 I seem to see that Tihomir Blaskic here appoints someone who
8 normally he would not have the competence to appoint, and he refers to an
9 order of Mate Boban which, in turn, is totally unclear and has a term
10 "articulation" which at least the witness cannot make any sense of, and I
11 will confess that I am in the same situation.

12 Do I correctly wrap up what has been your testimony now,
13 Mr. Praljak?

14 THE WITNESS: [Interpretation] Yes, quite correct. I have no idea

15 what "articulation" means. Again, I have no idea what the word
16 "articulation" means or what Blaskic's interpretation of that expression
17 was.

18 JUDGE TRECHSEL: Thank you.

19 THE ACCUSED PETKOVIC: [Interpretation] Your Honours, if I may, I
20 do apologise. In a technical sense, I don't think it really matters
21 whether Praljak understands this or not, or anyone else, for that matter.
22 The main thing is Blaskic understood Mate Boban's order. He invoked that
23 order and he made the appointments. We cannot question whether Blaskic
24 understood something or not just because Praljak didn't understand.
25 Blaskic understood, and he made 150 appointments pursuant to this order.

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1 We've seen them all throughout this trial. Blaskic understands full well
2 that Mate Boban, firstly paragraph 1, authorises him to exercise command
3 over Central Bosnia and, paragraph 2, to appoint all the commanders
4 there. I'm not going into anything else, but in a technical sense
5 Blaskic does a great job understanding the order, and this applies
6 throughout.

7 We've seen at least 100 documents here. He stands by this order
8 dated June. The fact that Mr. Praljak fails to understand this order,
9 well, that is a problem related to Praljak's understanding, not
10 Blaskic's. Blaskic did nothing against the law; quite the contrary.
11 Boban vested him with certain authority, and Blaskic used that authority.
12 Whether Praljak understands this or not is entirely beside the point. It

13 is not my intention to offend anyone, but that is not material. Praljak
14 doesn't understand. That doesn't necessarily mean that Blaskic didn't
15 understand. We're not supposed to --

16 THE INTERPRETER: Interpreter's note: Overlap between two
17 speakers. We have not been able to interpret this, thank you.

18 JUDGE TRECHSEL: I'm sorry, but I had to try to stop this because
19 I think this is not correct. You are now pleading here and making
20 explanations, and that should not be done. And, furthermore, what you
21 are doing is a classical [Latin spoken]. You say that
22 Mr. Tihomir Blaskic understood well because that's what he did, but the
23 question, of course, is whether he did understand well and whether what
24 he did here was, indeed, lawful. But that is something for the Chamber
25 to decide, if necessary, and for the lawyers to argue.

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1 MS. ALABURIC: [Interpretation] Your Honours, if I may, if I may
2 correct the transcript on page 30, line 15. It was a statement made by
3 Petkovic, not by Pusic, as recorded in the transcript.

4 THE ACCUSED PETKOVIC: [Interpretation] Counsel, Your Honours, I
5 do apologise.

6 JUDGE ANTONETTI: [Interpretation] Just a second.
7 General Praljak, there was a question I wanted to ask, and if I'd asked
8 this question maybe the witness would -- the accused would not have stood
9 up.

10 You look at this document, this document is signed by Mate Boban,

11 but also General Ante Roso, and you will notice that the document is
12 coming from the Main Staff, so this document was drafted by General Roso
13 and it has been signed by himself, and it was also signed by Mr. Boban,
14 which means that Mr. Blaskic's authority had been determined in full
15 agreement by Mr. Roso and Mr. Boban. And I understand the intervention
16 of General Petkovic because this happened in 1992, and you know,
17 General Praljak, that before you took office it was General Petkovic who
18 was the commander of the HVO. And so you followed him in this position.

19 When you took office on the 24th of July, were you aware that
20 General Blaskic had this authority or not, and had General Petkovic
21 failed to tell you that? This is what we are trying to ascertain here.

22 THE WITNESS: [Interpretation] I knew about the authorisations
23 that Colonel Blaskic had in the Central Bosnia Operations Zone, and he
24 acted according to and pursuant to the order as he understood it, and he
25 issued orders, made decisions, appointed people, suspended people, in the

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1 way in which he understood the order giving him authorisation to do so.
2 Nobody complained, nobody had any objections, so that functioned
3 according to the military system in place.

4 The fact that I don't understand what the word "articulation"
5 means here is quite irrelevant, unimportant.

6 JUDGE TRECHSEL: I would -- just to avoid any misunderstandings,
7 I'm, of course, not in any way suggesting that Mr. Blaskic did something
8 wrong, but I thought your point, Mr. Praljak, was that as he was

9 completely isolated and had no contacts to his superiors, it was a sheer
10 necessity for him to take the acts that were called for, including
11 appointments which had to be made. Isn't that your point, the point you
12 have tried to explain to us?

13 THE WITNESS: [Interpretation] Correct, Judge Trechsel. The
14 situation was such in Central Bosnia -- well, because Busovaca-Travnik,
15 then an interruption, and then Kiseljak over here, or rather
16 Busovaca-Kiseljak. Anyway, you cannot command and issue orders there
17 unless you're there. It was only the people who were there that could do
18 that.

19 JUDGE TRECHSEL: Thank you, Mr. Praljak. I think that is a
20 sensible proposition.

21 Excuse me, Ms. Tomasegovic Tomic. You can go on.

22 JUDGE ANTONETTI: [Interpretation] I believe that Judge Mindua had
23 a question to ask. No? Okay, then go ahead.

24 MR. KOVACIC: [Interpretation] Your Honour, with your permission,
25 I'd just like to make one observation, and I'm referring to the remark

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1 made by Judge Trechsel when General Petkovic intervened and was on his
2 feet.

3 I agree that in procedural terms, that was perhaps improper, and
4 I share Judge Trechsel's opinion there because it is difficult to say in
5 what role General Petkovic intervened at that point in time. We all know
6 that, and we're not challenging that. However, I do consider that it

7 would be really negative if a message was to be sent out to the accused,
8 or one of the accused or all of them, who for three and a half years have
9 been sitting in this courtroom, to prevent them from intervening when
10 they understand and see that the situation is quite unclear and that
11 we're discussing something unnecessarily. And this is what
12 General Petkovic felt, and he pinpointed the problem straight away. He
13 saw where the problem lay. And so this specific reaction on
14 General Petkovic's part, and these are my feelings and my sentiments,
15 without a doubt helped us all to understand the situation because, if
16 nothing else, he at least reminded us that he saw appointments of this
17 kind, at least 150 of them, on the basis of that order.

18 So please don't misunderstand me, but I do feel that we should
19 not, a priori, reject any interventions which were not exaggerated. He
20 did not stand up too frequently during this trial, and as far as I
21 remember, they were always useful. They always contributed to the
22 efficiency of the trial and to establishing the facts.

23 So I should just like to prevail upon Judge Trechsel and ask him
24 not to de-stimulate reactions of this kind for as long as they're not a
25 problem, and they aren't a problem.

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1 Thank you.

2 JUDGE TRECHSEL: Thank you, Mr. Kovacic.

3 I must say I agree with you, I agree with you. I did not want to
4 blame Mr. Petkovic. I had the feeling that it went a bit long on, and

5 that's why I then stopped him. But on principle, we are in full
6 agreement.

7 MR. STRINGER: Mr. President, I sincerely apologise to all, and
8 I'm going to be very sort of candid, because we're here and we've been
9 discussing about these last two documents, and what I'm going to ask for
10 is a clarification from the witness. And I do this with full
11 acknowledgment that it is probably something that is more procedurally to
12 be done on cross-examination, and so if counsel objects or if the Trial
13 Chamber prefers that I wait, I will happily do that and come back to it.

14 But since we're all here, this is a clarification that I would
15 seek from the general. The general started when the general indicated
16 there was an order from Mr. Boban that gave General Blaskic the authority
17 to appoint brigade commanders, and I don't see that language in this
18 document, and I know that the general's indicated he doesn't understand
19 the language of the document. The document is also from a fairly early
20 period, June 1992, when the conflict between the Croats and the Muslims
21 really had not fully developed into the situation the general is
22 describing of an encirclement and the rest.

23 So the clarification I would seek, and I can -- I will withdraw
24 the question and come back to it later, if that's what is decided, the
25 question would be whether the general is aware whether any subsequent

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1 orders may have come from Mr. Boban to General Blaskic, defining his
2 authority, as the situation between the Croats and the Muslims developed

3 throughout 1993.

4 So, again, I'll accept whatever treatment the parties and the
5 Trial Chamber wish to give to my request.

6 JUDGE ANTONETTI: [Interpretation] Thank you, Mr. Stringer.

7 I do not see, from a personal point of view, any objection for
8 you to ask a clarification immediately, because we will gain time. And I
9 would like to thank General Petkovic to have taken the floor, even if,
10 according to the Rules and Regulations, it is not really provided for.
11 But when you look at the normative text, they can say anything and
12 everything, but in fact nothing prevents the accused from taking the
13 floor and to say what he has to say. The only issue at stake is to know
14 what the Judges will do with the probative value and that will have to be
15 attributed to this sort of event where an accused is taking the floor.

16 And I agree with counsel as well that we should not stop an
17 accused from wanting to contribute and to make things clearer by stopping
18 him from taking the floor. As you know, I would like everyone to be
19 present in this courtroom, and very often when I have the feeling that
20 accused do not understand or have the feeling that Judges are not
21 listening to what they're saying, I do not feel comfortable, because this
22 is not the concept of justice that I share. I feel that everyone should
23 be free to express themselves, and of course within the framework of the
24 normative texts that are upon us. But the normative texts allow us to do
25 quite a lot of things. So it has happened in the past that Mr. Prlic

1 took the floor to clarify certain things, as well as Mr. Stojic, and
2 I think it was always beneficial to the proceedings.

3 We see that there is an issue which has been also raised by
4 Mr. Stringer, namely, it's an order dating back to June 1992, and the
5 question is whether Central Bosnia, as the general was saying, was
6 encircled. And we understand very well what the situation is, so
7 Mr. Stringer is making us understand that there might be a real issue at
8 stake here, and waiting until the cross-examination to get a
9 clarification could also be detrimental to the proceedings.

10 So, Mr. Praljak, you have heard what everyone has said, and I
11 also had the same line of thought as Mr. Stringer. We were wondering
12 whether, in June 1992, Central Bosnia was encircled in such a way that
13 Boban had only this solution. But you didn't tell us this.

14 THE WITNESS: [Interpretation] In 1992, in June, Central Bosnia
15 was not under an encirclement to the extent that you couldn't reach it.
16 I said this in very precise terms, and let me repeat it for the benefit
17 of the Prosecution. I was telling you what I know about, and it is this,
18 and you have some documents to bear that out, and you are going to ask me
19 about them, I assume.

20 In March 1993, I was in Central Bosnia after an agreement had
21 been signed to calm the situation down and so on and so forth, and at the
22 time Mr. Blaskic asked me to convey to Boban, Petkovic, and so on that
23 according to his forecasts, the BH Army was getting ready to attack the
24 HVO. Now, it was a very difficult situation. It was difficult to move
25 along the roads. I was in a car with an escort, and they said, If we

1 come across a BH Army check-point, for example, Paraga, one of Paraga's
2 units, the car behind me had to stop 50 metres away from me, and if they
3 saw me reaching for my rifle, that they should start shooting straight
4 away because it was very easy to be killed by some murderers, some
5 killers. And upon my return, I asked Mate Boban -- on the way back, I
6 asked Mate Boban to enable Tihomir Blaskic, because communications were
7 down, in actual fact, to enable him, in operational terms, to deploy,
8 without having to have us down the chain of command and ask the military
9 police, to deploy for military purposes the military police. Mate Boban
10 told me that it had all been dealt with, that it was all settled. So it
11 was on the basis of that piece of information that I'm able to tell you
12 what I'm saying here and now. So that's the truth of it.

13 JUDGE ANTONETTI: [Interpretation] So if we understand correctly,
14 because you could have said that earlier on, the text that we have before
15 us is a mere consequence of a discussion you had with Mate Boban, you had
16 realised the ABiH was going to launch an attack, and therefore you had to
17 give Mr. Blaskic the full authority to react to any attack. And the
18 document that we have before us has to be understood in this context;
19 namely, the request that you had put to Mr. Boban?

20 THE WITNESS: [Interpretation] No, no. I made the request in
21 March 1993. I didn't even know that this document existed, but obviously
22 Mate Boban said it's all been settled. Well, he probably thought that it
23 had already been issued or whatever. So there's this difference in time,

24 from the time I made my request to Tihomir Blaskic and Mate Boban's reply
25 that it had been dealt with or would be settled.

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1 JUDGE ANTONETTI: [Interpretation] Very well. But how is it that
2 in June 1992, Mate Boban is giving his -- is vesting Blaskic with the
3 power to appoint people? Is there a political reason for this? If it's
4 not because Central Bosnia is encircled, what's the reason behind all
5 this?

