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1 Thursday, 17 September 2009

2 [Open session]

3 [The accused entered court]

4 [The Accused Coric not present]

5 [The witness entered court]

6 --- Upon commencing at 9.02 a.m.

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

9 THE REGISTRAR: Good morning, Your Honours. Good morning to
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 Thursday, the 17th of September, 2009. I would like to
15 greet our witness, the professor, who is Praljak Defence witness; Defence
16 counsel, Mr. Scott; his associates, as well as all of the people
17 assisting us in the courtroom.

18 The Trial Chamber will, first of all, hand down a decision on
19 time allocation for Alojz Arbutina, the testimony of that witness.

20 The witness, Alojz Arbutina, should testify pursuant to 92 ter
21 before this Trial Chamber on Tuesday, the 22nd of September, 2009. The
22 Trial Chamber grants the Praljak Defence one hour to conduct its

23 examination-in-chief and perhaps also a redirect. In light of specific
24 requests and topics addressed by the witness, in line with Guide-line
25 number 7 of the decision on the adoption of Guide-line 4, the

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1 presentation of Defence evidence of the 24th of October, 2008, to grant
2 the Prosecution one hour, and one hour to the other Defence teams.

3 As far as Arbutina is concerned, the Praljak Defence will have
4 one hour, the other Defence teams will have 30 minutes, and the
5 Prosecutor will have one hour. As far as Arbutina is concerned, well,
6 that is it, but we will also hand down a decision for the other witness
7 Arbutina [as interpreted].

8 Looking at the schedule for next week, we will hear Arbutina to
9 begin with. Then we will hear Miroslav Crnkovic, who will come second,
10 and Zvonimir Skender will be third. The Trial Chamber is, therefore,
11 asking the Praljak Defence to organise itself in such a way that if we
12 were to finish Mr. Arbutina in the afternoon of the 22nd of September,
13 then we can then hear the second witness straight away, Crnkovic on the
14 Tuesday. And if we were to finish Crnkovic on the Wednesday, we should
15 be able to hear Mr. Skender straight after that.

16 So it is important that the Praljak Defence team organise itself
17 in such a way that the witnesses can all be heard in quick succession.

18 Theoretically, there is one hour, but the Prosecutor may decide
19 not to use all of its time. The Defence team may decide not to put any
20 additional questions in that case. We may have a gap between witnesses.
21 That said, Mr. Skender is scheduled for Thursday. There's a fair chance

22 that his testimony, as the schedule provides, continues on the -- on
23 Monday, the 28th of September. So we have reason to expect him to stay
24 over the weekend.

25 Mr. Kovacic, do as best you can to make sure that there are no

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1 gaps.

2 THE INTERPRETER: Interpreter's correction, the decision was
3 handed down on the 24th of April, 2008, and not the 24th of October.

4 MR. KOVACIC: [Interpretation] Thank you.

5 Your Honour, for your guidance, I would like to inform you that
6 we always plan our work in such a way that we try to have witnesses
7 appear here one after another. Of course, we have problems with travel,
8 but other sections of this Tribunal deal with that.

9 One of the principles is that witnesses should not be brought
10 here too early because it causes them problems, being here. On the other
11 hand, they should not be brought here too late because then we don't have
12 enough time for our proofing session. So I'm just trying to note that
13 there are many elements that we have to take into account. Sometimes
14 it's impossible to envisage how long it would take, but that's the least
15 of our problems. And we will endeavour, definitely, to try and have
16 witnesses appear without any breaks between their testimonies, but I
17 cannot, of course, offer you any firm guarantees because there are
18 problems here. But this is our goal, to have them appear here
19 continuously so that we don't waste any time.

20 JUDGE ANTONETTI: [Interpretation] Do as best you can.

21 Mr. Scott, you have the floor. Let me remind you that you have
22 50 minutes left.

23 WITNESS: JOSIP JURCEVIC [Resumed]

24 [The witness answered through interpreter]

25 MR. SCOTT: Yes, Your Honour.

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1 Good morning, Mr. President. Good morning each of Your Honours.
2 Good morning to all counsel and all those in the courtroom and around the
3 courtroom. And good morning, Mr. Jurcevic.

4 Cross-examination by Mr. Scott: [Continued]

5 THE WITNESS: [Interpretation] Good morning to you, too.

6 MR. SCOTT:

7 Q. Sir, at the risk of going backward just for a couple of minutes,
8 as I reviewed my notes for this final session, in light of a number of
9 things that have been said about the Jasenovac camp, I just wanted to
10 come back to a couple of documents that I skipped over yesterday because
11 of time.

12 Could you please look at Exhibit 10527, which I believe will be
13 in the third binder. If we could have the usher -- oh, I think he has
14 it. Thank you, sir.

15 A. 10 --

16 Q. 10527 in binder number 3.

17 Sir, this is a news article from the "Toronto Star," dated the
18 18th of July, 1991, concerning, among other things, the Jasenovac camp.
19 And, again, in light of some of the things that were said in the last

20 several days, I'd like to touch on a couple of points here.

21 The first -- the first article says:

22 "Jasenovac is a name as dreadful in history as Dachau,

23 Buchenwald, **or** Auschwitz, **and what happened at this former death camp**

24 lies at the heart of a blood-feud between Serbs and Croats that threatens

25 to destroy Yugoslavia.

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1 Serbs and Croats disagree on almost everything about this evil
2 place, who died there, and why, and whether it could happen again.

3 "During World War II, Croatia's fascist Ustasha regime
4 slaughtered thousands of people here, primarily with hammers and knives.
5 Most of the victims were Jews, gypsies, and Serbs.

6 "In the final month of the war, the Ustasha tried to destroy the
7 evidence. Guards burned their archives, dynamited the barracks, and
8 massacred almost all the starving inmates."

9 And let me pause there.

10 If I understood you correctly, whatever other differences we
11 might have on the topic, sir, I believe I heard you say, in response to
12 questions from Ms. Alaburic, that you agree that what happened at
13 Jasenovac was truly a set of horrific crimes. Is that right?

14 A. It is undoubted, but we discussed this topic at length yesterday,
15 and you tried to disqualify me very harshly, as a human being and as a
16 professional, and about -- on the topic of Jasenovac, but without quoting
17 a single sentence that I produced.

18 I wrote several thousands of pages in books, various scientific
19 papers, and I made public speeches, so I would like you to look at what I
20 publicly stated very clearly regarding my position on Jasenovac. And you
21 have thousands of pages that are accessible to you. If nowhere else, you
22 can access them at my web site, which I know that you're aware of.

23 In the public life in Croatia, to prevent public
24 disqualifications of my person in various ways, all my media appearances,
25 books, papers, and so on, I put them on the web site so that they are

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1 publicly accessible, and new stuff is added every day.

2 I understand your interest -- your job to try to impeach me as a
3 human being, well, and I have good nerves, I am tough in the fibre, and I
4 accept to suffer that, although this will be to my detriment, and I do
5 not have any way to obtain satisfaction. But, please, I beg you to use
6 articles that I produced, my words, not this article which I see here for
7 the first time.

8 I stated thousands of times that the Ustasha regime was a
9 totalitarian regime, that it was responsible for all of its crimes, and
10 in layperson's terms, if you want, it's an embarrassment, it's a shame
11 for the Croatian people, like all the rest of the totalitarian history of
12 Croatia.

13 Q. Thank you, sir, and I'm -- again, we only have 50 minutes or less
14 now, so I appreciate that.

15 The numbers that people have talked about, in terms of the number
16 of people who died or were killed at the camp, ranged from anywhere

17 from -- well, as large as in the hundreds of thousands, I think some
18 numbers are even as high as 500.000 or 600.000. But be that as it may,
19 and again, sir, my point is not to get too heavily into this further this
20 morning, but isn't it true that even on a very conservative basis, even a
21 most conservative number, is that somewhere between 85.000 to 100.000
22 people, prisoners, were killed at Jasenovac?

23 A. Unfortunately, I say, and I stress again, and this is one of the
24 key arguments in my Master's thesis, is that any number presented about
25 Jasenovac is not scientifically founded, including the smallest number,

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1 which is astonishing, and that is that 55 people -- only 55 people were
2 killed there. That's one of the claims. To the claim -- back to the
3 claim of 4.400.000 [as interpreted], and in between those two figures,
4 lots of numbers were presented in the history of Yugoslavia and Croatia,
5 but no figure -- well, you've asked me. I'm sorry. You asked me, and I
6 claim that no figure -- please, listen to me.

7 Q. All right, go ahead.

8 A. No figure has a scientific verification, and it is, in fact,
9 manipulation with the victims of the war, and it is my scientific
10 position that you have to determine the number of victims, but these
11 efforts are hampered, including by the Republic of Croatia **and the**
12 **Republic of Serbia, that has archives about it.**

13 And it's not true that the archives have been destroyed. And the
14 partisan forces entered the camp the first, and they took over the

15 documents. I wrote about that, and those documents are now in Belgrade.

16 MS. ALABURIC: [Interpretation] Your Honours, if you allow me,
17 just one correction of the transcript. I think it's going to be
18 important.

19 At page 6, line 23 and 24, the witness said 1.400.000 victims as
20 the highest number, and it says 4 million. So we don't want to have any
21 confusion there. It's 1 million.

22 JUDGE ANTONETTI: [Interpretation] Very well.

23 JUDGE TRECHSEL: Sorry, sorry. You talk when you are asked.

24 Two lines above, line 22, it says that 55 people -- only 55
25 people were killed there. Is that what you say, 55, five times eleven?

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1 THE WITNESS: [Interpretation] Your Honour --

2 JUDGE TRECHSEL: Maybe the witness answers. It's a matter of the
3 record, and then you get the floor.

4 Did you say 55?

5 THE WITNESS: [Interpretation] Yes. We seem to be thinking alike.
6 This figure, 55, and a million and 400.000, it comes from the Yugoslav
7 Communist sources, but it's an astonishing number, 55. It is listed in
8 the Survey Committee of the Yugoslav system. And the million and
9 400.000, it's again a Yugoslav source. And you have thousands of figures
10 in between.

11 JUDGE TRECHSEL: Thank you. I just wanted to make sure that the
12 record is correct. That's all.

13 Mr. Karnavas.

14 MR. KARNAVAS: I just wanted to say that he wasn't suggesting
15 that his figure is 55. It was very clear, from what I was able to hear.
16 But the gentleman needs to slow down, and I suggest he drink some water
17 and breathe a little bit, so that we can get an accurate record and we
18 don't have these misunderstandings.

19 JUDGE TRECHSEL: Thank you.

20 Mr. Scott.

21 MR. SCOTT:

22 Q. Sir, just to go back to my pending question, and I didn't -- at
23 your request, I didn't cut you off, but let me go back to the actual
24 question I put to you. And, again, it's -- this part of it, at least, is
25 a yes-or-no answer.

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1 You've indicated there's a wide range of numbers that have been
2 thrown about. I'm asking you, and to assist the Judges, that even if we
3 use what are considered some of the most conservative numbers, wouldn't
4 you agree that at least somewhere between 85.000 to 100.000 people were
5 killed at Jasenovac? Isn't that even a conservative -- at least even a
6 conservative number?

7 A. I do not agree with this figure or any other figure unless there
8 is a scientific foundation. And Jasenovac was a criminal camp,
9 regardless of how many people were killed there. People were tortured
10 there, they were stripped of their rights, they had to do hard labour,
11 and that's the basis of the problem.

12 And now as for the number of victims, well, that's --

13 Q. Let's go, please, to the next exhibit. It should be very easy to
14 find. It should be the next one, P10528, also an article from the
15 "Toronto **Star**," dated the 2nd of August, 1991.