6 THE WITNESS: [Interpretation] So you want my interpretation of
7 events. I don't know what the reason could have been, but I can tell you
8 what I think the reason was or might have been. So I ask the
9 interpreters to use the correct tenses there and say what I'm saying.

10 The HVO is being created, established, so in that area, and there
11 was major fighting going on with the Serbs, so probably they didn't have
12 time to provide information, CVs, go into various checks, verifications
13 and so on, because the army was growing at such a great rate because of
14 the battles in Jajce, in Vlasica, and so on and so forth. Mate Boban most
15 probably, and that is my opinion, most probably says, Go ahead, appoint
16 commanders over there according to your selection, your choice. So what
17 would it mean if somebody were to send him in a proposal for an
18 appointment or send in a nomination when that person knew nothing about
19 the area?

20 JUDGE ANTONETTI: [Interpretation] For what it's worth, it's an
21 explanation.

22 MS. TOMASEGOVIC TOMIC: [Interpretation] We're coming up to the
23 break, but I have one more document. May I go ahead with that, related
24 Mr. Blaskic and so on?

25 JUDGE ANTONETTI: [Interpretation] Show your document and then

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1 we'll have the break.

2 MS. TOMASEGOVIC TOMIC: [Interpretation] Document 5D04089. It's
3 the next document in the set, and this document is a commendation signed
4 by Tihomir Blaskic. 5D04089 is the document number. As I was saying,
5 it's signed by Tihomir Blaskic.

6 Q. The document is dated the 18th of April, 1993. That means before
7 your arrival, before your arrival there as commander of the HVO, and this
8 is a document in which Mr. Blaskic is issuing commendations to the
9 members of the 4th Military Police Battalion and their commander for the
10 valour and courage they showed in carrying out their assignments. Do you
11 know about this, and is it in conformity with the authority that Colonel
12 Blaskic had and the kind of authority that we've just been discussing?

13 A. A, let me say that I don't know of this document and, B, the
14 authority and powers of -- well, we have two things here; first of all,
15 Blaskic's authority to deploy the 4th Military Police Battalion in the
16 first place for military purposes. And the third point, point C, is his
17 right to commend somebody for having taken part in a battle and for
18 fighting bravely and well. So there are three points there. He could,
19 of course, commend individuals. I could commend individuals, too. I

20 could commend any military police unit while it was taking part in the
21 military operations, and I happened to notice that they were good guys.
22 I could do that, but it just so happened that I did not. But this is
23 quite a usual commendation. There's nothing contentious there. He
24 considered that they merited commendation.

25 JUDGE ANTONETTI: [Interpretation] General Praljak, April 18 is

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1 two days after Ahmici. I don't know whether the 4th Battalion was
2 involved in Ahmici, I don't have the judgement at hand, but I did note
3 that it was two days after Ahmici. Did you?

4 THE WITNESS: [Interpretation] Well, now that you've told me about
5 that, I see that it is, indeed, two days after Ahmici. I don't know if
6 the 4th Battalion took part, I do not know that, but I interpreted and
7 was responding to the questions asked by Ms. Tomic.

8 JUDGE ANTONETTI: [Interpretation] We'll have a 20-minute break.

9 --- Recess taken at 10.38 a.m.

10 --- On resuming at 10.58 a.m.

11 JUDGE ANTONETTI: [Interpretation] The court is back in session.

12 Let me tell the counsel, Mr. Coric's counsel, that she's already
13 used one hour and seventeen minutes.

14 MS. TOMASEGOVIC TOMIC: [Interpretation] Thank you, Your Honours.

15 Before I continue my examination, I would like to ask everybody
16 in the courtroom, and I believe that this is the best interests of the
17 Defence of Mr. Coric, as follows: There is a precedent by Mr. Karnavas.

18 This is reasonable, and the Prosecution, I believe, did the same. I'm
19 trying, in my cross-examination, just as the Prosecution has done, trying
20 to put forward the case for Mr. Coric, I'm going to -- I'm trying to
21 proceed slowly and bring the witness, step by step, to the point I'm
22 trying to make. What I'd like to ask is as follows: After each issue
23 that I'm going to finish, and they're not going to be long, to stop and
24 break and give the opportunity to everybody in the courtroom to ask
25 questions, object, because if we proceed in this way I'm afraid that even

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1 though I may exhaust the list of my questions, they may be lost and my
2 point would be lost. So every time I think I've accomplished what I
3 tried to accomplish, I'm going to say, I'm done with this subject, does
4 anybody else have any questions? And I would be very grateful if we
5 could proceed this way.

6 JUDGE ANTONETTI: [Interpretation] We will try, but you must
7 understand us, when we have a document on the screen, sometimes there are
8 follow-up questions regarding the document. Of course, we don't know
9 what you intend to do. Of course, we have the binders. So if I notice
10 that in the document there is an answer, I don't put the question. We'll
11 try to do what you've asked us to do.

12 MS. TOMASEGOVIC TOMIC: [Interpretation] Thank you, Your Honour.

13 Following up on the issue that we discussed before the break, I'm
14 going to work on two documents in succession, and it will be easy for you
15 to revisit them after I'm done with them.

16 Q. Now, please, Mr. Praljak, let's take a look at document 5D04394,
17 in the same binder, the following document.

18 A. I've got it.

19 Q. It purports to be your document, dated 31st of July, 1993,
20 addressed to the Main Staff of the HVO Mostar, to the Military Police
21 Administration at Mostar, attention of Mr. Valentin Coric and Mr. Perica
22 Turajlija. It is entitled "Instructions for the VP Administration" or
23 "Military Police Administration," and it states as follows:

24 "The order that you issued on 29 July 1993, number ...," I'm not
25 going to read it out, "... on the suspension of the platoon commander of

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1 military police, Perica Turajlija, and his relief of duty will not be
2 implemented.

3 "Perica Turajlija's military police platoon is under my
4 operational command and is carrying out all its assigned tasks.

5 "Relief of duty will be carried out by you only after the conduct
6 of an investigation with the presentation of solid evidence."

7 Mr. Praljak, could you please tell us whether you remember this
8 incident and whether I've read out what it really states in the document?

9 A. What is written in this document is true. I authored it, I
10 signed it, and I dispatched it. I can provide you with an explanation
11 now.

12 Q. I'm going to tell you what I'm interested in. At this point, I'm
13 not interested in whether you were right or Mr. Coric was right, who was

14 trying to relieve Mr. Turajlija of his duty. What I'm interested in is
15 whether you thought that you had the right, in circumstances where you
16 did not see that there was evidence for somebody breaching disciplinary
17 procedures and the commander is under your operational command, that he
18 could not be relieved of his duty, although Mr. Coric wanted to do so.
19 This is what I'm after.

20 A. Under circumstances obtaining, I believe that this was so for the
21 simple reason is that what I'm stating in this document is that Mr. Coric
22 was not doing the job properly.

23 Q. So you deemed that Mr. Coric was not doing his job properly.
24 Right. Okay. I'm not challenging or wanting to discuss who did what and
25 whether they did their job properly. My intention is that you, when you

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1 thought it was right, you had the right to do so. And you answered my
2 question, and let's proceed to another question.

3 A. Mrs. Tomic.

4 Q. Mr. Praljak, I...

5 A. Allow me, please. Your interpretation of law follows from the state
6 of facts based on which I take that right. This is not scholastics, but war.

7 Q. Mr. Praljak, please don't be cross. You've answered my question,
8 and I'm following with another document, P03934. Let's take a look at it.

9 This document was dated later, dated the 4th of August, 1993,
10 concerning the relief of units of duty. It is addressed to Gornji Vakuf
11 units. This is another of your documents, and among the addressees you

12 see Military Police Turajlija as one of the addressees at the end of list.

13 What I'd like to ask you about this document is: Is it apparent
14 from this document, and was this really so, that Mr. Turajlija continued
15 performing his duties under your operational command?

16 A. Yes.

17 Q. Just one question in relation to that. Mr. Praljak, do you know
18 that as per establishment of the military police of the HVO, there was no
19 unit entitled "Military Police Turajlija"?

20 A. There was a military police platoon under the command of
21 Turajlija, and this is why I labelled it so, because the Commander
22 Andabak, up to that point, had fled from his position for four times.

23 Q. You've already mentioned that person.

24 A. It's not only that. On the 1st, so when I regained the positions
25 in Vakuf, at a meeting Mr. Prlic attended, as well as I did, and after

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1 almost panic reigned after the fall of Vakuf, which I regained with my
2 lads, I reacted very strongly, seeing Andabak there, and said to Coric,
3 That person will have to face court-martial for leaving his positions
4 four times, as far as I knew, about four times him leaving his positions,
5 and nothing happened.

6 Q. Mr. Praljak, Mr. Andabak will be another issue. We are going to
7 deal with it.

8 I would like to tell Their Honours that I am finished with those
9 two documents, and now I give the opportunity to everybody to ask about

10 those two documents.

11 JUDGE ANTONETTI: [Interpretation] General Praljak, in the last
12 document on the screen, I was looking at the recipient list. I see
13 there's "HV Hrvatinic Brigade, brigade Hrvatinic." What is it exactly,
14 please?

15 THE WITNESS: [Interpretation] This is the Brigade Hrvoje
16 Vukcic-Hrvatinic. There was some confusion about this brigade
17 being Croatian. These are remnants of a brigade from Jajce, residual
18 manpower of that brigade who did not leave the territory of Bosnia-
19 Herzegovina. It was called "brigade," but in terms of its strength, it
20 could not meet the requirements of a company.

21 JUDGE ANTONETTI: [Interpretation] Second question. This is
22 August 4th, almost two weeks after you took command. I see the number on
23 this document. At "1147," does this mean that in 15 days, you signed
24 1147 documents or did you just take over the numbers after Mr. Petkovic's
25 command?

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1 THE WITNESS: [Interpretation] Numbers were taken over. No, maybe
2 I wrote 10, 15 orders in that time-period.

3 JUDGE ANTONETTI: [Interpretation] As far as you recollect, how
4 many documents did you sign a day, on average?

5 THE WITNESS: [Interpretation] Judge Antonetti, it's very
6 difficult for me to say. One, two documents, not more.

7 MS. TOMASEGOVIC TOMIC: [Interpretation] Thank you, Your Honour.

8 Let's take a look at three documents in a row, and this will
9 bring to a close my cross-examination concerning disciplinary
10 proceedings.

11 Q. Mr. Praljak, answering my learned friend Alaburic's question and
12 Judge Trechsel's questions, recorded on page 42483 of the transcript, you
13 said that military disciplinary courts were never established, that you
14 were not in charge of their establishment, and that Mate Boban did not
15 establish them either, presuming, therefore, that it was incumbent upon
16 Mate Boban to do so, looking up -- at the model of the Republic of
17 Croatia. And you stated that on several occasions on the same page.

18 A. For what I know, military disciplinary courts did not function.

19 Q. Now let's take a look at document P05279. This is a document
20 that's been repeatedly shown to you during examination-in-chief and
21 examination of the Presiding Judge. This is your order on serving of
22 disciplinary detention prison sentences imposed by the commander. You
23 addressed this order, this document, to all operation zones and directly
24 subordinated units of the Main Staff, and presidents of military
25 disciplinary courts of first and second instance.

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1 Mr. Praljak, when taking into account, after seeing this
2 document, the fact that you said that there were no military disciplinary
3 courts, could you please explain now that you're issuing an order to
4 military disciplinary courts if they did not exist; alternatively, that
5 you knew that they did not exist? I don't understand that, and I'm not

6 helped by the document.

7 A. It is not clear, based on this document. I have to say that I
8 would draft such documents, and most frequently General Matic would write
9 them down. I would give him the gist of the order, and the deputy
10 commander of the Main Staff, General Matic, who signed many of those
11 orders. As a general in the JNA, he was trained to draft such orders. I
12 did sign this document, I drafted it. It is true that it states that
13 there were military disciplinary courts, but I maintain, irrespective of
14 my signature here, when I asked commanders of companies to mete out
15 disciplinary sanctions, they did so, but there was no procedure in terms
16 of three officers sitting on a bench and hearing evidence. Nothing of
17 the sort happened.

18 Q. Mr. Praljak, I presume that you read this document before you
19 signed it. This order, I mean. And I'm interested in this: Did you ask
20 General Matic why military disciplinary courts have been mentioned here
21 if they did not exist?

22 A. I agree there is a discrepancy between what is written here and
23 what the reality was, but on the 22nd of September, when I had some ten
24 minutes for the business of Main Staff, because this is the time of the
25 Neretva-93 offensive, I could just scan the document, see "Dretelj

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1 Prison," some key words, and then sign it.

2 Q. Let's take a look at the second document, P2 -- 002022, P00 --
3 5D, correction, 5D02022. This is a document signed by

4 Mr. Ante Govorusic. He's deputy commander of the Herzegovina operation
5 zone, and it's addressed to all commands of Operation Zone of Western
6 Herzegovina. From the heading, we can see pursuant to an order of the
7 Main Staff, and the content of the order, we see that it refers to your
8 earlier order that we discussed a minute ago, in terms of meting out
9 disciplinary sanctions. The among the addressees, we can see that there
10 are brigades, 6th Military Police Battalion, 2nd Light Assault Battalion
11 of Military Police, and Lateral Battalion, Prozor, et cetera.

12 Tell us, Mr. Praljak, did you know whether this document was
13 distributed down the chain of command to operations zone and their
14 subordinate units within the area of responsibility of those zones?

15 A. This is supposed to be so, as per regulations.

16 Q. Thank you. Let's take a look at the last document concerning
17 this, P07361. This is a document dating after the time while you were in
18 charge. At the time of this document, Ante Roso was chief of the
19 Main Staff. It's dated 28th December 1993. It is addressed to all
20 military districts. And in this document, Mr. Roso says as follows:

21 "Pursuant to the regulations of Article 52, paragraph 2, of the
22 Rules of Procedure on Military Discipline, and regarding the formation of
23 a court of military discipline, I hereby issue an order."

24 Item 1:

25 "To establish a court of military discipline for the military

2 Item 2:

3 "The court of military discipline shall sit with a chamber of
4 three judges."

5 And then it follows to list the president and the members of the
6 chamber.

7 In item 3, what is discussed is the appointment of the registrar,
8 and in item 4 it is said military district commanders are going to be
9 responsible for the execution of this order, and they are duty-bound to
10 submit a written report on this by the 3rd of January, 1994.

11 Mr. Praljak, I'm not going to ask you whether you've seen this
12 document because it was generated after you left your duty, but it is
13 based, as we can see, on the Rules of Procedure of Military Discipline,
14 and my question is as follows: Can you explain to us how it is that
15 Mr. Roso thinks that it was incumbent upon him, as chief of the
16 Main Staff, to issue such an order on the establishment of courts of
17 military discipline, and you, yourself, stated that you did not see it as
18 incumbent upon you to do so and that they did not exist?

19 A. I still think that I don't know exactly. Nevertheless, if you
20 look at the Croatian Army model, my conviction remained that the courts
21 of military discipline had to be set up by the army's supreme commander.
22 It is quite obvious that the chief of the Main Staff, who followed in my
23 steps, in my footsteps, Ante Roso, thought differently.

24 MS. TOMASEGOVIC TOMIC: [Interpretation] Your Honours, I'm done on
25 the subject of discipline and am about to move on to a different topic.

1 I'm not sure if anyone has any questions.

2 JUDGE ANTONETTI: [Interpretation] Go ahead.

3 MS. TOMASEGOVIC TOMIC: [Interpretation] My next subject is
4 criminal proceedings. There are three documents in your binder. Four,
5 as a matter of fact. I misspoke. Four documents.

6 First of all, could we please have 4D01317 pulled up in e-court,
7 a document conveniently put together by the Petkovic Defence, containing
8 a number of relevant provisions from the Decree on the Military District
9 Courts and the Law on Criminal Procedure.

10 Q. Mr. Praljak, Maitre Alaburic asked you about the authorities of a
11 commander when criminal proceedings are in progress. Essentially, you
12 responded that the duties of a commander are only in reference to
13 situations in which the perpetrator isn't identified, when a perpetrator
14 was caught "in flagrante" while committing an act, caught red-handed, as
15 it were. Whenever the perpetrator remained unidentified, this ceases to
16 be the job of the commander. Rather, it was the security bodies in the
17 armed forces that would have been in charge of situations like these.

18 MS. ALABURIC: [Interpretation] Your Honours, I apologise to my
19 learned friend. I think this is an inaccurate summary of witness
20 testimony. Thank you.

21 MS. TOMASEGOVIC TOMIC: [Interpretation] I don't think this is
22 inaccurate, and Mr. Praljak is perfectly free to correct me if I'm wrong
23 and whether the whole thing is inaccurate. But during the next break,
24 I can bring you the transcript pages that I'm talking about.

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1 to. At no point in my cross-examination did I say anything about a
2 perpetrator being caught "in flagrante." I was only talking about the
3 responsibility to prevent any perpetrators from hiding or escaping. The
4 only logical conclusion would be that the perpetrator was in the
5 commander's hands, but there was nothing being said about a perpetrator
6 being caught "in flagrante" or during the commission of a criminal
7 offence.

8 MS. TOMASEGOVIC TOMIC: [Interpretation] I will correct myself,
9 then, and I will say let's leave all of this aside, although I do believe
10 that Mr. Praljak used the term "in flagrante."

11 THE WITNESS: [Interpretation] No, it was later on. It wasn't
12 during Ms. Alaburic's cross-examination. It was later on I said, in
13 addition to something else, that this was in reference to a fact that you
14 lawyers would tend to call "in flagrante." That's precisely what I said,
15 what you lawyers would call that. When a brigade commander comes
16 across -- the commander of a company or a battalion, comes across
17 something like this, he is duty-bound to take steps pursuant to this
18 paragraph.

19 MS. TOMASEGOVIC TOMIC: [Interpretation]

20 Q. That's what I was about to say. He needs to know who the
21 perpetrator is. If that is not the case, then it's down to the security
22 organs within the armed forces to track down the perpetrator?

23 A. Not just those from the armed forces, but also the civilian

24 police, the Ministry of the Interior.

25 Q. Briefly, any kind of police whatsoever, plus the SIS?

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1 A. Yes, that's right.

2 Q. That's what I was driving at. I was just taking a shortcut in

3 order to avoid wasting more time.

4 Nevertheless, let us go to paragraph 25 now, please.

5 JUDGE ANTONETTI: [Interpretation] Just a minute.

6 On another topic, let's move to a private session just for a few

7 seconds.

8 [Private session]

9 (redacted)

10 (redacted)

11 (redacted)

12 (redacted)

13 (redacted)

14 (redacted)

15 (redacted)

16 (redacted)

17 (redacted)

18 (redacted)

19 (redacted)

20 (redacted)

21 (redacted)

22 (redacted)

23 (redacted)

24 (redacted)

25 (redacted)

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1 (redacted)

2 [Open session]

3 THE REGISTRAR: Your Honours, we're back in open session.

4 MS. TOMASEGOVIC TOMIC: [Interpretation] Thank you, Your Honours.

5 Q. Ms. Alaburic was showing you Article 25, which is on the next
6 page of this document 4D, Article 25 of the Decree on the District
7 Military Courts. The Article states, as you were shown by
8 Ms. Alaburic -- the last part of the Article states that according to
9 this decree, it would be the authorised officials of the security organ
10 of the armed forces that would be in charge of these activities. You do
11 remember that, don't you?

12 A. Yes, indeed I do.

13 Q. All right. I would like to move on to Article 151 on that same
14 page to see what the Law on Criminal Procedure says as far as it defines
15 the job of the Ministry of the Interior and its various bodies. Let's
16 look at Article 151. It reads:

17 "If there are grounds to suspect that a criminal act that is
18 prosecuted ex officio has been committed, the law enforcement agencies

19 must take all the steps necessary to locate the perpetrator of the
20 criminal act, to prevent the perpetrator or accomplice from hiding or
21 fleeing, to discover and secure any criminal evidence or, indeed, items
22 which might be used in evidence, and to gather any information which
23 might be of use to an effective conduct of criminal proceedings."

24 Mr. Praljak, I will now ask you a hypothetical question in
25 relation to the Article that we just read. If it is true that all these

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1 jobs that I have just specified, in terms of uncovering a crime and any
2 further steps that are taken following the commission of a crime, is
3 something that would have been incumbent upon the security organs of the
4 armed forces, then it is not necessary to pass any other regulations,
5 with the exception of Article 25, which is the one that we read a while
6 ago, stating that any jobs that, under the Law on Criminal Procedure, are
7 done by bodies of the Ministry of the Interior, would be done, as far as
8 the military disciplinary courts were concerned, by the security organs
9 of the armed forces, themselves; am I right in stating that?

10 MR. KOVACIC: [Interpretation] I would like to object to this
11 question and this whole line of questioning.

12 This material was prepared in order to obtain a parallel view of
13 the Law on Criminal Procedure, on the one hand, and the law passed by the
14 HZ-HB. Why? If I may invoke Mr. Buntic's testimony. I'm trying to
15 simplify, but that is the general message. When a law talks -- for
16 example, a military court, the regular law that existed before the war,

17 then the HZ-HB, in its regulations, normally specified the military court
18 in question, because the old military court from the pre-war law is no
19 longer around. Yugoslavia broke up; we all know that.

20 Nevertheless, why am I saying all of this? This requires a legal
21 analysis. Mr. Buntic was in a position to testify about that. We can
22 have another expert witness, or perhaps we can use the presence of a
23 witness that might be in possession of relevant knowledge. Nevertheless,
24 Mr. Praljak is certainly not that witness. How this was resolved under
25 the Law on Criminal Procedure of Bosnia-Herzegovina and how a certain

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1 legal institute was adopted to form part of the HZ-HB regulations in
2 order for the existing laws of Bosnia and Herzegovina to be used, merely
3 those elements and those institutes where something was being adapted,
4 which military court, which authorised official, and so on and so forth.
5 Mr. Praljak is certainly not the person to tell us about that. He's
6 simply not qualified for that.

7 Ms. Alaburic's questions were of a different nature. She said,
8 How do you understand this, or, Are you the person, but we cannot have a
9 comparison of this kind. Ms. Alaburic made this comparison just for us
10 lawyers to understand what she was talking about, or at least that was my
11 reading of the situation.

12 JUDGE ANTONETTI: [Interpretation] General Praljak, you had your
13 counsel stating that given the legal complexity of the questions, he
14 feels that he has to raise an objection. As far as you are concerned, do

15 you feel in a position to answer or is it really beyond your knowledge,
16 and did you know that if there were a prosecutor, a president, and judges
17 at tribunals, but we should not go further into details?

18 THE WITNESS: [Interpretation] Your Honours, I do not wish to go
19 beyond that.

20 Before the war, during the war and after the war, I knew exactly:
21 A, what would have constituted the criminal responsibility of a citizen;
22 B, what violations of the Law of War were, all of them; and, C, I knew
23 exactly what military commanders were to do about this; D, take
24 disciplinary procedure, be it prepare a report protecting someone whom
25 they may have found, bringing someone in, or if they weren't up to it,

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1 leaving all of this to the military prosecutor or to a civilian, a
2 military service, an investigation of an unknown perpetrator, for
3 example. But that's where I left it.

4 My job was to teach any and all commanders I came across what the
5 Rules of War were, the rules of engagement, and what they were to do
6 whenever they came across violations of that law. Bring them in, if you
7 can; if not, just report them whenever you learn something, and then
8 leave it to all the other institutions that were in charge of just that.

9 Zoran Buntic was there for it. There were other people who were
10 dealing with that. I'm reluctant to make any comparisons. Was it down
11 to a civilian body? Who was the perpetrator? A soldier who had left his
12 position along the front-line and simply gone home, I really can't say.

13 This is outside the scope of what I can talk about or address with any
14 degree of precision whatsoever.

15 JUDGE ANTONETTI: [Interpretation] Thank you.

16 Counsel, questions can be of a complex nature. Counsel Kovacic
17 raised an objection, and General Praljak said that his knowledge was
18 limited to main principles, so he does not wish for you to go into
19 details because it could mislead the Chamber or himself. So please ask
20 very simple questions, and please do not go too much into legal details.

21 I will give you an example of what not to do; namely, who has
22 authority or jurisdiction if a crime is committed by a soldier on a
23 civilian or by a soldier on another soldier, what does the civil police,
24 what does the military police? This would go beyond his area of
25 competence, so please ask very simple questions. Thank you.

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1 MS. TOMASEGOVIC TOMIC: [Interpretation] Your Honour, I will do my
2 best to simplify, as much as I can, in asking my questions.
3 Nevertheless, I just read an article of the law, which is precisely the
4 same thing that Ms. Alaburic did. At the time, Mr. Praljak did not
5 declare himself to be incompetent, but I'll try to ask simpler questions
6 in order to avoid this sort of situation.

7 Now I will just simply read the articles out and I will say, Did
8 you know about this? I will not compare anything.

9 THE WITNESS: [Interpretation] Ms. Tomic, please don't
10 misinterpret my words. I said I know what the duty of a commander is

11 when he realises or is aware of the fact that during his operation or
12 after his operation, a crime is committed. This perfectly clear. He
13 must secure the area and secure any evidence that is there. Whenever
14 able to track down a perpetrator, he must do just that, isolate the
15 perpetrator and then throw him in jail. He must then leave it to all the
16 other institutions to prosecute, to sentence, to convict, and all of
17 that. The part that I'm familiar with, I am perfectly familiar with.