16 Sir, at the -- and for those in the courtroom, if you look at the
17 bottom, towards the end of the article -- well, not the end of the
18 article, excuse me. At the bottom of the first page in English, the
19 paragraph starting with the words: "Tudjman." And, sir, if you'll -- if
20 nothing else, if you would listen, please, to the translation:

21 "Tudjman was under increasing pressure from Croat extremists
22 angry at the loss of lives and territory and eager to embark on a more
23 aggressive military strategy. The roots of Tudjman's dilemma, Western
24 envoys say, stretch back to his accession to power after an election
25 campaign marked by nationalist symbolism. For the 600.000 ethnic Serbs

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1 living in Croatia, **between 11 and 12 per cent of the population, it**
2 revived dark memories of the last nationalist government in Zagreb, a
3 puppet fascist regime installed by the Nazis in World War II. Under
4 cover of the war, Croat forces killed tens of thousands of ethnic Serbs,
5 Jews, and gypsies, many of them in the notorious Jasenovac concentration
6 camp. The numbers were enormous, said a Western diplomat. People argue
7 about it, but the historical fact is it was in the hundreds of thousands.
8 'Perhaps Tudjman's biggest mistake, and it's really awful, is that his
9 government has never admitted the full scale of the killing.
10 Essentially, it's like denial of the Holocaust.'

11 And you knew that to be true, didn't you, sir? You knew that to

12 be controversial, and as you said in your testimony at the Sakic trial,
13 where one of the commanders of Jasenovac went on trial and where you
14 appeared as a Defence witness, you said in your testimony that it was
15 Tudjman, himself, who first talked about the "Jasenovac myth"; correct?

16 MR. KOVACIC: Your Honour, regarding the wording of the question,
17 which might confuse the witness, in the criminal procedure -- under the
18 criminal procedural law in Croatia, **we don't have a Defence witness,**
19 Prosecution witness, or a Court witness. The only thing that exists is a
20 witness. According to our law, the Court calls all witnesses, and
21 experts are appointed by the Court. The procedure is particularly
22 different when it comes to expert testimony. The Court selects the
23 experts from a list of experts certified by County Courts, and Trial
24 Chambers can also call other expert witnesses if there are no appropriate
25 experts on the list. So --

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1 JUDGE TRECHSEL: [Previous translation continues]...

2 MR. KOVACIC: No, no, Your Honour.

3 JUDGE TRECHSEL: What, then? You are telling us about the law of
4 your country, which is interesting, but I think it's testimony.

5 MR. KOVACIC: But I'm trying to --

6 JUDGE TRECHSEL: And I also do not quite see the relevance of
7 this issue with regard to the question of Mr. Scott.

8 MR. KOVACIC: Your Honour --

9 JUDGE TRECHSEL: I don't see it at all.

10 MR. KOVACIC: There must be some misunderstanding. Then I will

11 speak in English. Probably there is some mistake.

12 The Prosecutor said -- the Prosecutor --

13 MR. SCOTT: With counsel's permission --

14 JUDGE TRECHSEL: I'm sorry. Let's hear out Mr. Kovacic, and then
15 you respond; okay?

16 THE INTERPRETER: Microphone, please. Microphone, please, for
17 Mr. Scott.

18 MR. KOVACIC: [Previous translation continues]... exactly what he
19 said.

20 JUDGE TRECHSEL: So we have agreement.

21 MR. KOVACIC: I want to avoid confusion in a witness
22 understanding of question.

23 JUDGE TRECHSEL: Okay. The Defence witness is withdrawn.

24 MR. SCOTT: Thank you, Your Honour.

25 Judge Trechsel, I apologise for interrupting, but I was just

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1 hoping that ultimately -- just -- I don't -- that's not -- you're exactly
2 right, that's not my point.

3 Q. Sir, whatever kind of a witness you were, when you testified in
4 that trial, the question I put to you and the crux of the question was,
5 and given your testimony about the Jasenovac camp in that trial, you
6 mentioned, as part of your testimony, in fact, that it was Franjo Tudjman
7 who was the first one who started dismissing Jasenovac and talking about
8 the Jasenovac myth. And that's the question. Yes or no?

9 A. I said yesterday, and I even quoted, because you opened the

10 document and you could see that in 1962, when Franjo Tujman was not
11 researching that Serbian member of the Academy --

12 Q. I don't want to go back to 1962. When you testified at the trial
13 of Mr. Sakic, did you not tell the Court -- did it not come out as part
14 of your testimony that President Tujman was one of the first, if not the
15 first, to question -- to draw into question -- to talk about the
16 Jasenovac myth? That's my question to you. Yes or no? You either gave
17 that testimony or you didn't, and you don't need to tell me about 1962.
18 Yes or no?

19 A. I said that he was one of the first to deal with this in a
20 systematic manner while he was the head of the Institute for the History
21 of the Working People. I said he was one of the first. It is very
22 difficult to say who was the first, but I'm sure that the person I
23 mentioned yesterday said this before him, and it's a member of the
24 Academy of Sciences, Sava **Bogdanov**.

25 Q. Thank you. Now, if we can go back to your report and spend a few

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1 more minutes on that, another section of your report concerns the
2 destruction of the Old Bridge, and we already know that you've told us
3 that you wrote a preface to Mr. Praljak's book on that topic. And I just
4 want to confirm, sir, you have no first-hand knowledge of any events
5 surrounding the destruction of the Old Bridge. **Obviously, I take it, you**
6 **were not there. Correct?**

7 A. No, I was not there.

8 Q. You have no expertise in artillery or military weapons, you have
9 no expertise in explosives; is that correct?

10 A. No, but I have all the trust in the expert report done by the
11 experts who did it. I have nothing else to do but to trust the experts.

12 Q. Well, exactly, exactly. You had nothing else to do except to
13 lift -- completely lift the work done by Mr. Praljak and other people
14 retained by Mr. Praljak and put it in your report. That's exactly my
15 point, sir. I'm just trying to understand. Did you say that you were
16 somehow providing the Judges with some sort of added evidentiary value by
17 simply taking other people's work and putting it into your report? I
18 don't understand -- what's the value of that? I know we have this
19 concept of a value-added tax. What added value did you give to this,
20 other than lifting Mr. Praljak's work and after -- and these other
21 experts and just simply dropping that in your report? What's the point,
22 sir?

23 A. That book, how the Old Bridge **was destroyed, contains a number of**
24 various documents, contemporaneous documents, including an expert report
25 and there were some original documents that I saw for the first time, and

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1 that compendium of documents provides a very comprehensive and systematic
2 overview of the documents coming from various sources, from all sides,
3 testifying in a very compelling manner that the destruction of the Old
4 Bridge, and I think it is contained in my preface, is an open question,
5 who did it and why.

6 Q. [Previous translation continues]... the time. Let me give you

7 one specific example. It can be found at page 123 and 124 of your
8 report. And in that section, you say, in connection with footnote 422 --
9 I'm not going to -- let me just put it to you, and again, sir, if you'll
10 listen, please. If I misread something, I'm sure I'll be corrected.

11 On page 123 and 124 of your English report --

12 A. What footnote number?

13 Q. 422, sir.

14 A. I have footnotes numbered 300 and something, so which page?

15 Q. 422, sir, footnote 422.

16 A. And the page number? Did you say "122"?

17 Q. Sir, it's page 123, carrying over in the English version, at
18 least, from 123 to 124. Sir, my time is limited, and I don't --

19 MR. KOVACIC: Let me help you. 147 is Croatian.

20 THE WITNESS: [Interpretation] Thank you. 147, yes, thank you.

21 MR. SCOTT: Thank you, Mr. Kovacic.

22 Q. In that section, you say, and I'm just picking one example

23 because we don't have time to do more, but you say:

24 "Even they, themselves, believed in the stereotype to such an
25 extent that the president of the Republic of Croatia," which is obviously

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1 a reference to Franjo Tudjman, "that the president of the Republic of
2 Croatia refused to see General Praljak, who wanted to acquaint him with
3 the facts."

4 Now, where did you get that information?

5 A. From a document published in the book.

6 Q. Which book?

7 A. "The Old Bridge," the one we're discussing here, how the Old
8 Bridge was destroyed.

9 Q. [Previous translation continues]...

10 A. No, he didn't write it. He just collected the documents, and I
11 edited or set up the book. It's a document which at that time -- well,
12 when Franjo Tudjman refused to receive Praljak, he sent him a letter, and
13 that document --

14 Q. [Previous translation continues]... for a second, as one of my
15 colleagues says.

16 A. That's fine.

17 Q. [Previous translation continues]... questioning, that it said --
18 somebody said this, but it didn't -- if that, in fact, happened, if
19 President Tudjman refused to see Slobodan Praljak because of the issues
20 concerning the Old Bridge, you weren't there when it happened, and I just
21 want you to tell the Judges, very specifically: When you put this in
22 your report, when you said -- make this statement in your report, what do
23 you base that on?

24 A. This is absurd, if I may be allowed to say so, because nobody
25 here in the courtroom was in the various situations, and yet we discuss

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1 them. And I'm talking about a clear document which -- it's a document.
2 You can, of course, challenge its authenticity and so on, credibility,
3 but you have the document in the book and you have had enough time to
4 test its credibility. If you doubt the veracity of the documents I use,

5 then be specific and tell us on what grounds you're saying that it's not
6 an authentic document.

7 Q. [Previous translation continues]... book, 422, and 422 says
8 "Ibid," and you go back to footnote 420 -- the previous footnote, 421,
9 and you're referring to Slobodan Praljak's book; correct? It's not so
10 difficult.

11 A. No, I am referring to documents, because it's a book of
12 documents, and I've said that a number of times and emphasised it
13 yesterday and today, and I don't know why you're wasting your valuable
14 time, because I repeated this several times that it is just a book of
15 documents from different sources and origins. There's no view by Praljak
16 when the book was written. It's just a collection of documents of all
17 kinds, including expert reports, contemporaneous documents, comments,
18 media articles, and including criticisms and attacks on the -- on
19 Mr. Praljak and the Croats for having destroyed it.

20 Q. Very well. Sir, I want to move forward, then, to another issue
21 in your report.

22 You do seem to confirm, sir, and I'm referring in particular now
23 to pages 69 to 75, at least in the English version, of your report, where
24 you talk about the various declarations and establishment of entities,
25 assemblies, by the Bosnian Serbs. And your report makes it very clear,

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1 sir, that you considered and conclude and state that these various Serb
2 declarations and assemblies were illegal, undermine the
3 Bosnian-Herzegovinian --

4 A. If I might be allowed to find that part in the document, and the
5 document as well, because I wasn't given the Croatian page. I can't look
6 for the document and listen to what the Prosecutor is saying at the same
7 time.

8 Q. [Previous translation continues]... I would appreciate it very
9 much. And as I said, if you'll just -- this is your report. I assume
10 you're very familiar with it. I would appreciate if you can just -- if I
11 misrepresent something to you, sir, I'm sure that one of the lawyers on
12 the other side are going to jump on their feet and they're going to
13 tell -- say that Mr. Scott is misrepresenting the report. All right?
14 Unfortunately, if we had more time --

15 MR. KOVACIC: Objection, objection.

16 MR. SCOTT: Excuse me, Your Honour, but I'm working on very tight
17 time conditions here. If the Chamber would like to give me more time so
18 that we can help the witness find each separate page, then I'm happy to
19 live with that.

20 MR. KOVACIC: I think there is no doubt that if the Prosecutor is
21 referring to certain pages in material, so we are talking about details,
22 some phrase, some sentence, the witness -- the expert witness is entitled
23 to know to which text he is referring. When we are preparing the same
24 thing, we are giving the references on Croatian text for the witness and
25 on the English text for the other people present in the courtroom.

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1 I think that the Prosecutor should tell to witness, This is on page this
2 and this of Croatian language, of your original text. And this was

3 always done.

4 JUDGE ANTONETTI: [Interpretation] Well, we can count on our
5 Registrar, because obviously on the screen we have one page in English
6 and one page in B/C/S.

7 Mr. Scott, please, could you resume with the document.

8 MR. SCOTT: Thank you, Mr. President. I'm not quoting any
9 particular language right now. I referred to the section of his report
10 and to his general conclusions, and I think he must be familiar with what
11 those conclusions are.

12 Q. And, sir, in that section of your report, you say -- you conclude
13 that these various Bosnian-Serb declarations, and assemblies, and other
14 things that they were doing throughout this time, in these paragraphs,
15 were illegal, undermine the legitimate authorities of Bosnia-Herzegovina,
16 and destabilised Bosnia-Herzegovina; correct?

17 A. You have just recounted part of my synthetic conclusions in your
18 own words. I said --

19 Q. I have. You're absolutely right, I have. I paraphrased your
20 conclusions, just like Ms. Alaburic paraphrased some material to you the
21 other day. And I've paraphrased them correctly, haven't I, sir? You
22 conclude that various of these declarations, associations, assemblies,
23 were declared -- were illegal; yes or no?

24 A. Without a doubt, they were geared towards excluding that part
25 which was under the supervision of the Serbs and the Republic of

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1 Bosnia-Herzegovina, and that is indubitable.

2 Q. Sir, in paragraph 75, you say that:

3 "Bosnia-Herzegovina, the BH SDS, that is, the Serb -- the Bosnian
4 Serb party, established, quote, these are your words:

5 " ... illegal communities and municipalities in some parts of
6 BH."

7 In paragraph 69 to 70, you say that the Bosnian Serbs:

8 " ... adopted the unlawful decision to establish the assembly of
9 the Serbian people in Bosnia and Herzegovina."

10 Now, it's your word, "illegal," and it's your word, "unlawful."

11 All I'm asking you, sir: You say that in your report, don't you?

12 A. Yes, but that's just a fragment, and it's clear, for the Court to
13 gain an insight into the actual state of affairs legally, we're dealing
14 with representatives of the Serbs which they voted at the elections in
15 1990. However, they set up an illegal -- apart from this assembly of
16 representatives, and I said it was a paradox that the president of that
17 assembly was the same person for the joint assembly and the illegal
18 assembly. But that just illustrates what the situation was like in
19 Bosnia and Herzegovina, so it's inconceivable from the aspects of --

20 Q. Exactly. And, in fact, sir, in your report, you make reference
21 to these entities being illegal, and I'd like to show -- direct your
22 attention, please, to P10985, P10985. It will be in the third binder.

23 A. [In English] Can somebody help me?

24 Q. Sure. Sorry, sir, we'll assist you. Binder number 3, 10985.

25 Sir, this is a decision by the Constitutional Court of

1 Bosnia-Herzegovina, dated -- the decision, itself, dated 1 November 1991,
2 1 November of 1991, published in the "Official Gazette" on the 28th of
3 November, 1991, and this is one of the decisions, sir, is it not, where
4 the Constitutional Court declared various of these Serb -- Bosnian Serb
5 associations, assemblies, unconstitutional and illegal; correct?

6 A. That is the decision, without a doubt.

7 Q. All right. And just for example, decision Roman numeral I,
8 immediately at the top:

9 "To hereby annul the following:

10 The agreement of association in the community of municipalities
11 of Bosnian Krajina number ...," et cetera, and it goes on to talk about
12 some other materials as well.

13 But you agree with these results, right, and this is consistent
14 with your analysis that we looked at a moment ago in which you say in
15 your report that various of these associations and declarations were
16 illegal and unconstitutional; correct?

17 A. Correct, and I said with what intention in mind.

18 Q. Now, you discussed on Monday, sir, some questions. One of them
19 came from the President, Judge Antonetti. You discussed the question
20 then, and I put it in this context of what you've said about the Serb
21 organisations, it was put to you whether Herceg-Bosna was, indeed, also
22 not a state or might be considered by some a state within a state, and
23 you said -- and you testified on Monday, and this is at pages 44754 to
24 page 55, 44754 to 55:

25 "When we speak about the state politicological, and in terms of

1 political science, sociologically, and I also think in legal terms, it is
2 quite clear what it means, a state. It means that there has to be
3 sovereignty. It means that no higher power is recognised in terms of
4 sovereignty."

5 And, sir -- so you're saying that that was why -- at least one
6 reason why you did not consider -- or at least you argue that
7 Herceg-Bosna could not be considered a state because it did not have this
8 sense of sovereignty and no higher power, but you didn't explain at the
9 time, and I'm asking you now, who then, or what then, was the higher
10 sovereign power to which Herceg-Bosna owed its allegiance? If there was
11 a higher power and it was the existence of that higher power that
12 prevents it, in your analysis, from being a state, what higher power was
13 that?

14 A. Well, unfortunately, you're wasting your time, because I said
15 that clearly to the President of this Trial Chamber. We even saw
16 photocopies of the documents. And in all the documents relating to
17 Herceg-Bosna, as the supreme authority, is Bosnia-Herzegovina, the
18 Republic of Bosnia-Herzegovina, and that was explicitly written there.

19 Q. All right, so that's your position. I want to be clear about
20 that. So in that case, then, for example, the Government of
21 Bosnia-Herzegovina and the Presidency of Bosnia-Herzegovina had the legal
22 authority and legitimacy to remove Mate Boban from power? Mr. Boban,
23 you're no longer wanted, you're subject to our control, we're sovereign,
24 you're not; you're out of here. Correct?

25 A. That depends how it was regulated under the law with regard to

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1 subsidiarity, who can replace some lower authority. There's clear
2 procedure on that.

3 Q. Sir, you just told us -- no, no --

4 A. You asked me, you asked me.

5 Q. The time is limited. You just said -- the analysis is very
6 basic. You just said what prevents Herceg-Bosna from being a state was
7 because it didn't have sovereignty and that somebody else had
8 sovereignty, and you just told this Court again that it was the Bosnian
9 government -- the Government of Bosnia-Herzegovina that had sovereignty.
10 Now, you can't be almost sovereign or part sovereign or a little bit
11 sovereign, and if they were sovereign, then they could have picked up the
12 telephone, called Mate Boban, and said, Mate, you're out of here;
13 correct?

14 A. You live in a civilised world and you know that the president of
15 the Government of France, or Britain, or wherever, can't just pick up the
16 phone and tell the mayor of London, You're no longer the mayor, or
17 something like that. So I think you at least, who live in well-ordered
18 systems, can understand that, although in Croatian history what often
19 happened, and indeed in Bosnia-Herzegovina, that was, indeed, how things
20 were done.

21 Q. Let's look at it from the military side. Based on sovereignty,
22 then, the commanders of the army of the state of Bosnia-Herzegovina, and
23 there was only one state that was nationally recognised as the state of

24 Bosnia-Herzegovina, the government of that state then should have been
25 able to call up the head of the HVO, whether it be Mr. Petkovic or

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1 Mr. Praljak, and give orders, say, We are the sovereign government,
2 Mr. Jurcevic says we're sovereign, and, by gosh, Mr. Petkovic,
3 Mr. Praljak, you're dismissed. Now, is that what you consider
4 sovereignty?

5 A. In my expert report, I quote a series of original documents also
6 signed by the highest authorities, different types of the highest
7 authority in Bosnia and Herzegovina, which undoubtedly confirms that the
8 HVO was a component part of the armed forces of Bosnia-Herzegovina. And
9 if need be, we can go through those documents, where this is written
10 explicitly, Your Honours. To save me looking for them now, you can find
11 it in my expert report, not to waste the Prosecutor's time. So as I say,
12 there were a number of documents from 1992 onwards signed by the highest
13 authorities in Bosnia-Herzegovina that explicitly say that including the
14 agreement between the Republic of Croatia **and Bosnia-Herzegovina, which**
15 is the most important document -- which is the most important document as
16 far as relations between the republic of Croatia **and Bosnia-Herzegovina**
17 are concerned, from May -- from July 1992 up until the Washington
18 Agreements at the beginning of March 1994. But there are other documents
19 as well, and if need be, I can show them, but it's on your time. I can
20 quote them verbatim, and I think that you're well acquainted with that,
21 too. You're aware of them. If not, you'll find it in the expert report
22 and can take a look.

23 THE INTERPRETER: Could the speaker kindly be asked to slow down
24 in future. Thank you.

25 JUDGE PRANDLER: Excuse me, Mr. Scott. Sorry.

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1 The interpreters again and again are asking you to slow down and
2 to -- and actually to stop after your questions and answers. Really,
3 during the last 30 minutes, it was terrible. Please, do comply with this
4 request.

5 Thank you.

6 MR. SCOTT: Thank you, Your Honour, and I do -- I apologise for
7 interrupting. It's just that the -- when the answers go on, the time is
8 being spent, it's very difficult, and I do apologise to the Chamber.

9 Q. Sir, the reason I'm -- sometimes the reason I'm trying to stop
10 you, and I apologise if it seems discourteous to you, but I accept -- I
11 may accept your point, or it may be irrelevant to the point I'm trying to
12 make. All right, you've just made my point -- you've just made my point
13 stronger, sir.

14 You've just said that, in fact, there are documents saying that
15 the HVO was part of the armed forces of Bosnia-Herzegovina. That makes
16 my point even stronger. If it was, then there was one sovereign, and
17 that sovereign could issue orders to it; correct? And there, again, my
18 scenario is if it's part of the armed forces of a recognised state of
19 Bosnia-Herzegovina, and if the supreme authorities of that state call up
20 to Mr. Praljak and Mr. Petkovic and said, You're removed, that's an
21 exercise of sovereignty, isn't it?

22 A. You are making things sound banal. I'm an expert here. I
23 understand your time pressure, and you are putting me under pressure, and
24 that makes me speak faster and I'm unable to elaborate things as a
25 scientist. I have to say "yes" or "no", like a layperson, and you're

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1 using syllogisms. I know what the syllogism is. It's an example of
2 making false judgements and false premises, and I can give you some
3 examples just so that you can see how paradoxical that all is. So I
4 studied philosophy, so I am aware of all that.

5 So I would like to ask the Trial Chamber to protect me. I am an
6 expert witness, and I'm being asked to --

7 JUDGE TRECHSEL: I'm sorry. We have witness protection
8 programmes, but that is not the case here. Please try succinctly to
9 answer without always giving us background and referring to your
10 scientific knowledge and merits and all that. We have your CV. Just
11 stick -- read it to the frame of the question. It is for the Court to
12 decide what your answer is worth in connection with a question, to assess
13 what meaning it is to be given, but we -- unfortunately, it is an
14 unpleasant situation.

15 And on a human level and as another scientist, I can fully
16 sympathise with the unpleasant feelings you have, the need to explain. I
17 know that from my own person. But here, unfortunately, the situation is
18 different.

19 You are, to some extent, an instrument of the proceedings, and I
20 would invite you to accept this role even if it is unpleasant and

21 unsatisfactory.