18 MS. TOMASEGOVIC TOMIC: [Interpretation] That's precisely what
19 I'll be asking you about.

20 MR. KOVACIC: [Interpretation] I have another objection, in that
21 case.

22 We know what the purpose is and what should be covered by
23 cross-examination. Since my learned friend has just made this very
24 specific, this cross-examination is about those subjects and theories
25 that were the subject of another cross-examination, that of the Petkovic

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1 Defence. This is not a cross-examination.

2 MS. TOMASEGOVIC TOMIC: [Interpretation] I do not agree with my
3 learned friend Mr. Kovacic.

4 MR. KOVACIC: [Interpretation] Just a minute, just a minute,
5 please.

6 I do agree -- I do believe that my learned friend should be
7 asking questions about subjects that were raised in-chief, or link her
8 own questions to issues raised during the chief, such as the Chamber's

9 questions, but this is a second cross and it's simply unrelated.

10 MS. ALABURIC: [Interpretation] Since Mr. Kovacic raises an
11 objection that I wanted to make, and actually he refers to my
12 cross-examination, but I'll refrain from reacting, I would like to raise
13 an objection of principle with respect to the Coric cross-examination of
14 this witness because it is cross-examination of General Petkovic's
15 cross-examination. We would like to -- well, we would like the Trial
16 Chamber to rule whether this is the kind of cross-examination that is
17 allowed. And this cross-examination on the cross-examination of another
18 Defence team is allowed in this court, if that is what the ruling is,
19 then I would like to ask for additional time for my own kind of redirect
20 to this cross-examination of a cross-examination.

21 MS. TOMASEGOVIC TOMIC: [Interpretation] May I be allowed to
22 respond?

23 General Praljak, I will respond to that. I am very astonished
24 that Mr. Kovacic is objecting and saying that my cross-examination was
25 not linked to the examination-in-chief, and he failed to object to

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1 Ms. Alaburic, because if my cross-examination was not linked to the
2 examination-in-chief, but was linked to the cross-examination of
3 Ms. Alaburic, then it would follow that it was Ms. Alaburic which went
4 beyond the scope of cross-examination. That's my first point.

5 My second point is this: With respect to the authority and what
6 the authority and powers of the military police was, and whose job it was

7 to find the perpetrators of a crime, and whose job it was to table
8 criminal reports, is something that General Praljak talked about in
9 response to questions raised during the examination-in-chief and during
10 Judge Antonetti's questioning, so during my cross-examination, I do have
11 the right to put to him the provisions and rules for him to explain who
12 was authorised to do what.

13 Now, Mr. Praljak can say that he didn't know about these rules
14 and regulations or that it says something else there, but as regards
15 Ms. Alaburic's direct and redirect, then I'd like to raise the question
16 of whether, in fact, Ms. Alaburic conducted an examination-in-chief and
17 then I am conducting a cross-examination, or what. I don't know what
18 we're talking about here. All I know is that I referred to Ms. Alaburic
19 because she was the last person to ask that question, and Mr. Praljak
20 gave the same answers to Judge Antonetti as he did during the
21 examination-in-chief.

22 THE INTERPRETER: Could counsel kindly slow down for the benefit
23 of one and all. Thank you.

24 MS. ALABURIC: [Interpretation] Your Honours, may I be allowed to
25 contribute to this discussion and present General Petkovic's position in

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1 just one sentence?

2 My objection did not relate to the topics discussed, because
3 during the examination-in-chief it is true that a whole series of
4 subjects were broached, so we cannot say with any certainty about any

5 subject, that it was not covered in one way or another in the
6 examination-in-chief. My objection exclusively referred to my learned
7 colleague referring to my questions and responses given to my questions,
8 and the summarisation of something that was represented as being the
9 cross-examination of General Petkovic of this witness.

10 MS. TOMASEGOVIC TOMIC: [Interpretation] May I respond to
11 Ms. Alaburic first, Your Honour, please?

12 JUDGE ANTONETTI: [Interpretation] Please wait.

13 General Praljak is fretting about, and so I will give him the
14 floor, and then you can take the floor.

15 So what did you want to say, General Praljak?

16 THE WITNESS: [Interpretation] What I want to say, Your Honours,
17 regardless of what your ruling is going to be, that I am ready to answer
18 any question put to me by anybody. I can say I know about that, I don't
19 know about that. I can tell them what my knowledge was, why something
20 was done at a given point in time. So I'm ready to do that. But all I'm
21 asking is that I be allowed to finish my answers and give a complete
22 answer. If I don't know about something, then I state that loud and
23 clear, I say, I don't know. But if I do know something, then I would
24 like to be allowed to answer. So you can all ask any questions you wish
25 to ask, regardless of whether the issues were raised during the

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1 examination-in-chief or whenever.

2 MS. TOMASEGOVIC TOMIC: [Interpretation] Your Honours, all I

3 wanted to say was this: I didn't know that it would lead to such a
4 heated debate and be reduced to formal terms, that I'm referring to what
5 Ms. Alaburic said during the cross-examination, particularly because she
6 addressed the Stojic Defence and would say, The Stojic Defence put to you
7 such and such. So I didn't think there were any restrictions for me to
8 go on and ask and refer to what Ms. Alaburic had asked during her
9 cross-examination. But as I say, in future I'm not going to do it that
10 way, I'm not going to say, As Ms. Alaburic said. I'm going to present my
11 case with the essential points, without linking it to the Petkovic
12 Defence, but I will just refer to what was stated in the
13 examination-in-chief.

14 Thank you.

15 JUDGE ANTONETTI: [Interpretation] Mr. Stringer, what is the
16 position of the Prosecution on the fact that an accused can cross-examine
17 another accused during this phase, the Defence case, for the Defence
18 case? Is it possible, is it not possible; what is your position?

19 MR. STRINGER: Well, Mr. President, I think that my first
20 observation would be that the witness, having been testifying now,
21 I think, for nine weeks, there isn't really anything that I can think of
22 that is outside the scope of what has been raised before, and so I think,
23 as the general himself as indicated, really, his own intention -- and
24 I think that procedurally we're in a place that really everything is
25 within the scope of something that's been raised before by one team or

1 another or by the Trial Chamber, itself, in its own questioning.

2 In terms of allocations among the Defence, as the Trial Chamber
3 knows, the Prosecution is usually hesitant to get too involved in that.
4 It's essentially a trial management issue.

5 I think that I would agree with something. I think that it may
6 have been Judge Trechsel or another member of the Bench said it at one
7 time earlier, which is that -- I think it was during the
8 cross-examination by my learned friend Ms. Alaburic. There was an
9 observation whether General Petkovic's interests were aligned with those
10 of General Praljak on an issue, and I think that that is a point that's
11 worth bearing in mind, that as between all of the Defence teams there are
12 issues in which some of them actually may be in alignment, whereas
13 obviously there are going to be other issues where their interests are
14 not in alignment and where there are going to be issues which give rise
15 to what, in our view, is genuine cross-examination, and that's what's
16 happening here. So I guess the Trial Chamber, I think, is clearly seeing
17 that.

18 If this is now cross-examination in response to an issue that was
19 raised by Ms. Alaburic in what might be more correctly thought of as a
20 friendly examination, if I may put it that way, and this is a phrase that
21 the Prosecution has used previously, then if it's friendly, then maybe
22 it's more in the field of direct, and if so there may be a situation
23 where the Trial Chamber might want to allow another Defence team to come
24 back with follow-up questions in the way that another team might want to
25 follow up on questions that come from the Trial Chamber.

1 So -- but, again, this is obviously primarily a trial management
2 issue, and so beyond that I don't think the Prosecution has a position.

3 Thank you.

4 JUDGE TRECHSEL: Thank you, Mr. Stringer.

5 I seem to recall that we had this kind of discussion a number of
6 times here. From both sides, there have been objections, but we have
7 always pointed out to the Rules of Procedure, which say that in
8 cross-examination, any party may take up a point which is important for
9 that party's case. And I think we have always been rather liberal in
10 this respect, and I would say that in this case, too, there's no reason,
11 really, to stop Ms. Tomasegovic Tomic in continuing in the line that she
12 has started. I wonder whether my colleagues agree.

13 MR. KARNAVAS: I just wanted to say, Mr. President, that if
14 there's going to be a ruling on this, we certainly would like to be
15 heard, and I think the rest of the Defence teams should be heard on this
16 matter, since the Prosecution has stated its position. So that's all I
17 wanted to say at this moment.

18 JUDGE ANTONETTI: [Interpretation] Well, we are really wasting
19 time, while we have an accused who is only asking one thing, is to answer
20 questions that he's in a position to answer, so this is really an obvious
21 matter.

22 But there's something that I have really not understood. I would
23 like to know why Mr. Praljak and Mr. Petkovic would be in conflict or in

24 opposition or would have any dissenting opinion on one point or another.

25 I haven't had this feeling until now, but maybe counsels are in conflict

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1 between themselves. But I don't have the feeling that, between the two
2 accused, that there is a conflict.

3 As to trying to identify the topic, Ms. Tomic could have said,
4 Well, by answering the question from Ms. Alaburic, you said this, that,
5 and that on page such and such. So we have to be in a position to frame
6 the issue very carefully. As for your answer, the answer you said, that
7 it is not in agreement with Article 148 or 127, I don't know. I will
8 show you the article, what do you think? This is the way you could have
9 phrased the question, because maybe that from the outset Mr. Praljak is
10 not in a position with Mr. Petkovic. Maybe he did not answer a question
11 properly because he made a mistake. But it seems that it immediately
12 triggers objections. Counsel Karnavas stands up and says everyone should
13 be able to have a position, whereas, in fact, in the judgement it will
14 never be touched upon because we have spent quite a lot of time on this
15 and it will not be relevant.

16 So what I would like to know for my own understanding, Ms. Tomic,
17 is: What is the problem here, what is the issue here? Could you please
18 tell me what was the issue that you wanted to bring to light here?

19 MS. TOMASEGOVIC TOMIC: [Interpretation] Your Honour, had I
20 managed to go from Article 151 to Article 27 of the Decree on District
21 Military Courts, then we would have seen what the problem was, but I

22 haven't reached that point yet. So might I be allowed to do that. I'm
23 not going to ask for any further interpretations or what follows from
24 what, but I'm going to ask about what is quite obvious and whether
25 General Praljak knew about it or not, so in the next questions five

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1 minutes you are going to understand. It's going to be made clear what
2 I'm actually getting at, am talking about.

3 [Trial Chamber confers]

4 JUDGE ANTONETTI: [Interpretation] The Chamber rejects the
5 objection of Mr. Kovacic. We did not feel that everyone should be
6 consulted, and we are asking Mr. Coric's counsel to carry on with the
7 questions. But we ask her not to ask questions of a too-legal nature
8 because it is obvious that his limited legal skills will not allow him to
9 answer certain questions if they were put in that way.

10 MS. TOMASEGOVIC TOMIC: [Interpretation] Thank you, Your Honour.

11 Since we've been having this debate for quite some time now, I'd
12 like to remind the Court of what it says in Article 151 because it's
13 important. This Article regulates the affairs of the organs of the
14 interior, and it says that they are duty-bound to take all necessary
15 steps to find the perpetrator, to prevent him from absconding or going
16 into hiding, and to uncover and secure the traces and evidence, any
17 objects that can be used in evidence, and to gather all other necessary
18 information. So that was from the code governing criminal proceed.

19 Now I'd like us to go back to the first page of this document,

20 where we will find Article 27 of the decree or provision governing
21 military district courts, and it says there, in para 1, the commander of
22 a military police unit or military institution must take all necessary
23 measures to prevent the perpetrator of a crime under official prosecution
24 from going into hiding or from escaping, and they must attempt to
25 preserve all the traces of the crime and all other objects that may serve

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1 as evidence. They must also gather all information relevant to the
2 criminal proceedings.

3 Q. Now, Mr. Praljak, when we look at Article 151 that I read out a
4 moment ago of the Law on Criminal Procedure, and Article 27, para 1, of
5 the Military District Courts, and if you compare the two, would you agree
6 with me when I say, and did you know about it, that the commander, under
7 the provision governing military district courts, has the duty of seeing
8 to all those affairs and duties which are listed under Article 151 of the
9 Code on Criminal Procedure, which by that Article, it was the organs of
10 internal affairs that were duty-bound to conduct those duties, except for
11 uncovering the perpetrator?

12 A. Yes, that is correct, and that is, in fact, the essential point,
13 to find the perpetrator. That is at the crux of the problem.

14 Q. Yes, we'll come to that.

15 I'd just like to say that on page 65 of the record, of the
16 transcript, on line 13 it says that in paragraph -- it says that the
17 commander of the military police [as interpreted], well, where it says

18 "military police unit," I said "the commander of a military unit."

19 A. Yes, that's what it says there, and I'd like to add that we're
20 dealing with the commander of a military unit and within the remits of a
21 military unit, who's going to secure the site and who's going to
22 apprehend a perpetrator in Mostar, Rama, whatever municipality?

23 Q. Yes, we'll come to that. We're not at odds, you and me. We'll
24 come to that.

25 JUDGE ANTONETTI: [Interpretation] General Praljak, I think that

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1 you understood a difficult question that was put to you by counsel, but
2 in order for me to understand your answer, I have a few questions.

3 Counsel made a comparison, and she talked about Article 151,
4 which -- as states that the investigating services have the duty to look
5 for perpetrators of crimes and to look for suspects, so of course we
6 think of the civil police, the military police, the investigating
7 magistrates or judges, the military prosecutor, as well as the
8 investigating judges. And there is this text from Article 27, which says
9 that it's the brigade commander who has then to fulfill a number of tasks
10 immediately to make sure that the suspected perpetrator absconds and to
11 make sure that the scene of the crime is preserved by taking all
12 necessary measures. So the counsel is asking you whether Article 27
13 doesn't mean that the brigade commander has a responsibility which he
14 didn't used to have, and you answered by "yes." Did you understand that
15 exactly, which means that the brigade commander, as a result of this

16 normative text, must, as soon as he's been made aware of a crime, give
17 orders to the military police and actually also to soldiers to preserve
18 the scene of the crime and to arrest the perpetrators if they are caught
19 in the act?

20 THE WITNESS: [Interpretation] That's correct, and I see
21 nothing -- no discrepancies there. You have your area of responsibility,
22 the front-line, an action or operation. Now, if a commander -- well, if
23 the military police learns about it, then it's their duty. If the
24 commander learns about it, then it's his duty, but it is not his duty to
25 uncover the perpetrator of a crime. He has no possibility of doing that,

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1 and that's the essential difference.

2 If I catch somebody who has committed some act, then I grab him
3 by the neck and I wait for the others to come and get him. It's very
4 simple. I don't see why we are having all this discussion. If somebody
5 in this courtroom commits any untoward act, I'm the strongest one here in
6 the courtroom, I would apprehend him and then hand him over to the
7 guards, and then all the other institutions do that. That is my civic
8 duty. I did this as a civilian before the war. For example, I had
9 occasion to run faster than somebody who was involved in a traffic
10 accident and caused a traffic accident, and I apprehended him. Here it's
11 the commander's duty, if he knows about it, if he knows an act has been
12 committed and he can do something about it, but that is 0.1 per cent or
13 0.01 per cent of the cases. Everything else happens in the rear at

14 night, clandestinely, and so on and so forth, and a commander cannot
15 investigate such matters. He can only learn of them by chance. And if
16 he happens to learn of them by chance, once again it is his duty to
17 convey that information to the investigative organs. And there you have
18 it.

19 For instance, in Ljubuski people get drunk at a cafe, having
20 returned from a 30-day stint at the front-line. Their offences are
21 exchanged, tempers rise. Somebody takes out a gun and shoots another
22 person. And if a commander is there, then he would apprehend the
23 perpetrator, and this is the "in flagrante" situation. That's clear.
24 There have been such cases, and all perpetrators were apprehended. But
25 the other cases which this court deals with were, unfortunately,

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1 furtively perpetrated, as criminals are inclined to do, and I'm talking
2 about violations of international humanitarian law.

3 Q. Thank you. Now that we have Article 27 on the screen, let's take
4 a look at paragraph 2, which reads:

5 "All of the information referred to in paragraph 1 of this
6 Article, commander of a military unit or military institution is
7 duty-bound to deliver such information to the district military
8 prosecutor or their immediate superior officer."

9 Mr. Praljak, does it follow from this, and whether you knew about
10 this, that a military commander was duty-bound to inform the military
11 prosecutor on what he had done and that the military prosecutors take

12 over?

13 A. Yes.

14 Q. Reading further, we are discussing here information and not a
15 criminal report?

16 A. Well, this is the extent of my understanding. There can't be
17 talk of any criminal report. He reports, he delivers the information,
18 and then criminal reports follow an investigation, and everything else
19 will be done according to the law.

20 Q. On the same page, we have Article 148 which has a heading
21 "Criminal Report." Let's take a look at the bolt, paragraph 3, which
22 reads:

23 "In launching an allegation, government agencies and
24 organisations of associated labour, and other self-management
25 organisations and communities, shall present evidence known to them and

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1 shall take steps to preserve traces of a criminal offence, objects upon
2 which or with which the criminal act was committed, and other evidence."

3 Do you agree with me, and whether you knew about that, that what
4 follows from this is that everybody was duty-bound to file criminal
5 reports, not only commanders, but all organisations of associated
6 labour -- there is this term "socialist," but we know what we're talking
7 about. All bodies and organisations were duty-bound to file criminal
8 reports, furnish documents or evidence corroborating their report? I'm
9 trying to simplify things here.

10 A. I don't know, Madam Tomic. One thing is to inform and quite
11 another thing is to file a criminal report.

12 Q. I concur, I concur. This is why I've shown you those two
13 articles.

14 Now let us take a look at document 4D01105, please.

15 JUDGE ANTONETTI: [Interpretation] General Praljak, I listened to
16 what you said, but you have already answered my question. I don't really
17 see what is the added value of the questions put to you today, but
18 Defence can do what it wants. But let me come back to this. You already
19 told us when answering my questions.

20 You told me that for you, crimes were usually done at night or on
21 the field, but after the military operation. As far as night is
22 concerned, we know that there were cases, like in Prozor, where people
23 would come at night to take the prisoners. We're aware of this. Now,
24 what I'm more interested in is what happens after the military operation.
25 Fighters go elsewhere to continue the military operation, but then in --

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1 after when we have other soldiers that come about, or civilians, or
2 paramilitaries, and this is when the problems occur. That's when the
3 houses are torched, that's when there's rapes, looting, and so forth and
4 so on.

5 According to you, should the military commander also check what's
6 happening after the operation, knowing that this kind of behaviour is
7 probable? Isn't he supposed to secure the area, telling the military

8 police to stay on site to make sure there will be no looting, no rapes,
9 no crimes, or is the troop just marching on without really caring for
10 what's happening behind them?

11 THE WITNESS: [Interpretation] Your Honour, this question is a
12 rather hypothetical one concerning while I was on duty. Well, we used to
13 lose and regain or retake some positions, this hilltop, that hilltop,
14 this elevation, that elevation. There were no operations such as the
15 Neretva-92 operation, when we made progress.

16 Combatants have their stints of combat duty of 15 days, 30 days,
17 and when they're replaced they go home and cease to be soldiers. They
18 have to respond to another mobilisation call-up. In the meantime, others
19 replace them, and the same rules apply to them as well.

20 A military commander does not occupy a certain territory. He's
21 just responsible for the events at the front-line or, if he deems it
22 necessary to do so, maybe behind the front-line because of infiltrating
23 groups or such things. But military commanders cannot control the
24 territory in depth. It is not their duty, and they are in no position,
25 in terms of resources, to do so.

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1 For instance, in Rama, there were civilian authorities, the HVO,
2 civilian police, civilian authorities, civilian structures, and they are
3 supposed -- and now we are dealing with conditionals -- supposed to,
4 depending on their mental state, to do such things.

5 MS. TOMASEGOVIC TOMIC: [Interpretation] Thank you, Your Honour.

6 THE WITNESS: [Interpretation] Well, let me expound on this for
7 the benefit of the President of the Chamber.

8 When there's an order to close down cafes, to prohibit alcohol
9 being served, then the civilian police were supposed to maintain law and
10 order, or the military police was duty-bound to apprehend drunk people,
11 et cetera, but it's not the duty of the military commander. They command
12 their troops. Many things are clearly delineated in a military
13 organisation, just as in the US Army. When there is an incident,
14 military policemen will come and apprehend the perpetrators, and there is
15 the appropriate procedure for them being punished, et cetera.

16 MS. TOMASEGOVIC TOMIC: [Interpretation] Thank you, Your Honours.

17 Q. I'm very glad that we still have on the screen these provisions,
18 Article 148 of the Criminal Procedure Act, which states who is duty-bound
19 to file criminal reports. It says:

20 "All government agencies, organisations of associated labour,"
21 et cetera, et cetera.

22 In terms of criminal offences prosecuted ex officio, that they
23 were informed of all that they learned about in other ways. You know
24 about all this. Criminal offences is the subject matter, not the
25 perpetrators.

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1 A. You said "a criminal report being filed." They report, and not a
2 criminal report, because there's a legal difference between reporting and
3 filing a criminal report.

4 Q. Mr. Praljak, I do believe that there is no difference. There is
5 only one criminal report as a notion. But let me deal with the matter of
6 perpetrators unknown to see whether we've drawn an erroneous conclusion.

7 A. In paragraph 3, there's no mention of criminal reports.

8 Q. But paragraph 1, let's take a look at the heading, "Criminal
9 Charge."

10 A. But to report on criminal offences does not mean to file criminal
11 charges.

12 Q. Read paragraph 1.

13 A. Let's read. They report that a criminal offence is being
14 committed. To the best of my understanding, this is not a criminal
15 charge or a criminal report. You will allow me that I do know some law,
16 myself.

17 MS. TOMASEGOVIC TOMIC: [Interpretation] I did not want
18 Mr. Praljak to interpret law.

19 MR. KOVACIC: [Interpretation] Your Honours, I do apologise for
20 having to intervene. We were revisiting this issue of interpreting law.

21 I served as a judge for almost ten years applying this criminal
22 procedure act. In Bosnia-Herzegovina and Croatia these were almost
23 identical. This provision of Article 148 is not what should be done in
24 terms of asking Mr. Praljak to give his answer. The ratio of this
25 provision in the Criminal Procedure Act that we have to know in its

1 entirety to be able to understand it was -- well, the law imposed a duty

2 to a certain circle of persons who, if they learned that a criminal
3 offence is being perpetrated, a criminal offence, indictable offence, or
4 prosecutor ex officio, in other words, more severe form of criminal
5 offence, they were duty-bound to report it. And the act of a reporting
6 did not have a prescribed form or formal requirement. It was just a
7 report. Somebody could pick up the phone and dial 9-1-1, Something has
8 happened, send the police.

9 The point of this Article is that certain entities or
10 organisations or persons are duty-bound to do so. Why? Because in
11 socialism, because of the constitutional guarantees and provisions, law
12 may not have prescribed every citizen to be duty-bound to do so, as some
13 other legal systems prescribe. So the lawmaker found the middle ground,
14 accepting that not all citizens can be forced to report, but stating that
15 at least the comrades listed here, who perform a responsible duty, as the
16 law states, organs, organisations of associated labour and other
17 entities, they are duty-bound to react because they are, in a way, part
18 of the system of government. And that is the rationale for this. And
19 now we cannot discuss who is duty-bound, the military or the civilians.

20 And, of course, the second part of this story: I'm very saddened
21 that I have to intervene. I do not feel proud. But such examination
22 leads us nowhere. Mr. Praljak may be a perfect physician and starts
23 examining me about nutrients, that would be a scene. I apologise, but I
24 do believe that you have to understand that. At the very least, please
25 hear my message. The rationale of this article is something completely

1 different, and we cannot even discuss it. This debate, this discussion,
2 is completely irrelevant.

3 Thank you. And I apologise once again.

4 MS. TOMASEGOVIC TOMIC: [Interpretation] I believe that my learned
5 friend misunderstood me.

6 JUDGE TRECHSEL: You may have seen that I wanted to say something
7 for some time.

8 MR. KOVACIC: [No interpretation]

9 JUDGE TRECHSEL: Please sit down and calm down a bit.

10 I would like the Chamber to be enlightened about the importance
11 of the difference between what formerly is usually seen as a criminal
12 report, which is a technical paper, which normally follows specific
13 rules, or the criminal report in a broad, informal, untechnical sense,
14 which is an information and which, it seems, is meant here. But where's
15 the importance of that difference in the light of our proceedings?

16 MS. TOMASEGOVIC TOMIC: [Interpretation] Your Honours, if I may
17 explain. This is my cross-examination.

18 Your Honours, I do not see the problem, and I don't see the
19 difference and whether this difference is relevant at all. I wanted to
20 say what Mr. Kovacic said, that everybody was duty-bound --

21 JUDGE ANTONETTI: [Interpretation] There can be a difference,
22 there really can be a difference, Counsel. I tried to understand what
23 General Praljak was telling us.

24 A brigade commander who has just been informed that a crime or an

25 offence was committed, if he has any clues or any evidence at hand, then

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1 according to Article 27 he is duty-bound to seize the prosecutor. So he
2 has to file a criminal report in due form.

3 Now, on the other hand, and we're going to Article 148, if the
4 brigade commander has little information or hardly any information, and
5 he believes that this is not of his jurisdiction, he believes it's up to
6 the investigating magistrate or the prosecutor to do something, then he
7 can just report on this, just saying, This is what I heard, this is what
8 I learned, I have no other element about this. So there he's just
9 reporting the information. So, on the one hand, you can file a report,
10 the brigade commander can file a report, and other -- or he can just
11 signal, he can just report, he can say there were rumours. He can bring
12 this to the attention of the authorities, of the competent authorities.
13 I believe that this should be -- this can be interpreted, and this is
14 actually how I would interpret Article 148.