22 Please, Mr. Scott, continue.

23 Now Mr. Scott has the floor. We cannot argue.

24 MR. SCOTT:

25 Q. Sir, I'm just going to ask the question to you one more -- I've

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1 asked it now at least twice, if not three times. But because of -- given
2 Judge Trechsel's additional guidance to you and so that it isn't said
3 that you didn't have a further chance to -- opportunity to answer:

4 Sir, you've told us that, in your view, Herceg-Bosna was subject
5 to -- it wasn't a state because it didn't have sovereignty; it was
6 subject to the sovereignty of Bosnia and Herzegovina. And I've given you
7 several examples of how that would work in reality. The last one I gave
8 to you was on the military side, and I said if, in fact, the HVO was part
9 of the armed forces of the state of Bosnia-Herzegovina, and if the
10 ultimate authorities of that state issued orders to its commanders,
11 including perhaps Mr. Praljak and Mr. Petkovic, that would be an act of
12 sovereignty, wouldn't it?

13 A. In purely legalist terms, yes, of course, and that's undoubted.
14 But as a scientist and historian, I have to take into account the
15 circumstances that Bosnia and Herzegovina faced at the time, in
16 particular its central government and its bodies that were unable to
17 control even the BH Army, where they appointed the commanders and
18 replaced them as they saw fit. And I speak about that, and everything I
19 say is well-founded in my expert report. And I understand your need to

20 use my expert report for your purposes, but I have to say what I think
21 objectively, regardless of what you or the Defence need. And I gave the
22 same response to the Defence.

23 Q. [Previous translation continues]... ask you not to give, sir.
24 You answered my question. Sir, you considered it very important, and you
25 say on page 79 of your report, and you mentioned this just a few moments

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1 ago:

2 "It is very important to emphasise that the institutional
3 signature block in all formal decisions, decree laws, and documents
4 adopted by the highest bodies of the HZ-HB, first gave the name 'Republic
5 of Bosnia and Herzegovina'."

6 Now, sir, isn't it true that Serb documents, documents from the
7 Serb entities, the Serb associations, the Serb assemblies, did the same
8 thing, the ones that you say were illegal?

9 MS. ALABURIC: [Interpretation] Your Honour, objection to this
10 question because of lack of precision. Could his friend -- could
11 Mr. Scott say -- could Mr. Scott say whether this pertains to 1991 or the
12 time when Republika Srpska was created and onwards?

13 MR. SCOTT: We're talking about --

14 JUDGE ANTONETTI: [Interpretation] Mr. Scott.

15 MR. SCOTT: -- the historical time, when he's talking about when
16 these entities were established and were being operated. But, again,
17 with a little patience, we might get to the next exhibit which will be
18 exactly one of the documents that says so.

19 Q. Sir, would you look, please, at P11051, P11051, in the third --
20 at the end of -- the back of the third binder. It should be quite easy
21 to find.

22 Sir, this is the minutes of a joint Session of the National
23 Security Council and the Government of the Serbian "Republic of
24 Bosnia-Herzegovina," the Serbian Republic of Bosnia-Herzegovina, held on
25 the 14th of May, 1992.

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1 Would you also look at P11053. Go down two exhibits, please, in
2 your binder. P11053.

3 MS. ALABURIC: [Interpretation] Your Honour, if we can just
4 clarify about this document 11051, because we have another document under
5 the same number.

6 MR. SCOTT: Well, I'm looking at the one that's on the ELMO,
7 which I have -- it's the same one I'm looking at, 11051, minutes of a
8 joint Session of the National Security Council in the Government of the
9 Serbian Republic of Bosnia-Herzegovina. Well, that's what's -- okay.

10 MS. ALABURIC: [Interpretation] Your Honour, we have the Law on
11 Ministries under that same number. The number is 11053, and that --
12 that's the minutes and that's the one we see here on the screen.

13 MR. SCOTT: Excuse me, wait a minute, wait a minute. Before this
14 gets any more complicated -- hold on. Witness, hold on. Let's just get
15 it straightened out here. The wrong number may have been put on the
16 document.

17 Sorry, my apologies. There should be three documents together.

18 One of the numbers may have gotten -- two of the numbers may have gotten
19 on the wrong document.

20 If you go to 11051, which I think has been corrected, I hope --
21 can we see what the Registry has as 11051 and see if we're on the same
22 page.

23 MR. KOVACIC: [Interpretation] Mr. Jurcevic, the last three
24 documents.

25 THE WITNESS: [Interpretation] I'm looking at the "Official

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1 Gazette," that's 11051, and 11053, that's the minutes from the
2 Joint Session of the Council for National Security.

3 MR. SCOTT:

4 Q. The three documents are all there together in sequence, 51, 52
5 and 53. Unfortunately, on my -- I may have gotten the numbers wrong. My
6 fault, my mistake. I'm sorry.

7 If you have 11051 in front of you, on that document, sir, doesn't
8 that say:

9 "The Official Gazette of the Serbian people in Bosnia and
10 Herzegovina, Monday, 13th June, 1992.

11 "Pursuant to Articles 70 and 81, paragraph 2 of the Constitution
12 of the Serbian Republic of Bosnia and Herzegovina, and Article 5 of the
13 Constitution of the Serbian Republic of Bosnia-Herzegovina"?

14 Do you see that?

15 A. Yes, I can.

16 Q. And if you go, please, to Exhibit 11052, which is perhaps the one
17 that I -- if we can rely -- I'll rely --

18 A. Yes, I've gone --

19 MR. SCOTT: Again, if the Registry can show me what they've
20 marked at 11052, I'll rely on that. Yes.

21 Q. This is the minutes of a meeting on the 6th of August, 1992. The
22 title is "Serbian Republic of Bosnia and Herzegovina," and it refers to
23 the 24th session of the Presidency of the Serbian Republic of Bosnia and
24 Herzegovina. Do you see that?

25 A. Yes, I can, and what you say is entirely correct.

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1 Q. And if you'd look at the last document, sir, which is 1153 --
2 excuse me, 11053, this is again another set of minutes, and it's where I
3 initially went wrong. Sorry about that. These are the minutes of a
4 joint session of the National Security Council and the Government of the
5 Serbian Republic of Bosnia-Herzegovina; correct?

6 A. Yes, that's entirely correct.

7 Q. And I take it, sir, that the fact that all these documents refer
8 to Bosnia and Herzegovina, the fact that that's simply on these
9 documents, doesn't change your view that these various Serb declarations
10 or Serb assemblies were illegal or unconstitutional.

11 A. Well, if the Trial Chamber allows me to do that, this is a
12 typical example. I am astonished by the ignorance of the Prosecution,
13 and if I may, I'd like to explain why.

14 What you call "Bosnia-Herzegovina," it says clearly "the Serbian
15 Republic of Bosnia and Herzegovina," which was later called
16 Republika Srpska, so this is the exact opposite. There is no Bosnia --
17 there's no Republic of Bosnia and Herzegovina as a state here. I think
18 that this shows an elementary level of ignorance. I'm quite shocked, I
19 have to say. But out of those three examples, if you allow me,
20 Your Honours, and please do not count that as the Prosecution time
21 because I don't want to prejudice them, you can see how superficial the
22 approach is to this case on the part of the Prosecution.

23 This document confirms that what is called the Serbian Republic
24 of Bosnia and Herzegovina, and later on --

25 JUDGE TRECHSEL: It will be for the Chamber to assess this. You

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1 have made your point, and I think it's not necessary to go on further.
2 It's quite clear, what you've said.

3 Mr. Scott. Thank you, Your Honour.

4 Q. Sir, isn't it the case that when this is all said and done, and
5 without looking at whether a particular phrase is written at the top of
6 some documents or not, the totality of the evidence, the evidence you say
7 you're aware of as a scientist, Herceg-Bosna was a complete political
8 platform, it was for Croats and not Muslims, with its own government and
9 its own territory; correct?

10 A. No, Your Honour, I think this is much too important. So in this
11 document, which is called the "Official Gazette," there is no reference
12 to any of the documents of the Republic of Bosnia and Herzegovina, the

13 state of Bosnia and Herzegovina, unlike all of the documents of
14 Herceg-Bosna. I don't want to prejudge matters, but these are notorious
15 facts, and it's so banal, so trivial, that there is no need to explain
16 it.

17 In those three documents that we have just been shown, I would
18 say this is written evidence, based on the official documents, that the
19 Republika Srpska, which used to be called the Serbian Republic **of** Bosnia
20 and Herzegovina, **well, it is undoubted, even if you look at it very**
21 **superficially, this is a reference to the part of Bosnia-Herzegovina that**
22 **was occupied by the Serbian forces, and this can be used to prove the**
23 **intentions of the Serb aggressor to carve out a part of Bosnia **and****
24 **Herzegovina **as a separate state which would then be annexed to the****
25 **Republic of Serbia. Each of these documents confirm that.**

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1 And I would like to draw your attention, Your Honours, to the
2 "Official Gazette," so the official journal of this state, in inverted
3 commas, in the preamble, which is very important, in legal terms.

4 I think they invoke some legal provisions, but none of those legal
5 provisions are legal provisions of the state of Bosnia and Herzegovina,
6 which is internationally recognised. They invoke their own provisions.

7 So I think that here this is a serious mistake done by the
8 Prosecution, and they are party to the proceedings. I think that they
9 have just really caused a great deal of damage to their case.

10 I have to say my opinion. I'm not here to speak in anyone's

11 favour, but this is really astonishing. This is key evidence proving the
12 exact opposite of what the Prosecution is trying to prove.

13 JUDGE ANTONETTI: [Interpretation] Professor, the Prosecutor,
14 through his questions, seems to, because I'm not 100 per cent certain,
15 equate Herceg-Bosna with the Republika Srpska. This is what I understood
16 through his questions. He stated that a constitutional court had
17 declared the Republika Srpska illegal, so the same would apply to what is
18 called the Republic of Herceg-Bosna.

19 I'm looking at the document now, P11051, and as far as the
20 preamble is concerned, I can see that a constitution of the Republic of
21 Bosnia-Herzegovina is referred to. This constitution seems to have been
22 adopted. The document we have before us is the implementation of this
23 constitution. I haven't had time to check this yet. We have received
24 that at the last minute.

25 As far as you know, had the Republika Srpska drafted a

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1 constitution?

2 THE WITNESS: [Interpretation] Yes. And what you've just said,
3 the situation down there was very weird, and even the situation that we
4 have in Bosnia and Herzegovina now, it's unprecedented. And this is the
5 genesis of that situation, because there is no invocation of the
6 constitution of the internationally-recognised state called the Republic
7 of Bosnia and Herzegovina, so the state that is internationally
8 recognised is called the Republic of Bosnia and Herzegovina. No. Here
9 they invoke the constitution of the Serbian Republic of Bosnia and

10 Herzegovina, which was later on formally renamed the Republika Srpska.

11 So they're invoking the constitution of the part that seceded, I
12 would say, from Bosnia and Herzegovina, which was the political goal of
13 those institutions, publicly stated as such. So the Serbian institutions
14 systematically and persistently, in all their public documents of
15 political and other nature, stressed that they did not want to be part of
16 the state of Bosnia and Herzegovina, and this testifies to that. It is
17 one of the number of public documents testifying to that, and it is
18 undoubted.

19 Here, there is not a single word invoking the common state, the
20 Republic of Bosnia and Herzegovina, and it seems to me -- well, I don't
21 doubt the level of knowledge of the Prosecution, but the situation down
22 there, it is so incomprehensible in every way to the people who live
23 there, who were born in well-organised states -- of course, no state is
24 perfect, but Western states are so well organised that you probably find
25 this incomprehensible. But this really is, I would say, a key document

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1 that helps you understand this whole story that we are trying to tell
2 here.

3 JUDGE ANTONETTI: [Interpretation] Very well. That's why I put
4 the question to you.

5 If I have understood correctly, you are telling us that the
6 Republika Srpska is one thing, the Republic of Herceg-Bosna **is another**
7 thing, and you can't compare the two.