15 Ms. Alaburic.

16 MS. ALABURIC: [Interpretation] Your Honours, given the fact that
17 we've been talking this much about it, and I think we are disrupting my
18 learned friend Dijana's cross-examination, which I do apologise for,
19 given the fact that I was the person who authored the document that we
20 have on our screens right now, and given the fact that I selected these
21 four Articles from these two laws, if you deem it useful for us to know
22 what the author of this document wanted to know, I can tell you in a

23 couple of words.

24 I wanted to compare a law that applies, in terms of criminal
25 procedure, but before ordinary courts, as opposed to what applies before

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1 military courts.

2 As for the Articles on page 1, I wanted to say this: For
3 example, you have the Defence Ministry. Now, what does it need to do in
4 relation to criminal offences that are prosecuted ex officio, in relation
5 to an ordinary civilian criminal procedure? This applies before military
6 courts in relation to military unit commanders. These Articles are
7 comparable. What state organs do before ordinary civilian courts will be
8 imposed as a special duty on a military commander before military courts.
9 Page 2 shows a comparison between bodies whose task it is to track down
10 the perpetrators of criminal offences, gather any information, and
11 initiate criminal proceedings. The comparison is about this: Everything
12 that civilian police do before civilian courts is exactly what authorised
13 officials of the security organ do before military courts.

14 The footnote clearly states, if you look at it, that under the
15 provision of the Law on the Armed Forces, the security forces are the SIS
16 and the military police. I think this is crystal clear, and I would be
17 glad, indeed, for us all to finally understand this.

18 Thank you very much.

19 JUDGE ANTONETTI: [Interpretation] We have to finish off this
20 topic.

21 MS. TOMASEGOVIC TOMIC: [Interpretation] Your Honours, it all
22 started -- it all started for the following reason: I believed it was
23 necessary, and I really can't go back to this now, to compare Article 151
24 with Article 27, paragraph 1 in both cases. They are identical, which is
25 plain for all to see, with the following exception: Article 151 reads

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1 "track down the perpetrator of a criminal offence," whereas Article 27,
2 the Decree on District Courts, does not contain that. And then I wanted
3 to build upon that, what happens when a perpetrator remains unidentified.
4 Whose duty is it then to track him down? And I was about to wrap it up.

5 I would like to ask Ms. Alaburic -- she has just explained this
6 for our benefit, and the Chamber can go ahead and read it themselves, is
7 this actually in the documents or not, what I've just read out? Because
8 how this comes across is the following: We all testify, Mr. Kovacic,
9 Ms. Alaburic, and I do, when we are offering our legal opinions in terms
10 of law and from the finer points of law, and I would really use this one
11 example to try to explain what it's about --

12 MS. ALABURIC: [Interpretation] The first time around I did not
13 intervene, and now I would like to say the following --

14 JUDGE TRECHSEL: You forget the interpreters. You speak much too
15 fast, and you start speaking long before the interpreter has been in a
16 position to translate the previous sentence.

17 JUDGE ANTONETTI: [Interpretation] Ms. Alaburic.

18 MS. ALABURIC: [Interpretation] Your Honours, the first time

19 'round, when Ms. Tomic said that the provision of Article 151,
20 paragraph 1, was identical to Article 27, paragraph 1, with the exception
21 of tracking down the perpetrator, this was a misinterpretation, and the
22 first time around I did not stand up to this, I did not oppose this. I
23 will have to do this this time around, however.

24 Article 151 contains another essential difference: Discover any
25 evidence of a criminal offence or any items that might be used in

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1 evidence. Article 27 does not, in fact, comprise that. It merely reads
2 that the duty is about preserving evidence. Therefore, something that is
3 already there must be preserved. As for discovering evidence or
4 discovering the perpetrator, any items that might be used in evidence, we
5 only find that in Article 151.

6 Claiming that these two legal provisions are identical is, in my
7 opinion, tantamount to misleading those who are doing their best to
8 understand the respective competences of the players in
9 Bosnia-Herzegovina.

10 MS. NOZICA: [Interpretation] Your Honours, I do apologise, and I
11 apologise to Ms. Tomic as well. This is my first interference, but I do
12 believe that there is an interest of the Stojic Defence at stake here, in
13 terms of clarifying this law.

14 I would like to ask one thing, if at all possible, in the best
15 interests of the Stojic Defence, for Ms. Tomic to be allowed to finish
16 her cross-examination and for my other learned friends to refrain from

17 legal interpretations. I have not witnessed anything like this in this
18 courtroom, nor indeed have I done this myself.

19 When Ms. Alaburic talked about the SIS annual reports, the word
20 was recording she used, and the actual word was "discovery." I did not
21 stand up to object, because I believed that the Chamber was in charge of
22 reading these documents. They have the documents in front of them.

23 What I would like to remind everyone at this juncture is: No one
24 is to teach the Chamber about law. The Chamber has the documents right
25 in front of them, and it is their duty to comment on these documents and

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1 interpret them. I think it would really be in order for us to allow our
2 learned friends to press on with the cross-examination as envisaged.

3 JUDGE ANTONETTI: [Interpretation] Ms. Tomic, as Ms. Nozica just
4 said, you have to finish your cross-examination. You could have the
5 floor. I think I understood that the point was to know who was competent
6 when it comes to apprehending the perpetrator of a crime, if this
7 perpetrator has not been identified. I think that's the crux of the
8 matter.

9 MS. TOMASEGOVIC TOMIC: [Interpretation] Precisely, and I was just
10 getting to that, I was building up to it.

11 I would like to tell the Chamber one thing. I know this comes
12 across as very inconvenient, and I do apologise to Mr. Praljak for making
13 him face this situation, going through all these various situations with
14 him and analysing them. That was not my original intention, nor indeed

15 did I believe this would be the subject of his evidence, but eventually
16 it did turn out to be the subject of his previous evidence. The Coric
17 Defence will be bringing a witness somewhere down the line who will be
18 qualified to tell us about the interpretation of these regulations, but I
19 faced this situation. I had no choice at all. I had to see what
20 Mr. Praljak actually knew about this. That was my intention.
21 Mr. Praljak might as well tell me that he doesn't know, that he doesn't
22 remember, or that he doesn't agree with me, or whatever.

23 THE WITNESS: [Interpretation] I would like to answer this
24 question by saying the following, and then I may as well be interrupted
25 if I go wrong.

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1 In my interpretation, Article 27 and Article 151 are
2 substantially different. I underline this. "To preserve" means that you
3 already have something you're in possession of, something, and therefore
4 you can preserve it. That's what Article 27 tells us. The word "to
5 inform" in the Croatian language, at least, means I go in there and I
6 say, Honourable Judges, I hereby inform you that this or that happened,
7 and I have the body of evidence in my possession. That is the subject of
8 a report. For example, the commander of a military unit should use that
9 and preserve that. When he has it, he preserves it and informs others.
10 In the other case, one must first find something or discover -- track
11 down a perpetrator and discover any evidence available that was used in
12 the commission of a crime. This is obvious even to a layman's eye.

13 I tried to give the best evidence that I could based on my
14 understanding of what a military commander, including me, was supposed to
15 do in a situation like that.

16 MS. TOMASEGOVIC TOMIC: [Interpretation]

17 Q. Mr. Praljak, thank you very much. Let me give you a very simple
18 example right now.

19 Mr. Praljak, first I'll ask you this: Did you ever hear or did
20 you know about the fact that a criminal report could be filed against an
21 unknown perpetrator?

22 A. Yes.

23 Q. Yes, all right. Mr. Praljak, I'll give you an example in which a
24 commander is aware of a crime that was committed but is unable to find a
25 perpetrator because he finds no one there on the scene. For example, a

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1 commander comes across a house that was set ablaze and looted. At this
2 point in time, he does not know who set fire to the house, whether it was
3 soldiers or civilians. He just happens to stumble upon it, and there it
4 is. Is my conclusion right, that regardless of all of this, he is
5 duty-bound to preserve any evidence and inform the relevant prosecutor?
6 I don't mean he, personally -- if he has any soldiers available they will
7 do that for him, or an element of the military police, if he's not
8 involved in the fighting, he comes across this house, his duty is to
9 preserve any evidence and to inform the relevant prosecutor? Is that the
10 meaning of Article 27?

11 A. No. If he comes across a house that was set ablaze, he has his
12 own assistant for the SIS, he'll go up to him and say, Listen, lad,
13 you're in charge of looking into that. He will probably go over there.
14 He'll record all of that.

15 Q. And he will inform the prosecutor; right? That is what
16 Article 27 claims?

17 A. He'll inform the prosecutor and he'll inform his own superior.
18 He'll probably appeal for assistance and so on and so forth. This is the
19 procedure that --

20 JUDGE PRANDLER: I really I cannot tolerate this anymore. I
21 really do not understand. We have been asking you every time, every
22 morning, every afternoon, to stop, in a proper way, and to listen to the
23 questioning and then to answer. And I believe that actually everybody
24 makes a mistake, this probably even myself, I do. But, on the other
25 hand, it is really now we are torturing this very poor colleagues of

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1 ours, the interpreters, so I really don't understand why shouldn't have
2 this empathy to act accordingly and to wait and to follow whatever is
3 happening here.

4 Thank you.

5 JUDGE ANTONETTI: [Interpretation] Judge Prandler is very right.
6 Please slow down. Unfortunately, we also are responsible, and given that
7 we have very good interpreters and they can be very fast, and given that
8 the Judges can understand very quickly, we can follow almost in realtime,

9 despite the fact that we speak three different languages in this
10 courtroom, but this is because we have very good interpreters. And
11 despite that fact, you seem to go even faster because you have the
12 feeling that you are speaking before Judges who speak your language, who
13 come from your country, and you have the feeling that we understand you
14 directly. And, indeed, sometimes we may understand things before you ask
15 a question, but all the same, please slow down, because interpreters are
16 subjected to tremendous efforts and sometimes they do send signals and
17 they try to alert us. And we also have our court reporter, who is very
18 good, but you can see that there are sometimes signs which show that he
19 cannot really take down everything that is being said in this courtroom.
20 So please slow down.

21 I know that you are very passionate. Mr. Praljak talks, and the
22 counsel then talk immediately after him, and things get heated up. So I
23 suggest that we all calm down.

24 We have 20 minutes to calm down, and we'll resume after 20
25 minutes.

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1 Thank you.

2 --- Recess taken at 12.33 p.m.

3 --- On resuming at 12.56 p.m.

4 JUDGE ANTONETTI: [Interpretation] We are going to resume our
5 hearing.

6 Mr. Stringer, you wanted to take the floor.

7 MR. STRINGER: Just to inform the Trial Chamber and the parties
8 that Exhibit P04494, which was the order from General Blaskic which had
9 been poorly translated, the translation has been corrected, and we'll be
10 uploading that in e-court as soon as the people can get that processed.

11 Thank you.

12 JUDGE ANTONETTI: [Interpretation] Thank you very much,
13 Mr. Stringer.

14 Ms. Tomic, you have the floor.

15 MS. TOMASEGOVIC TOMIC: [Interpretation] Thank you, Your Honour.

16 Mr. Praljak, the last thing we stated was that a criminal report
17 could, indeed, be filed against an unknown perpetrator.

18 Can we now please go to 4D01105. This is the Law on Criminal
19 Procedure. Can we please go to Article 153, paragraph 2, of that law?

20 Q. Mr. Praljak, have you got that?

21 A. Yes.

22 Q. Thank you. It reads:

23 "If a public prosecutor cannot conclude, based on the report
24 itself, whether the allegations contained in the report are plausible, or
25 if information contained in the report does not provide sufficient basis

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1 to decide whether to launch an investigation or not, or if the only thing
2 that reached the public prosecutor was a rumour to the effect that a
3 criminal offence was committed, and particularly if there is an unknown
4 perpetrator involved, the public prosecutor shall, unless unable to take

5 action himself or through other bodies, request bodies of the Ministry of
6 the Interior to gather necessary information and take any other measures
7 that are required to uncover a crime or track down a perpetrator. The
8 public prosecutor may at all times request any bodies of the Ministry of
9 the Interior any measures taken."

10 Before I ask you my next question, I would like to go to
11 Article 155. It's on the same page. It reads:

12 "When the perpetrator of a criminal offence is unidentified, the
13 public prosecutor may request for a body of the Ministry of the Interior
14 to take investigative action if, in relation to the circumstances of a
15 case, it deems necessary to take any such action even before an
16 investigation is launched. If the public prosecutor believes that
17 certain investigative steps must be taken by investigating judge or,
18 indeed, if there is a post-mortem or an exhumation to be performed, he
19 shall make a proposal to the investigative judge to take such action. If
20 the investigative judge does not agree with that proposal, he will be
21 requesting a decision of the chamber."