8 THE WITNESS: [Interpretation] Precisely, Your Honours. And I

9 explained that yesterday when I answered questions about the concept of
10 the three constituent peoples. I said that two peoples, the Muslim
11 Bosniak people and the Croatian people, and when I said "the people," I
12 meant their structures, the structures that represented them and that
13 were elected in 1990 at the elections, that the Muslims, to make things
14 simpler, and Croats shared the same concept, at least in principle;
15 keeping the state and internationally-recognised state of Bosnia and
16 Herzegovina **together. And the Serbian structure in BH had a completely**
17 **opposite intent, in the public, in the media, politically, and legally.**
18 And we can see these are very important legal acts; and their concepts
19 were opposite. They want the to secede. They wanted their "part," in
20 inverted commas, to secede from the internationally-recognised state of
21 Bosnia and Herzegovina, and I think there is a key difference there.

22 And we can look at lower levels and see the nuances, the
23 conflicts of interests and other problems. That's the key topic of my
24 expert report, and it stems from a number of documents. But I'm happy
25 that now the circumstances have led us to this point where we can show to

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1 the Trial Chamber some facts that you will have to deliberate on. But
2 from a historiographical point of view, they are undoubted, as is my
3 expert report, because it was done in accordance with the standards, not
4 to satisfy the needs of the Defence or any other interests, but I wanted
5 to do a paper, a scholarly work, that would be -- that would be founded
6 in scientific terms.

7 JUDGE ANTONETTI: [Interpretation] Professor, please try and slow

8 down.

9 In the evidence that has been adduced, I have realised, and
10 anyone can realise this, that in the government of Mr. Prlic there was no
11 minister of foreign affairs. Look at Article 6 of the document we have
12 before us, P11051. Look at Article 6. There is a list of the
13 ministries, and before item 4 there is a Ministry of Foreign Affairs.

14 THE WITNESS: [Interpretation] In point 4, point 4 of Article 6,
15 the Ministry of Foreign Affairs. But, Your Honour, almost all the
16 documents from Republika Srpska, well, they didn't keep their intentions
17 secret, they didn't hide their intentions at all. And I think that if
18 you take up any newspaper or official gazettes of this kind, they had a
19 very clear-cut concept, because they believed that they had such military
20 might that they could implement it and that would then be verified by the
21 international community. Unfortunately, Dayton did and left behind a
22 creation which is a time bomb and a threat to security in South-East
23 Europe -- North-East Europe.

24 JUDGE ANTONETTI: [Interpretation] In other words, if we
25 understand this correctly, you are saying that the Republika Srpska was

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1 one thing and the Republic of Herceg-Bosna was another thing, and you
2 can't compare the two; is that right?

3 THE WITNESS: [Interpretation] Precisely.

4 JUDGE ANTONETTI: [Interpretation] We're trying to understand.

5 Mr. Scott.

6 MR. SCOTT:

7 Q. Sir, based on what you've said in the last few minutes, one of
8 the differences, then, is -- what you're saying is the Bosnian Serbs,
9 they were just more obvious about it; correct? They were more open about
10 their true intentions; is that what you say the critical difference was?

11 A. No, completely incorrect.

12 Q. All right. Let me ask you, then --

13 A. If you want me to, I can --

14 Q. You answered my question. The pending question, before the
15 President intervened, was: Isn't it a fact, sir, that Herceg-Bosna was a
16 complete political programme, it was for Croats, not Muslims, with its
17 own government and territory? And I believe you answered to the effect,
18 No; but I simply want to come back -- bring us back to where we were.
19 Your answer to that question is, No; is that correct?

20 A. Of course, and I explain that in my expert report at length, and
21 the ethnic structure -- I use the ethnic structure in the HVO?

22 Q. Your answer is no. Sir, I didn't ask you for an explanation. I
23 said is your answer, no? All right, please.

24 If the Chamber would please have some assistance. My time is
25 very limited, and I would appreciate some assistance from the Chamber.

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1 JUDGE ANTONETTI: [Interpretation] Professor, the Prosecutor has a
2 time credit, as the Praljak Defence team had. The Prosecutor needs to
3 use his time as best as possible. He puts his question to you, you
4 answer by saying "yes" or "no." If he would like to elicit a further
5 explanation from you, he will ask you. Just provide your answer in a

6 straightforward manner, even if, intellectually speaking, you are not
7 satisfied; never mind. Just answer by saying "no," and if you say "no,"
8 that means your view is quite the opposite of his, and if he would like
9 any further explanation, he will ask you to provide it.

10 Please proceed, Mr. Scott.

11 MR. SCOTT: Thank you, Mr. President.

12 Q. Sir, if you can turn to Exhibit P00531, which would be in the
13 second binder.

14 And perhaps if the Usher can make this go as quickly as possible.
15 P00531 in the second binder?

16 Sir, this is a record of a meeting on the 30th of September,
17 1992, involving Dario Kordic and others, in connection with the Kakanj
18 HVO. If I can direct your attention -- the courtroom's attention.
19 Fortunately, there are some reference points. You have the title
20 "Agenda," and then you have item 1, and then you have item 2. Do you see
21 item 2, sir?

22 A. Yes, I can see it clearly.

23 Q. Under item 2, you first have an intervention or something said by
24 Mr. Pejcinovic, then Dario Kordic, then Mr. Cabric, then Dario Kordic
25 again. And about two-thirds of the way through that intervention --

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1 well, depending on your point of reference, but if you go down through
2 Mr. Kordic's intervention, probably -- well, again, I don't know if the
3 lines would be the same, but probably 15 or 20 lines, but you'll find
4 this section: Dario Kordic says:

5 "You cannot impose an option through conflict because the
6 Croatian people, not the Muslim people, are part of the HZ Herceg-Bosna.
7 The civil authorities have been established. The HVO is the government
8 of HZ Herceg-Bosna. We have people who inspire trust, like
9 Jadranko Prlic, but it is impossible to expect that the government of
10 Herceg-Bosna will solve everything politically within a single month.
11 The negotiations on the future organisations of Herceg-Bosna are going
12 slowly, as you've seen. What we are doing with the HZ Herceg-Bosna is
13 the realisation of a complete political platform."

14 Now, sir, that's a statement by Dario Kordic, the same man -- the
15 same man -- the convicted war criminal that you visited in prison just
16 several weeks ago, that you said was an important symbol. That's how he
17 describes it, sir; isn't that correct?

18 A. You have extracted a fragment, but I wasn't able to follow
19 because I wasn't able to find it. And I'd like to look at the entire
20 document first, but I'd like to stress that it is a document for the HVO
21 area of Kakanj, a very small area, and in my expert report, I didn't
22 enter into -- I didn't go into these low levels of municipal authority
23 and analyse that. But if you want to waste your valuable time going down
24 to this level, we can discuss that too. So what do you want me to
25 testify about?

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1 Q. [Overlapping speakers] ... Please, sir. We don't need that --
2 excuse me, sir. There is no real point in insulting me, unhappy as it
3 may be.

4 A. I didn't understand the question. I apologise.

5 Q. Let me read it to you again.

6 If the Chamber will allow me some flexibility on time, since I
7 have to re-read the question again.

8 Sir, I took you very carefully -- I took you very carefully --

9 JUDGE ANTONETTI: [Interpretation] Mr. Scott, put your question
10 again. This time will not be taken off your time.

11 Let me remind you, however, that you have three minutes left.

12 You may put the question again, but this will not be deducted from your
13 time, because he seemingly hasn't understood your question.

14 MR. SCOTT: Thank you, Your Honour, and I will ask the Chamber --
15 I thought I'd be finished in this first section, but I am going to ask
16 the Chamber if I can, please, have an additional 15 minutes to finish my
17 few remaining questions after this one. But the Chamber can consider
18 that, but since we're paused, I thought I'll ask that.

19 Q. Sir, please, I took the time -- I took my time to go very
20 carefully through the document and find the interventions by Mr. Kordic.
21 If you go down those interventions, you will find a section that says:

22 "You cannot impose an option."

23 Now, let me know when you find that, please.

24 A. Sir, are you talking to me?

25 Q. Yes.

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1 A. Tell me where the text is so that I can follow, please. This
2 isn't deducted from your time, as His Honour just said. I'm on the

3 document, but I don't know what part you're referring to.

4 Q. Well, I tried to assist you, sir. I asked you a moment ago. Do
5 you see item 2?

6 A. I see item 2 at the top.

7 Q. Do you see the intervention by Anto Pejcinovic?

8 A. Yes, Anto Pejcinovic.

9 Q. Do you see the intervention, the first intervention by
10 Dario Kordic?

11 A. Correct, that's right.

12 Q. Do you see the intervention by Mr. Cabric?

13 A. Yes, right.

14 Q. Do you see the intervention by Dario Kordic?

15 A. That's on the following page, yes.

16 Q. If you look down through that intervention, through the series of
17 lines, until you get to the point --

18 A. Which part? It's a long portion.

19 Q. Scan down it, sir. Scan down it some lines until you find the
20 place where it says:

21 "You cannot impose an option."

22 A. It's the third paragraph. I found it, sir.

23 Q. Thank you. I'll read it to you again:

24 "You cannot impose an option through conflict because the
25 Croatian people, not the Muslim people, are part of HZ-HB, Herceg-Bosna.

2 of HZ Herceg-Bosna. We have people who inspire trust, like
3 Jadranko Prlic, but it is impossible to expect that the government of
4 Herceg-Bosna will solve everything politically within a single month.
5 The negotiations on the future organisation of Herceg-Bosna are going
6 slowly, as you have seen. What we are doing with HZ Herceg-Bosna is the
7 realisation of a complete political platform."

8 That's what Dario Kordic -- that's how he described Herceg-Bosna
9 to a group -- to an assembled group of the HVO in Kakanj; correct?

10 A. You read this excerpt out correctly, sir.

11 Q. And that's the truth of it, isn't it, sir? You know that to be
12 the case, that what Mr. Kordic says here, in fact, is accurate, in the
13 respects that I've put to you. It was a complete political programme, it
14 had its government, it was the HVO, it wasn't for the Muslims, it was for
15 the Croats, and that's the way it was, isn't it, sir?

16 A. Dear sir, you have your interests, of course, but the excerpt
17 that you read out begins with a very important sentence, at least as far
18 as the Trial Chamber is concerned.

19 "You cannot change the options with conflicts."

20 So that excerpt should be viewed within the context in which it
21 was engendered. At the level of Kakanj municipality and in the legal
22 sense, there's nothing compromising here, in my view, and ultimately of
23 all these minutes, it's just one paragraph. And as far as the Court's
24 concerned, I don't see that it's important if you generalise this on the
25 basis of that, but here it says that you cannot impose an option, and he

1 goes on to say how he views the situation in Herceg-Bosna, which is his
2 right. However, documents like this, that speak for and against, exist
3 in large numbers because, as I say, the level at which I did my
4 studies --

5 JUDGE ANTONETTI: [Interpretation] Mr. Scott, the Trial Chamber,
6 after having deliberated, has granted you this extra time, and you may
7 run on until 10.30.

8 MR. SCOTT: 10.30? That wasn't exactly the time --

9 JUDGE TRECHSEL: 10.35.

10 JUDGE ANTONETTI: [Interpretation] 10.35.

11 MR. SCOTT: Thank you, sir.

12 Q. Sir, you talk also about the Croatian -- the Muslims arming
13 themselves at various times, and you talk about, for example, the
14 Patriotic League, and just one fundamental point.