22 Mr. Praljak, why am I showing you these two Articles? The reason
23 is to ascertain what happens when we are dealing with an unknown
24 perpetrator, and when a prosecutor has been informed of a crime but the
25 perpetrator remains unknown. It follows from this that he should then

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1 get other bodies to prosecute this. In this case, it is the MUP, and in
2 case of the military courts, it would be the security bodies of the armed

3 forces, meaning the military police and the SIS.

4 Mr. Praljak, were you aware of the fact that the procedure was as
5 described here? Did you know that this was what went on, and did you
6 know that these were the Articles being applied, describing what the
7 appropriate course of action would have been in terms of who got
8 involved?

9 A. I was aware of the best part of all of this; not down to the
10 minutest detail, but I did know that investigative bodies, such as the
11 prosecutor and the investigative judge, had certain powers, and that is
12 precisely what it says. I have nothing to add.

13 Q. I will try to conclude this subject with the last document in
14 this binder, P06137. This is an order by Mr. Petkovic, dated the 26th of
15 October, 1993, titled "The Implementation of an Investigative Procedure."
16 I will briefly read the order. It was addressed to the commander of
17 Operations Group 2, Central Bosnia Operational District, Mr. Ivica Rajic,
18 as well as to the commander of the Bobovac Brigade in Vares, Mr. Emil
19 Harah. I'll start reading from paragraph 2, which reads:

20 "A powerful media campaign is being waged on BH Radio and
21 Television against Vares and Kakanj-based HVO units.

22 "They are being accused of abusing the civilian population,
23 torching family homes and businesses. In this way, attempts are being
24 made to tarnish the reputation of HVO units. In the interests of
25 establishing a situation that occurred after and during combat in this

1 Stupni Do sector and pursuant to Article 59 of the Rules of Military
2 Discipline, I hereby order:

3 "1. Conduct a complete investigation into the aforesaid event
4 and, in particular: A, which units and which commanders participated in
5 combat tasks; B, in what way was the area of the village of Stupni Do
6 taken; C, how the civilian population of Stupni Do village treated if
7 there were any civilians found in the area; D, in what state were
8 residential and business buildings found, and what was done with them
9 after the area was taken; E, did any HVO members behave in contravention
10 of regulations, tarnishing the reputation of HVO units, and if there was
11 any such behaviour, the perpetrators should be identified."

12 Paragraph 2:

13 "In the course of the investigation, involve without fail the
14 competent organs and work constantly with them until a light has been
15 shed on all the circumstances that arose after the village of Stupni Do
16 was taken."

17 Paragraph 3:

18 "After the completion of the investigation, submit a written
19 report and full documentation on the investigation, as well as any
20 findings by the competent organs, by the 15th of November, 1993, at the
21 latest."

22 Paragraph 4:

23 "The following commanders [as interpreted] shall be directly
24 responsible to me for implementation of this order."

25 Mr. Praljak, what I wish to ask you is the following. I have two

1 questions for you. I'll put them both together, and then you can answer
2 both at the same time. My first question: Based on this order, does it
3 not follow that the only thing that reached the commander issuing the
4 order through the media was a mere rumour that something or other might
5 have happened somewhere; nevertheless, at the time he issued this order,
6 he was not in possession of any other information regarding that?

7 My other question: Is this the way a responsible commander would
8 act, in keeping with Article 59 of the Rules of Military Discipline and
9 in keeping with everything else that we have witnessed so far in the
10 course of this cross-examination?

11 A. In response to your first question, I advise you to look closely
12 at what General Petkovic is writing here, in terms of how he found out
13 about this.

14 In response to your other question, these are exactly the steps
15 that a responsible commander would take. At his own level, he requests
16 that military commanders submit information that he would then be
17 including in a report forwarding to the relevant bodies in charge of the
18 investigation. That's perfectly clear. This is exactly what a
19 responsible commander is supposed to do; seek information and involve any
20 relevant bodies. He will be forwarding information to them, and they
21 will go on working together on this. He requests a written report to be
22 submitted on this, as well as an opinion from the relevant bodies, who
23 will then go on and establish the final truth on an event that occurred.

24 MS. TOMASEGOVIC TOMIC: Thank you very much, Mr. Praljak.

25 All right, I'm done with this subject. I was about to say that.

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1 JUDGE TRECHSEL: A correction to the transcript --

2 THE INTERPRETER: Mike, please.

3 JUDGE TRECHSEL: Thank you.

4 On page 87, line 4, I think it reads "the following commanders,"
5 but in fact it's "the above" and not "the following."

6 MS. TOMASEGOVIC TOMIC: [Interpretation] Your Honours, the
7 Croatian reads "those mentioned." I think that boils down to the same
8 thing that you said, but it reads "those mentioned."

9 JUDGE TRECHSEL: And this translation is "the above," but it's
10 the opposite to the following, and nothing follows, so thank you.

11 JUDGE ANTONETTI: [Interpretation] General Praljak, now the
12 counsel has concluded her questioning, I have some follow-up questions to
13 ask you regarding this document. The first one is the following.

14 I would like to know why you were not the one to issue this
15 order. Why was it General Petkovic, who was number two, who signed this
16 order? Why did you not sign this order yourself?

17 THE WITNESS: [Interpretation] Judge Antonetti, for several
18 reasons. First of all, I command General Petkovic, and he commands
19 everybody else except for me. He's my deputy, and his orders are
20 executive unless I rescind them. This is the first point. He's number
21 two and is entitled to issue orders to everybody except to me.

22 The second point. General Petkovic was in Kiseljak at the time.
23 He was closer to the events. He was up there, he was close to the
24 events, to the venue, and it would be only logical and normal for him to
25 request an investigation, being there, and he would be quicker to receive

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1 any information than I, who was 200 kilometres away as the crow flies.

2 JUDGE ANTONETTI: [Interpretation] Thank you.

3 Second question. In a military setting, this type of request is
4 what we call a command investigation. Would you agree with that?

5 THE WITNESS: [Interpretation] Yes. He orders that the military
6 structures collect all the information; who was there, who were the
7 commanders, what they knew, to receive information.

8 JUDGE ANTONETTI: [Interpretation] Thank you.

9 In a command investigation, where the higher authorities want to
10 be informed of what happened, as far as you're concerned, do you think it
11 was advisable to ask Mr. Rajic and Mr. Harah to launch their own
12 investigation or to carry out their own investigation while they were a
13 party to what happened, perhaps?

14 THE WITNESS: [Interpretation] Your Honour, Judge Antonetti, he
15 says here, Those who were there, there are no others, will provide me
16 with the information about the facts, but the competent organs should be
17 involved, and the competent organs will carry out an investigation in a
18 broader circle of people, other than those who may be involved in the
19 mistreatment in Stupni Do. These are two levels. He will provide these

20 competent organs with the information that he could get from the people who
21 were there. But this is not a closed set of information. If they want to
22 prevent disclosure of some information, then the responsible persons, as him,
23 would involve SIS, the military police, and he cannot skip them. They have
24 to give their information about what happened there.

25 JUDGE ANTONETTI: [Interpretation] In paragraph 2 of this order,

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1 I can see that the relevant authorities had to be informed of this
2 investigation. I was wondering whether the military prosecutor also had
3 to carry out its own investigation.

4 THE WITNESS: [Interpretation] This is exactly what it means:
5 Military will carry out an investigation. This, what is described, is
6 only support to the military investigator so that he may get to the
7 truth.

8 JUDGE ANTONETTI: [Interpretation] Thank you.

9 This order is dated 26th of October, 1993. Did you learn
10 immediately that Mr. Petkovic had asked an investigation to be carried
11 out by a Mr. Rajic?

12 THE WITNESS: [Interpretation] I knew that Mr. Petkovic demanded
13 an investigation to be made, and we at the Main Staff -- I believe I was
14 the one who signed it, or Tole. But upon learning about this, we
15 demanded as well that an investigation be carried out, and that document
16 has been shown here, as far as I can remember.

17 JUDGE ANTONETTI: [Interpretation] But given the text of the

18 former JNA, and even if you look at the text of the ABiH or the HVO,
19 usually when you have a military operation, don't you have to also
20 include at some stage the military police? In the orders that are
21 issued, don't you always also bring on board the military police?

22 THE WITNESS: [Interpretation] That is correct. In any military
23 operation, the military police have their duties to perform.

24 JUDGE ANTONETTI: [Interpretation] And as regards General Petkovic
25 or yourself, when there were some rumours that were going around stating

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1 that something may have happened in this town, as it is mentioned in the
2 document, because it says there has been a media campaign, I was
3 wondering whether you didn't ask yourself what the military police did.
4 Were they there, what did they do, or you actually didn't ask yourself
5 this question?

6 THE WITNESS: [Interpretation] Your Honour, I asked myself all of
7 these things, but you have to conduct an investigation to get to the
8 facts who did what, to which extent. You have my orders, you saw them,
9 demanding that procedures be stepped up and accelerated, everything that
10 could be done under the circumstances.

11 JUDGE ANTONETTI: [Interpretation] General Praljak, this operation
12 regarding this village, which was an intricate operation to carry it out
13 because you needed to have the agreement of the Serbs in order to cross
14 their lines, so it was not a small military operation, in this type of
15 operation I was wondering whether you shouldn't have included the

16 military police from the outset.

17 THE WITNESS: [Interpretation] This was not an extensive military
18 operation, Your Honour. Some 30-odd members of the Army of BiH defended
19 that village. But irrespective of what the extent was, military police
20 is usually involved in military operations and has a role to play in
21 military operations.

22 JUDGE ANTONETTI: [Interpretation] Yes, very well, except that in
23 this very example, they were not part of the military operation.

24 THE WITNESS: [Interpretation] That is correct, but it is equally
25 correct, Your Honours - I don't know how many times do I have to

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1 reiterate - the communication between Vares and the Main Staff were
2 simply to the effect that information received through packet
3 communication -- well, I don't know how to reply. This was an enclave
4 encircled on one side by the Serbs, being attacked on the other side by
5 the Army of BiH. I could work on or act on information at my disposal.
6 When I received the information about disorder, I reacted by demanding
7 that merciless action should be taken to bring HVO ranks back to order,
8 and I requested from General Petkovic, not as an order but as a request,
9 that these had to be removed, but unfortunately that came in too late, at
10 least with respect to Stupni Do.

11 JUDGE ANTONETTI: [Interpretation] You said that you were not
12 involved, you mentioned this, for Ahmici, but you had heard about what
13 had happened in Ahmici. And when you realised that in Stupni Do the same

14 type of events may have occurred, did you not realise at that stage that
15 you should, yourself, go on the ground in order to display the fullest
16 degree of transparency because you knew that the international community
17 would look at this very closely?

18 THE WITNESS: [Interpretation] General Petkovic is a
19 highly-educated officer. He enjoyed my full support and my full trust,
20 as my deputy, and I had no reason to believe that he would not carry out
21 all the duties and all the steps as if I were there.

22 The second thing. It was not an easy task to get there.
23 Petkovic reached that area via either an UNPROFOR helicopter or an
24 UNPROFOR APC. You couldn't just simply take a vehicle and go to Vares.
25 It had to be organised 10 to 15 days in advance, if it was successful.

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1 JUDGE ANTONETTI: [Interpretation] Very well.

2 I will now give the floor to Ms. Tomic. I'm sure she'll move to
3 the third binder now.

4 MS. TOMASEGOVIC TOMIC: [Interpretation] That's correct, Your
5 Honours.

6 Q. While we're putting the binder into place, Mr. Praljak, by way of
7 an introduction, I'm going to ask you this: So far you've discussed that
8 military police took part in combat operations, as far as I could
9 understand you. You said that in the case of combat operations, military
10 police was under operational command of the commander in charge of the
11 operation in question. And when we talk about combat operations of that

12 kind, we mean and we say that military policemen would be fighting at the
13 front-line, just like any other troops, and perform tasks as given. Did
14 I understand you correctly?

15 A. When I got there, I received such powers that, in operational
16 terms, military police units would be my subordinates, in operational
17 terms, which means that they were still military policemen when they were
18 not engaged in combat operations.

19 Q. Very well. Mr. Praljak, apart from being involved in military
20 operations or combat operations, the military police had to perform their
21 everyday military police duties; to man check-points, fight crime. Can
22 we agree that these would be everyday tasks of the military police?

23 A. That's correct, daily tasks of brigade military police and those
24 serving in an operation zone or area. And let me not repeat all the
25 tasks that I've already mentioned. And, of course, the military police

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1 had all those other duties that you mentioned. This is not contentious.

2 Q. Let's put aside brigade military police and not deal with it.
3 Let's deal with the military police battalion within an operations zone.
4 I do not mean the light assault battalion, whose priority task was a
5 combat one, but your regular military police within an operations zone.
6 They, too, have their everyday military police tasks to perform; is that
7 correct?