15 To the extent, sir, that the Croats had the right to arm
16 themselves and organise themselves, I assume that you agree that the
17 Muslims had at least an equal right to also arm and organise themselves,
18 or was that, somehow, a right unique to Croats?

19 A. At no point in my expert report, and if you have a different
20 opinion, please substantiate it by quoting from my expert report --
21 anyway, at no -- at no point did I assess the right to something, and I
22 did not --

23 Q. My question is a "yes" or "no." It's very simple. Did they have
24 the right or not? You don't need to quote your report. Just did the
25 Muslims have the same rights to organise themselves and attempt to arm

1 themselves, the same rights as the Croats claim to have had; yes or no?

2 Yes or no?

3 A. Yes, all three constituent peoples had the same rights.

4 Q. And you devote a whole section of your report to the so-called
5 Mujahedin, and I'm not condoning and I'm sure the Prosecution does not
6 condone any crimes or misconduct by any groups on any side, but in
7 concept, sir, this Chamber has heard all kinds of evidence about people
8 coming from all over the world to fight for the HVO and the
9 Croatian Diaspora, from Catholics and other parts of the world. Now,
10 those are also foreign fighters, aren't they? Aren't they, sir?

11 A. Foreign fighters existed in all parts of the former Yugoslavia.
12 There were volunteers, there were mercenaries, who were not from the
13 region, and in the HVO there was a unit of foreign volunteers, for
14 example.

15 Q. There were no more -- apart from any misconduct that any of these
16 groups on either side might have engaged in, there was no difference to
17 say, Well, there were foreign fighters coming in to fight for the
18 Muslims. There were foreign fighters coming in to fight for all sides,
19 weren't there, including for the HVO; right?

20 A. Yes, but not to the extent to which --

21 Q. The same as the funding of finances. We've heard again. We've
22 had experts and witnesses come -- excuse me -- and tell us about the --
23 tell us about the fundraising from the Croatian Diaspora and how it
24 supported Herceg-Bosna and how many millions of dollars and things came

25 in. It was no different. The Muslims had just as much right to try to

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1 raise funds from whatever sources they could access as well, didn't they?

2 A. I describe everything in my expert report, and I never questioned
3 anybody's rights. And I write about that in detail in the different
4 chapters for the BH Army, Muslim Bosniaks, and so on.

5 Q. I'm showing you one final document. Could you please turn to
6 P10984 in the third binder, sir, P10984.

7 A. What number did you say? I apologise.

8 Q. P10 -- P10984.

9 A. I've found the document, dear sir.

10 Q. Thank you. If you'll look at the Croatian language version of
11 it, sir. This is an announcement on the 10th of August, 1992, **about the**
12 **murder of Mr. Blaz Kraljevic.** It's an announcement by the Party of
13 Democratic Action in Croatia, **SDAH, as it's explained here:**

14 "We condemn the murder of Mr. Blaz Kraljevic, commander of the
15 HOS/Main Staff and his associates. It is known that Mr. Blaz Kraljevic
16 publicly expressed his attitude towards the legal government institutions
17 in Sarajevo. **His statement that he recognised the legal government in**
18 **Sarajevo and not the government in Grude and that his supreme commander**
19 **was Alija Izetbegovic and not Mate Boban, portrays in a certain manner**
20 **the dimensions and the causes of the conflict between the HOS and the**
21 **HVO."**

22 Now, all of that that I've just read to you, that is a true and

23 accurate statement, isn't it?

24 A. It's a letter from the Party of Democratic Action of Croatia, and
25 I wrote about that in my expert report, to the level to which this

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1 subject was elaborated.

2 Now, this Blaz Kraljevic and some other killings,
3 ideologically --

4 Q. In the content [Overlapping speakers] ... sir, the content is
5 correct; right? You agree with it?

6 A. No. I agree with the fact that Blaz Kraljevic was killed under
7 strange circumstances, just like Ante -- a Croat, too, and that it was a
8 certain political settling of accounts involved. However, it has yet not
9 been established what the circumstances were, and there are ongoing
10 trials, trials that haven't been completed; so, unfortunately, and not
11 linked to this Trial Chamber, I'd like to know the background to all
12 this, I'd be interested in knowing that, but it says here there's a final
13 political position being put forward here. This incident did occur, an
14 ugly incident, but the circumstances of it have not been elucidated. And
15 I'd be interested to know, as a scholar, myself. Kraljevic --

16 Q. You keep referring to your report, and you just said a moment ago
17 you discussed it in your report, so let's look exactly at what you do
18 say. It's page 94 in the English version, if we can have it on the
19 e-court, but it's in your section under -- you can find your section if
20 you need to, sir. I'm going to read it word for word. And, again, if I
21 get it wrong, I'm sure I'll be corrected. But if you look in --

22 A. Just have a little patience, please, for me to find it.

23 MR. KOVACIC: If the Prosecutor is going to read the section,
24 then the expert is having the right to have his original text in front of
25 him. So either he would be given exact coordinate of the Croatian pages

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1 or he should be given a reasonable time to find this page.

2 Thank you.

3 MR. SCOTT:

4 Q. Roman numeral II, sir, in your section, Roman numeral II in the
5 report you wrote, section 5.3. "Croatian Defence Council who ran HVO."
6 That's the heading.

7 A. Yes, just let me take a moment, Your Honour. I found it, dear
8 sir.

9 Q. Thank you. And if you go down through a series of paragraphs,
10 you will find one that says:

11 "There were many but Muslim/Bosniak members in HOS units."

12 And you scan down under that section, sir, until you find the
13 paragraph that starts with: "There were many Muslim/Bosnian members in
14 HOS units."

15 A. Yes, I have it. I found it, I have.

16 Q. You say, in your report, and I'd like the courtroom to compare
17 this with what the document we've -- I just read to you a moment ago:

18 "The commander of the HOS was Blaz Kraljevic, a Croat who had
19 emigrated to Australia and returned as a volunteer. He supported the
20 co-operation between the Croats and the Muslim/Bosniaks. In early August

21 1992, 'the government in Sarajevo appointed General Kraljevic a member of
22 the BH Army Main Staff.' Due to the many differences between parts of
23 the HVO and the HOS, Kraljevic was soon killed in an ambush near Mostar.
24 At this point, an all-out armed conflict between the HOS and the HVO was
25 avoided by an agreement signed on 23 August 1992 by Mate Boban and the

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1 chief of the Main Staff of the HOS (Ante Prkacin). After this, the HOS
2 was completely disbanded when groups or individual members transferred to
3 the HVO or the BH Army."

4 Did I read your report correctly, sir?

5 A. You read the excerpts completely correctly.

6 Q. And, of course, you didn't put anything in your report that
7 wasn't true, according to you?

8 A. Correct, correct, completely correct.

9 MR. SCOTT: Sir, thank you for your answers. If I at any time
10 seemed discourteous to you, I apologise for that.

11 Mr. President, thank you for the time allowed. That concludes my
12 cross-examination.

13 THE WITNESS: [Interpretation] May I be allowed to say something?
14 Thank you.

15 Nothing personal, I didn't take anything personally, and I thank
16 Mr. Scott.

17 JUDGE ANTONETTI: [Interpretation] We'll break for 20 minutes.

18 --- Recess taken at 10.35 a.m.

19 --- On resuming at 10.59 a.m.

20 JUDGE ANTONETTI: [Interpretation] Before giving the floor to
21 Mr. Kovacic for redirect, Professor, I have a couple of questions for
22 you. The first question deals with forged documents.

23 Yesterday, when you were answering a question put to you by
24 Mr. Scott, you said that in the Blaskic case, a number of forged
25 documents had been presented. I was listening to you and trying to

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1 understand what you meant. Overnight, I had to go and consult the motion
2 for review filed by Ms. Carla Del Ponte with the Appeals Chamber, and
3 also I had to study the Appeals judgement rejecting the motion of Ms. Del
4 Ponte.

5 I'm sure you'll remember that Colonel Blaskic was sentenced to 45
6 years in jail by the Trial Chamber, and in appeal, after being acquitted
7 on several counts, he -- his sentence was reduced to nine years. After
8 that, Ms. Del Ponte made a -- filed a motion for review for the Appeals
9 judgement to be reviewed, because she was unsatisfied with the new
10 sentence, and she mentioned six sub-grounds that made it possible to
11 review the trial, and one of them was the question that had to do with
12 the MUP report which, according to the Prosecutor at the time, had been
13 forged. The Appeals Chamber received a 20-page version of the document,
14 whereas the original version was 40 pages long. And Anto Nobile, the
15 counsel at the Appeals Chamber, presented a forged report, according to
16 Ms. Del Ponte. At least that is what she developed in her submissions.
17 As you know, the Appeals Chamber rejected the motion for review of its
18 judgement.

19 Now, I listened to you carefully, and I was wondering what you
20 meant when you said yesterday that there had been some forged documents.
21 Were you making a reference to this MUP report which had been adduced in
22 front of the Appeals Chamber with, according to the Prosecutor, forged --
23 a forged version, because the 40-page version that was the original might
24 have said something else? Was this the document you were talking about
25 when you talked about forged documents?

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1 THE WITNESS: [Interpretation] Your Honour, I took into account
2 this document, too, but there is a number of indicators, based on this
3 document and also on some events in Croatia, and I am very familiar with
4 the situation in Croatia **and in the archives how documents are produced,**
5 how they are kept and safeguarded, and how they are treated. And on the
6 basis of all that and the whole context and to some analyses, well, this
7 calls for an additional inquiry in order to prove it, as it was in the
8 case of this document. But it is undoubted that documents and facts are
9 being counterfeited for the purpose of various interests.

10 In my expert report and in my public appearances, I always
11 stressed that the institutional system in Croatia is incredibly not of
12 high -- of low quality, and you can see the low quality from -- well, we
13 will see in re-examination, I will give you my example from my life.
14 It's in footnote 462 of my expert report, all the obstacles that were
15 placed in my way in my research of some elements that have to do with the
16 Croatian homeland war. Although I was a member of the Council of the
17 Government of Croatia **and although the Council agreed that I should do**

18 this research and write papers, after a year and some months I was unable
19 to obtain the documents, and I could have written a whole book about all
20 the obstacles that were put in my way in my effort to obtain the
21 documents that exist. And one ministry told me that they do not have the
22 materials, the documents, and I used the documents that I obtained from
23 other sources, and I sent the documents to them, although they had
24 claimed that they didn't have it. It is obvious that the documents
25 originated from that ministry.

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1 I understand that you live in well-organised systems and you
2 cannot simply understand how it works. Those who do not live in our
3 parts, well, you cannot understand -- comprehend what's going on.

4 THE INTERPRETER: The witness is kindly asked to slow down.

5 JUDGE ANTONETTI: [Interpretation] My second question has to do
6 with the late Franjo Tudjman.

7 Yesterday, about Jasenovac, the Prosecutor told you, and I'm
8 going to sum his words, told you that Mr. -- according to him,
9 Mr. Franjo Tudjman was a person who allegedly had supported the
10 independent state which was collaborating with the Nazi state, with the
11 Nazi Germany, and, in the mind of the Prosecutor, I think that there was
12 correspondence being drawn between the two. I'm trying to delve into
13 this. If I make any historical mistakes, please tell me so. But as far
14 as I remember, when he was 19, Franjo Tudjman joined the Partisans.

15 THE WITNESS: [Interpretation] Correct.

16 JUDGE ANTONETTI: [Interpretation] And I believe that his older

17 brother, who was also a member of the Partisans, was killed.