8 A. That's correct; to provide security, to provide sentry duty for
9 their headquarters of the operation zone, command, but not too many.

10 Q. Does it have any other task?

11 A. Well, maybe to guard a warehouse, et cetera.

12 Q. Would it also have tasks concerning check-points and crime?

13 A. That's correct. These are not everyday -- oh, I'm sorry, I'm
14 sorry.

15 Q. Military police tasks, let me put it this way, one of the
16 everyday tasks would be what they're issued every day as tasks to perform
17 within their military police work; is that correct?

18 A. That's correct.

19 Q. Mr. Praljak, I've repeatedly shown in this courtroom, and I
20 failed to prepare this because you said that you did not deal with
21 structures specifically. Those documents have been adduced into
22 evidence. You don't have them in the binder. I can now show it to
23 everybody subsequently, but I believe that you will recall what I'm
24 talking about.

25 The document in question is the structure of the military police

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1 of the HVO from December 1992, which is -- which entered into force in
2 January 1993, and prepared by Mr. Coric. That would be P00957.

3 Mr. Praljak, please tell us, in that document, it is stated - and
4 you will tell us whether you knew about that - that commanders of
5 military police battalions within operation zones, in performing their
6 everyday tasks, would be immediately subordinated to the commander of the
7 operations zone and would carry out all orders concerning the execution

8 of military police tasks and are in compliance with the purview and
9 authorities and powers of the military police. I can give you this
10 document as a print-out. It is not essential to me whether you knew what
11 was written in that document, but whether you knew that this was so and
12 that it functioned in this way.

13 A. I should read it first. To be fair, I think it somehow slipped
14 my mind.

15 Q. We can see on e-court the last page of the document, the
16 penultimate paragraph, so we can all read it. It is stated that the
17 Military Police Administration manages and commands all military police
18 units, and then there is text describing everyday tasks of the military
19 police, the penultimate paragraph, the one that I just read out.

20 A. Yes, I can see that.

21 Q. Were you familiar with that? Do you know other commanders were
22 informed of that, and whether they really issued orders for daily duties
23 which the military policemen had to perform the way that it is stated
24 here in this document, and whether this mechanism functioned?

25 A. Well, this is a two-pronged test. Military commanders could issue

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1 orders in the execution of military-police tasks pursuant to the powers and
2 responsibilities of military police. Therefore, they could do their job.

3 Q. Exactly, Mr. Praljak. I did not want to state anything different
4 from that. You know why I showed you this document? Because on several
5 occasions you stated today that commanders had to seek special permission

6 from the Military Police Administration - I apologise, I'm speaking too
7 fast - to be able to issue such duties as we see described here, and I
8 just want to remind you that there was no need for any special orders
9 when this was regulated by a general document entitling them to do so.
10 This was my sole intention in showing you this document. And I repeat
11 that these are daily duties of the military police. I'm not discussing
12 combat operation duties of military police.

13 A. I do not recall saying that they had to seek special dispensation.

14 Q. I apologise.

15 A. I do not recall saying that they had to seek permission from
16 anybody to issue orders to military police to do their job, if they were
17 not doing their job already.

18 Q. I understand, Mr. Praljak. I was afraid that this is being
19 misunderstood, and this is why I wanted to clarify that.

20 In the third binder, the last binder, let us take a look at some
21 documents which I believe will demonstrate what the execution of everyday
22 military police tasks is, and how orders are issued, and how this whole
23 thing functions. We will start with this first document --

24 JUDGE ANTONETTI: [Interpretation] General Praljak, I'm still
25 looking at the previous document, and I have questions about the last

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1 paragraph of this document.

2 Mr. Stojic and Mr. Coric seem to say that the military police
3 battalions present in the operational zones are directly subordinated to

4 the commander of the zone, so in this document it says that when there is
5 a military action underway, the military police battalions are directly
6 subordinated or depend directly on the commander of the operational zone.
7 This connection which exists between the battalion and the operation zone
8 commander, I would like to know whether this coordination could go all
9 the way to investigation, or it just means that they can be involved in
10 combat? If it means that they should be involved in combat, doesn't that
11 risk to jeopardise the commander of the brigade, because he's executing
12 the orders of the operations zone commander, but in combat he's supposed
13 to be in total command of his troops? So how can you -- how can this fit
14 in with what should happen and what actually happened on the field?

15 THE WITNESS: [Interpretation] Up until the point in time when the
16 situation on the battle-field became very bad for the HVO, and that was
17 even prior to my arrival and at the time of my arrival, the military
18 police had not been involved in any military or combat operations. I
19 then sought and received those powers. As of such a time, a commander,
20 me or anyone else, was in a position to use military police on a combat
21 mission. Otherwise, we would simply have been defeated by the BH Army.
22 It's as simple as that. Had I not received those powers, I would never
23 have taken over my role as commander of the Main Staff. It's that
24 simple, really.

25 Among the military policemen, the military police battalions and

1 light assault battalions, there were some extraordinarily brave,

2 well-trained lads who fought well. Prior to that period, however, and
3 when they were away from the front-line, they were still military
4 policemen structurally linked to the chief of the military police,
5 performing all of their tasks which they were supposed to perform by
6 virtue of being military policemen, unlike what we might term an ordinary
7 soldier; once his own stint at the front-line was over, he would be away
8 on leave and go home until he was called again. Military police officers
9 never went home. They were professional units, and they would sleep in
10 compounds when they were not somewhere along the front-line, going about
11 their own work, because it was their duty or else a zone commander was in
12 possession of some special information on something or other, and then he
13 would say, Please investigate this or that because something happened,
14 there was a brawl over there, something or other was stolen. And then
15 they would go out and do it. It's perfectly simple. There is nothing
16 complicated about that at all.

17 JUDGE ANTONETTI: [Interpretation] General Praljak, in the --
18 according to the theory of the military police, and you -- Mr. Coric is a
19 specialist in that because he had some role in the military police, so
20 according to the case of the military police, military police battalions
21 are subordinated to the highest-ranking officials at the Ministry of
22 Defence. We can understand that. But we have this document which has
23 been signed by Mr. Stojic and Mr. Coric, and it changes the situation
24 slightly, stating that when there is an operations zone, so when you have
25 an operation on the ground, the military police will be directly

1 subordinated -- it says directly subordinated to the operations zone
2 commander, that's what it says in English, which means that Mr. Coric and
3 Mr. Stojic may well say that when you carry out a military operation, We
4 are too far away from the front-line, it is up to the operations zone
5 commander to take charge of the military police control. Otherwise, why
6 would there be this sentence in this document? What's your take on this?

7 THE WITNESS: [Interpretation] Here, I'll repeat this.

8 One thing is when they go on a mission, they receive their
9 military assignment, You're to cover this or that territory, We'll be
10 taking over this line or that hill, You'll take back this hill or that
11 hill lost to the enemy by someone or other three days before. That's one
12 thing. The other job would entail the powers and competences of the
13 military police, because they have both, the powers and competences and
14 duties. This is something that the military police must perform.
15 Nevertheless, the commander has every right to point this out to them in
16 case he knows something about this.

17 Back to your question. For example, you happen to see some
18 houses that were on fire. You would then go back to the military police
19 and the SIS, the assistant for the SIS, to try and investigate how that
20 came about. These are the powers and competences of the military police,
21 and he has every right to ask them to do this. On the other hand, the
22 commander of that battalion also has the duty to take this action
23 himself, as well as a number of other steps, some of them daily, such as
24 protecting a convoy, or escorting a UN convoy, for example, or a military

25 convoy, an HVO convoy, or indeed block a road leading to the front-line

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1 in order to prevent someone approaching the soldiers along the front-line
2 from the rear. There were daily tasks, practical tasks, such as these.
3 There were other tasks, too, stemming from their powers and competences.
4 Those were specifically defined, the powers and competences, I mean, in
5 military police documents.

6 JUDGE ANTONETTI: [Interpretation] My last question, and then I
7 want to give the floor back to the counsel.

8 I believe you know this more than anybody else. When there is a
9 military operation, it is very likely that some prisoners will be taken,
10 and those prisoners will be apprehended and watched over by the military
11 police. And if they are under their custody for a while, it is very
12 likely that during that period it will be the military police that will
13 be in charge of that. But if there is a document, such as the one we
14 have before us, which states that they are directly subordinated to the
15 operations zone commander, as far as you are concerned regarding the
16 prisoners, who has authority, the operations zone commander, because of
17 this document, or will it go to higher authorities such as Mr. Coric or
18 Mr. Stojic, when dealing with logistical issues?

19 THE WITNESS: [Interpretation] It is not the military police that
20 necessarily captures prisoners of war. Any HVO soldier may capture a
21 prisoner of war, or indeed a military police officer who happened to be
22 involved in an operation where someone simply surrendered to them. The

23 moment a POW surrenders to the military police, the operations zone
24 brigade commander's concern about these POWs ceases. At this point
25 in time, they are handed over to whichever relevant body is in

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1 charge of looking after these POWs from there on.

2 JUDGE ANTONETTI: [Interpretation] And what would be this relevant
3 body in our case here?

4 THE WITNESS: [Interpretation] The chief of the military police,
5 the Security Service, the prisons.

6 JUDGE ANTONETTI: [Interpretation] You see that we are looking at
7 a core issue here. If you have what I would call military prisoners from
8 the ABiH, so they are military prisoners, and if I understood you
9 correctly, you said that the role of the military police will stop there
10 and they have to be handed over to the relevant body. I asked you what
11 is the relevant body, and you tell me the chief of the military police,
12 the Security Service, or the SIS, or the prisons .

13 THE WITNESS: [Interpretation] Not "or," I didn't say "or." The
14 moment POWs are taken charge of by the military police, the military
15 commander is no longer in charge of those prisoners. That's what I said.
16 They are then taken to prison, no alternative, probably to be
17 interrogated by the SIS. I won't speculate on this. But a prisoner that
18 is handed over to the military police is no longer in the charge of the
19 military commander.

20 JUDGE ANTONETTI: [Interpretation] Okay. I think that your answer

21 is crystal clear. According to you, as soon as you have military
22 prisoners or prisoners of war, the brigade commander is no longer the
23 relevant authority. You have reiterated that at several instances, so we
24 will have that in mind.

25 Counsel Tomic, I do not know how much you've got left, but we

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1 only have a few minutes left for today. The Registrar tells me that you
2 have used two hours and nine minutes, which means that, in theory, you
3 have a further two hours and thirty-six minutes, since you had four hours
4 and forty-five minutes to start with, which means that if there is no
5 objection, no incident, you should be able to conclude tomorrow. Were
6 you planning to conclude tomorrow, Ms. Tomic?

7 MS. TOMASEGOVIC TOMIC: [Interpretation] Your Honour, it is very
8 difficult for me to plan. I think it doesn't really depend on me, and we
9 could see that today. There is so much going on in this courtroom. I'm
10 understandably not fully in control of the situation as to how long my
11 cross-examination will take. I can tell you how much time my questions
12 will take. As to anything else that might go on in the courtroom
13 tomorrow, I really can't say.

14 Anyway, I think there is too little time left for me to embark on
15 a new document. That's best left for tomorrow, I think.

16 JUDGE ANTONETTI: [Interpretation] Thank you.

17 A point of clarification, Counsel, because as far as I was
18 concerned it was clear, but there might be some doubt. You had four

19 hours. I thought that you had asked, like the other teams, four hours
20 and forty-five minutes. So the total should be four hours and forty-five
21 minutes or is it four hours?

22 MS. TOMASEGOVIC TOMIC: [Interpretation] Your Honours, four hours
23 and forty-five minutes. I did say at the outset, when I started
24 cross-examining, and that was granted by you, that if I failed to deal
25 with everything in the four hours and forty-five minutes allotted,

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1 whether I would be given the right to use Mr. Coric's Defence time, and
2 that was granted me at the beginning of my cross-examination.

3 JUDGE ANTONETTI: [Interpretation] If there was some delays linked
4 to objections, as things stand, are you still on target and are you still
5 planning to conclude in four hours and forty-five minutes? Because as I
6 said to you, you will have two hours and thirty-six minutes to conclude
7 tomorrow.

8 MS. TOMASEGOVIC TOMIC: [Interpretation] Your Honour, the way
9 things are going, and if I manage to work according to plan, if documents
10 are found at the rate I envisage, then I will be able to finish within
11 the four hours and forty-six minutes, but it's difficult to predict.
12 Sometimes General Praljak's answer is lengthier than I expect. It's very
13 difficult.

14 JUDGE ANTONETTI: [Interpretation] Very well.

15 I will have to leave this courtroom, because in less than 25
16 minutes I will be in another trial. So I wish you a very good afternoon,

17 and we'll meet again here at 9.00 tomorrow.

18 [The witness stands down]

19 --- Whereupon the hearing adjourned at 1.46 p.m.,

20 to be reconvened on Wednesday, the 8th day of July,

21 2009, at 9.00 a.m.

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