18 THE WITNESS: [Interpretation] Yes, yes. His father was also --
19 fought in the Partisans too.

20 JUDGE ANTONETTI: [Interpretation] The entire family joined the
21 Partisans.

22 According to what General Praljak told us, and other witnesses
23 also, I thought I understood that within the Croatian society at the
24 time, there were Croats who joined the ranks of the Partisans and other
25 Croats who had sided with those who were collaborating with the Nazis.

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1 Is that the way it was?

2 THE WITNESS: [Interpretation] That's correct.

3 JUDGE ANTONETTI: [Interpretation] So if I understand things
4 correctly, Franjo Tudjman joined the ranks of the Partisans and is, thus,
5 joining sides with a party that is not collaborating with the Nazis.

6 THE WITNESS: [Interpretation] It was a partisan Communist
7 movement that waged war against the independent state of Croatia, and the
8 Croatian national corpus in Croatia today, and in Bosnia-Herzegovina
9 today, which was the NDH, independent state of Croatia at the time, split
10 on those ideological lines and political lines, and after the war there
11 was still a very peculiar sort of civil war going on in those areas. I
12 don't want to go into details, but what you've just told us is actually
13 correct.

14 JUDGE ANTONETTI: [Interpretation] So if I understand things
15 correctly, historically, 1945, when Yugoslavia, as a state, is going to

16 be established, Franjo Tudjman is siding with the Communists; therefore,
17 he's not with the Nazis. Is that it?

18 THE WITNESS: [Interpretation] Not only are you right, he was a
19 high-ranking general in the General Staff in Belgrade for a number of
20 years. He was a prominent member. Let me say that.

21 JUDGE ANTONETTI: [Interpretation] I was getting to this. It
22 seems that Franjo Tudjman for a number of years went to the famous
23 Military Academy in Belgrade. He ended up being a general of the JNA,
24 and throughout the history of the republic he was the youngest general
25 ever; is that it?

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1 THE WITNESS: [Interpretation] Yes. I don't know whether he was
2 the youngest, but he was a prominent one, and what you said is true.
3 Apart from the elementary school and two grades in secondary school for
4 shop assistants, he actually received all his training within the
5 military system in Yugoslavia, but you could also have those degrees
6 recognised in the civilian system. So this is the context from which he
7 came. In terms of his family, it's an anti-fascist family. So he was
8 among the more prominent personages in the Second World War, and also
9 after the Second World War he was a prominent member of the establishment
10 in Yugoslavia at the time. So on the basis of any of the elements of his
11 life, it is very difficult to link him in any way with the NDH and the
12 Nazi movement. He fought it in armed struggle and politically, in every
13 other way, as his career developed. When he left Belgrade because of

14 some other conflicts that existed in the General Staff, well, I wrote
15 extensively about that. So when he "had to," in inverted commas -- when
16 he went to Croatia **from** Belgrade, in his CV -- in his CV, his adherents
17 tried to paint this as some kind of punishment, but I would like -- I
18 said that I would like to be punished the same way, given my position in
19 Croatia.

20 Now, he came to Zagreb, he was given an institute and appointed
21 its head. He -- I would like to be punished in the same way. So, I'm
22 sorry --

23 JUDGE ANTONETTI: [Interpretation] Stop there, please.

24 If I understood you correctly, he was made a general. Then he
25 left the army, became a historian. He's worked in this social institute,

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1 and then he starts writing books. Is that it?

2 THE WITNESS: [Interpretation] Yes. Not only that, he was a
3 member of the Croatian Parliament after he left Belgrade, in the
4 Communist era, because the Republic of Croatia, **as part of** Yugoslavia,
5 had its own structure, the parliament, the executive council which was
6 some kind of republican government. So even after that, he continued
7 being part of the Communist establishment, and from that time period you
8 cannot really say in any way that he collaborated with any variant of
9 anything that would smack of a Nazi movement, fascism, or the Ustasha
10 movement. For long years, he was a member of the political or military
11 establishment in the Communist times.

12 JUDGE ANTONETTI: [Interpretation] If I understand you correctly,
13 little by little he's going to start to become being an opponent to the
14 regime of Marshal Tito, and because of this he's going to be jailed, off
15 and on. Is that it?

16 THE WITNESS: [Interpretation] Well, in essence, yes. But let me
17 just add two more sentences to expand a little bit on the context.

18 This was a conflict within the Communist structures. It was
19 regional, military, political, national in character. There were other
20 elements, too, but this was the basis. But it was all internal Communist
21 struggle. No -- no one at that time brought into question the existence
22 of Yugoslavia or of the Communist regime.

23 In Croatia, one of the key years in its history was the so-called
24 Croatian Spring, the 1970 to 1971, but it was the Communist Croatian
25 Spring. These people never questioned Communism or Yugoslavia, and a

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1 large number of Croatian Communist leaders in Croatia took part in this
2 movement. The genesis of this movement is -- was long in the making. I
3 studied this extensively. But this would be the historiographical
4 background of what you asked me. I don't want to go into too many
5 details.

6 JUDGE ANTONETTI: [Interpretation] Fair enough. It seems that he
7 wrote this book in the 1980s, when he wrote this book on Jasenovac. I've
8 never read this book, so I can't say anything about it, but in this book,
9 obviously, he is challenging the number of victims in Jasenovac, and this
10 has led to many debates .

11 THE WITNESS: [Interpretation] That book was published in 1989, on
12 the eve of the breakup of Yugoslavia, and I analysed it in my book, "The
13 Mess of Jasenovac," and I gave it a proper value. I say that it is a
14 book that deals with the crime of violent abuse that has been going on
15 throughout history, and also in the case of Jasenovac. He analysed some
16 things in this internal Communist rift. On the Serbian side, one of the
17 main arguments to proffer to support the thesis that all Croats are
18 Ustasha, an effort was made to increase the number of victims in
19 Jasenovac as people saw fit. 300.000, 600.000, 800.000, almost every day
20 somebody would talk about the number of victims, and then Franjo Tudjman
21 presented his figure for the number of victims without questioning the
22 idea that the Ustasha regime was a criminal regime, a totalitarian
23 regime, and that Jasenovac was a place where crimes were committed. But
24 within this rift in Yugoslavia, and it was an internal conflict within
25 the Communist Party, people were just putting labels. Serbs labelled

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1 everything that had to do with Croatia as Ustashes, and everything that
2 was Serbian was labelled the Chetniks.

3 THE INTERPRETER: Interpreters note, the witness is kindly asked
4 to slow down.

5 THE WITNESS: [Interpretation] -- because Chetniks were, just like
6 Ustashes were --

7 JUDGE ANTONETTI: [Interpretation] Very well.

8 THE WITNESS: [Interpretation] Chetniks were Serbs who, in the

9 Second World War, collaborated with Italians, Germans, and so on. And
10 then this perception continued on to the present day. And I think that
11 those labels are unfounded both for Croats and for Serbs, because these
12 were all -- for the most part, people who were born after World War II,
13 and there is no foundation -- there was no foundation in the 1990s and
14 there's no foundation now to judge people using labels from the time when
15 they were not born. But, unfortunately, in Croatia and Serbia **today, we**
16 live in such a situation that it will not change.

17 JUDGE ANTONETTI: [Interpretation] In your last sentence, you
18 actually anticipated the last question I was going to put to you, but I
19 will ask it anyway so it's on the transcript.

20 According to you, do you think that Mr. Franjo Tudjman was an
21 Ustasha, in the classical sense of the term as it was understood at the
22 time; yes or no?

23 THE WITNESS: [Interpretation] In no sense of the word, and for --
24 in terms of credibility, I criticise Franjo Tudjman objectively. In the
25 1990s and before that, without any emotions or interests, I simply put

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1 him within a scientific framework, and that's my personal approach to
2 this issue, and I say that he has nothing to do with the Ustasha movement
3 and with the independent state of Croatia in any sense, not even
4 emotionally, which was quite clear since he grew up and was shaped in a
5 totally different sociological/ideological context. And what you said is
6 basic elements of his CV, well, it all confirms that. To say anything
7 else would be simply nonsensical. But there is a political or some other

8 background. There are other interests at play. Of course, it doesn't
9 rule out the possibility that if we look at this realistically, even
10 within the Nazi movement there was Schindler, and in any negative context
11 there is somebody positive. So even if you prove that somebody is not an
12 Ustasha, or a Chetnik, it doesn't necessarily follow that he's a good
13 person or a saint, but unfortunately some elementary things are brought
14 into doubt in order to provide arguments to support some other thesis.
15 But I think it's very detrimental to the objectivity.

16 JUDGE ANTONETTI: [Interpretation] Thank you.

17 Mr. Kovacic, you have the floor.

18 MR. KOVACIC: [Interpretation] Thank you, Your Honour.

19 Re-examination by Mr. Kovacic:

20 Q. Good morning, Professor Jurcevic. Here we are again. I'll try
21 and be brief.

22 You've been given some documents, so please take up the first
23 document that you've been given, and it is 3D03756. And I'll tell you
24 what it's about.

25 Yesterday, on pages 83 -- well, we discussed 3D00320 at length

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1 yesterday, which is the book about the truth of Bosnia-Herzegovina by
2 Miroslav Tadjman. We'll get to that, too. But, anyway, my first
3 question -- well, just let me remind you, by way of an introduction.

4 You showed within Croatia, the situation was fairly complex with
5 regard to the archives and so on, and within the context of your -- of
6 how far you were able to access relevant documents. Is that right?

7 A. Yes, right, and I explained that or tried to explain that a
8 moment ago to His Honour.

9 Q. Now take a look at these two documents. I think it will be
10 faster if you look at 3D03757 first, that is to say, the second document
11 with the yellow sticker. And so we don't have to read the whole letter,
12 I'm just going to tell you what it's about. It's my request, dated the
13 26th of August, 2004, not long after I became Defence counsel for
14 General Praljak, sent to the government, asking them for various
15 documents. And attached to that letter is -- well, it's 11 pages long
16 because we set out some categories, or Appendix 6 is attached here.

17 For those looking at the English copy, it has been wrongly headed
18 as "MUP." It's "MVP," not "MUP," the foreign Ministry, MVP.

19 A. Yes, that's what I have, MVP, the foreign ministry.

20 Q. Yes. And now we have set out which documents we need. And under
21 A, if you look at A, it says: "Bilateral/multilateral agreements." And
22 from the introduction, we see what this refers to. Then it goes on to
23 all the negotiations, plans, initiatives set forward, and so on and so
24 forth.

25 Now, take a look at my first letter, which is 3D03756, of the 5th

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1 of September, and I'd like to draw your attention to the third paragraph
2 or section in which I am responding to the Ministry of Justice, which is
3 assistants to the parties. I am sending them back -- I'm sending back a
4 list attached, and it has a total of --

5 A. 227.

6 Q. Yes, 227 documents in total on that list. And I say here, in my
7 reply, if the Ministry of Foreign Affairs does not have any of these
8 documents available, we are ready to provide them with a copy at their
9 request.

10 Do you see an absurdity there, something absurd there, as a
11 historian, as somebody dealing in the subject of archives?

12 A. Of course it's absurd, from the aspects of a fairly well-run
13 country and a fairly well-organised archives. And I'd like to draw Their
14 Honours attention to 642 note -- footnote on page 208 of the Croatian,
15 but you can follow the notes in your counter 642, and I quoted my own
16 example a moment ago in response to His Honour. Somebody who was a
17 member in the Council of the Republic of Croatia **and agreed to write two**
18 scientific articles on mass graves was one from 1990 to 1995 because we
19 had a lot of material on that and, the second, on the [indiscernible]
20 schooling for Bosniak people on the territory of the Republic of Croatia,
21 and I asked -- as you can see that in the list on the 11th of July, 2007,
22 I made that request, and then afterwards, as an adviser in the government
23 council, I exerted pressure further, telephoned and so on, and it was
24 only in 2008, after one year and two months, that I received a written
25 reply saying that they didn't have any of those documents. And I, in my

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1 expert report, used documents for which I know that they did have in
2 their possession, but they didn't want to -- and used those in my expert
3 report, but they didn't want to give me that.

4 And there's a more important article on 155 mass graves which
5 were exhumed, and research was done into them into the Republic of
6 Croatia, but I didn't manage to get a single document on that subject,
7 although I know that they are top quality -- that there's top-quality
8 material on that, I know where it is to be located, and even the minister
9 at the time, and she is the prime minister now, following my
10 intervention, prior to the elections --

11 THE INTERPRETER: Could the speaker kindly be asked to slow down.
12 Thank you.

13 MR. KARNAVAS: Sir, you're annoying everybody at this point in
14 time, and you're an adult.

15 JUDGE TRECHSEL: And I think it's a good thing that this stops,
16 because it's a lengthy, lengthy answer, and I think we understood your
17 point.

18 Mr. Kovacic, I think in the record, on page 56, line 25, you
19 referred to this letter correctly as being of 5 September, but you did
20 not tell or -- the record doesn't hold a year. It was 2005, I believe,
21 and I think it's better to situate it.

22 Thank you.

23 MR. KOVACIC: [Interpretation] Thank you, Your Honour. It was,
24 indeed, 2005, the 5th of September. 3756 is the number. And my request
25 to the government is 3D03757, dated the 26th of August, 2004.

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1 Q. Now, Professor, I think it's a good thing that we interrupted you
2 there. We got your message, got the point. Do you agree, Professor,

3 that on the basis of your experience and on the basis of what I have told
4 you were my experiences, can we conclude what you have just told us? Is
5 that right?

6 A. Yes, absolutely.

7 Q. Now, in our discussion yesterday, the Prosecutor was putting to
8 you and trying to insinuate that an important source for you was the book
9 "The Truth about Bosnia-Herzegovina," and you explained why you used
10 that. But I would just like -- has the professor been provided with that
11 book?

12 A. No, I haven't, but I know what book you're referring to.

13 MR. KOVACIC: Yes, I kindly ask the usher to give him that book.

14 [Interpretation] It's the document that we have on e-court,
15 3D00320. There are a number of pages there where agreements are
16 mentioned.

17 Q. You referring to -- you were referring to that book yesterday.
18 Now, just in the briefest of terms, turn to page -- well, you'll find
19 this a little difficult, but when you turn this page, it's in this upper
20 corner here, and I'm going to read you the last digits of the whole
21 number "0098."

22 A. On page -- what was it you said?

23 Q. You have all the pages numbered below, and they're all numbered
24 as 3D00320. But at the top, below the sticker, the marker, you have
25 another group of numbers, and I'm just reading the last four digits,

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1 which are "0098."

2 A. Yes, I've found it.

3 Q. Well, that's the agreement. It doesn't matter which.

4 Mr. Miroslav Tudjman included it in his book, and underneath all very
5 well organised, he states the source, how he came by the document. What
6 does he say, what is the source?

7 A. Source, which is "Borba," and that's a newspaper, of the 28th of
8 June, 1991. So he is telling us where the document was published. He
9 took it over from the "Borba" newspaper.

10 Q. Right. And is the "Borba" a serious newspaper or is it the -- or
11 is it a tabloid?

12 A. "Borba" was one of the main newspapers read by lots of people in
13 the former Yugoslavia.

14 Q. Now look at 0099, please, the next page, where we have the Brioni
15 Declaration with its annex, and read the source there once again, please.

16 A. It says "Vjesnik," the 9th of July, 1991.

17 Q. Just in a word, what is "Vjesnik," what paper?

18 A. "Vjesnik" is a daily newspaper, widely read, and the most serious
19 newspaper in Croatia, and it was sold throughout Yugoslavia.

20 Q. All right. I'm not going to waste time, but just as a remark,
21 these sources, "Borba" and "Vjesnik," are listed a number of times during
22 that entire book.

23 Now a few pages on, the page number is 0102, 0102, what is the
24 source listed there?

25 A. Here the source is HINA, H-I-N-A, the Croatian information and

1 news agency. That is to say, it's the national press agency, HINA.

2 Q. Thank you. So that source is repeated on page 175, 176,
3 et cetera. Now let me take this in order. I'd like to go through them
4 more, but we can't do that because we don't have enough time.

5 But, anyway, as a scholar, yourself, since in your expert report,
6 in your footnotes, you refer among other things to this book, that is to
7 say, this part of the book, why do you use this reference? Why do you
8 use this reference and refer to this book by Miroslav Tudjman?

9 A. I use that reference because in that book over 200 very important
10 documents were published, which are to be found in the source -- the
11 source of which is in different newspapers, books, archives, et cetera.
12 But for almost all the documents, I stipulate the original source.

13 Q. Thank you. Now, let's confirm this once again so there's no
14 doubt, Doctor. When you, as a scholar, in your expert report list a
15 footnote like that and say, The source for my assertions there is such
16 and such, in this case Miroslav Tudjman, such and such a document, we
17 have seen that in the source, we always have the date; for example,
18 "Vjesnik," date such and such; "Borba," date such and such; HINA, date
19 such and such. To me, as a reader, does that enable me, in a simple and
20 practical way, to access that, very simply?

21 A. Yes, that is quite correct. It's a scientific standard that is
22 used.

23 Q. Next, the Prosecutor yesterday, once again on the subject of your
24 footnotes, mentioned and put to you that you very often refer to document
25 3D02633, which is a book published by General Praljak, assistance of the

1 Republic of Croatia to the Bosnian Muslim people and the BH Army from
2 1991 to 1992, and you were asked about footnote 518 -- no, 580 is the
3 number, 581, et cetera, and I have just one question to you.

4 Professor, when somebody looks at the footnotes in your text,
5 they can understand it that you're referring to one specific document; is
6 that right? Is that how this can be understood?

7 A. Well, I wouldn't put it like that, because in my text I state --
8 I say there, and you can see that it's the particular document and in
9 another case it's a different document, so it's a vast quantity of
10 documents. But if you just look at the footnotes, you might -- it might
11 lead one to make the wrong conclusion.

12 Q. Thank you. And to do away with any doubt, that is the document,
13 is it?

14 A. Yes. It's a book of documents, a collection of documents. It's
15 not an author writing something; it's a collection of documents,
16 "documents" in the plural, a book of documents.

17 JUDGE TRECHSEL: Excuse me, please. There is a line or two,
18 page 62, lines 9 and 10, where it reads here:

19 "If you just look at the footnotes, you might -- it might lead
20 one to make the wrong conclusion."

21 Was that the correct translation of what you said, Witness?

22 THE WITNESS: [Interpretation] Yes.

23 JUDGE TRECHSEL: Okay, thank you.

24 MR. KOVACIC: [Interpretation] Very well.

25 Q. Now, the book I've just shown you, and everybody has it up on

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1 their screens, is 3D2633, and you started to say -- what does it, in
2 fact, represent, what is the book?

3 A. It's a book of documents, and in it there is no -- or just two or
4 three sentences here and there, but they are, in fact, copies,
5 photocopies, scanned photocopies, facsimiles of documents in which nobody
6 intervened, nobody -- well, I used the book -- somebody tampered with
7 them, and I indicate over 2.000 documents not in the book which the
8 reader can readily read and access, if they're interested in doing that.

9 Q. Thank you. Now, I'd like to dwell on the document we were
10 discussing 45 minutes ago, or, rather, the Prosecutor discussed that with
11 you. It is document P00531 in the Prosecutor's binder 2 of 3, so in the
12 second binder.

13 [In English] I would kindly ask the usher.

14 [Interpretation] Professor, once again the number is 00531,
15 halfway in that binder. You can turn to page 3 of the Croatian text
16 straight away. That's what you were discussing with the Prosecutor.

17 A. Yes, I found it.

18 Q. Now, to make things simple, stay on that page, and I'd like to
19 draw your attention to -- and for the Trial Chamber's benefit, it is
20 0093-0379 in the English, 379 being the last three digits of the ERN
21 number.

22 So at the bottom, you'll see points 1 and 2, but before that
23 there's a sentence. Would you read out the sentence which stems from

24 what Darko Kordic had said?

25 A. "With the Muslims agreed on parity, and that was two months

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1 beforehand. When the leaders of the HVO came to see us, we gave our
2 okay, our permission, but it was never acted upon."

3 Q. So when you see what was said before, he makes the conclusion
4 here that this parity -- it's a question of parity with both nations
5 involved, and of course it's also -- it also follows and we can see from
6 what was said that it was the HZ of Herceg-Bosna; right?

7 A. Yes. If you link the part put to me by the Prosecutor and this
8 passage here, then that becomes quite obvious, and that's why I said that
9 I did not use this document, and for me to give it an objective
10 assessment, I'd have to read it all. And, of course, that was -- I was
11 not able to do that because of the lack of time, but I assume that the
12 Prosecutor used that for his own requirements.

13 Q. Thank you, Professor. And just one more question, once again
14 staying with that document, and it relates to the part of the Kordic
15 discussion in part read out to you during the cross-examination. But
16 tell me now, please, from the words -- Kordic's words that were recorded
17 here - we don't know what he actually said, but as recorded here - can
18 you gain the impression that he's referring to the HZ-HB outside the
19 Republic of Bosnia-Herzegovina? Could one gain that impression?

20 A. No, you cannot get that impression.

21 Q. Thank you very much. Let us move on.

22 There were a lot of questions that the Prosecutor asked you that

23 all pertain to sovereignty of the Croatian Community of Herceg-Bosna.
24 Now, we know your thesis, we know what you wrote in your expert report.
25 Now, I would like to ask you, very briefly, to answer yes or no for the

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1 time being.

2 The Croatian Community of Herceg-Bosna, does it have a
3 constitution?

4 A. No.

5 Q. Thank you. Does the Croatian Community of Herceg-Bosna respect
6 and adopt the regulations of the Republic of Bosnia-Herzegovina in many
7 areas, I mean in many spheres, the mains?

8 A. In the "Official Gazette" --

9 Q. Professor, please, just yes or no for the time being, and then if
10 anyone wants to ask a question.

11 A. Yes, systematically.

12 Q. Did the Croatian Community of Herceg-Bosna become the Republic of
13 Bosnia-Herzegovina on its own initiative, or was it done at the
14 initiative of somebody else? I mean the name itself.

15 MR. SCOTT: Excuse me, Your Honour. I'm sorry for interrupting
16 counsel, but since I was, once again, criticised a few days ago for not
17 objecting to leading questions when they came up, I'll do that now. This
18 is leading, Your Honour. Some I will let go because they may not be
19 disputed, but this is a controversial point and the witness should be
20 able to address it in his own words, with an open-ended question, without
21 being led by Mr. Kovacic.

22 Thank you.

23 MR. KOVACIC: [Interpretation] I will rephrase the question,
24 although I don't agree that the question was leading, but of course it's
25 easier for me to rephrase.

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1 Q. So, Witness, why did the HZ-HB change its official name to the
2 Croatian Republic **Herceg-Bosna**?

3 A. It is obvious, as you can see from my expert report, that they
4 did so on the basis of an international agreement, a peace plan put
5 forward by the international community, to the effect that Bosnia and
6 Herzegovina **would be a union of three republics based on the ethnic and**
7 **some other principles**, and I have explained all that in great detail in
8 my expert report.

9 Q. Well, what do we call this initiative, this plan, in our parlance
10 here?

11 A. That was the Owen-Stoltenberg Plan. That's the popular name.

12 Q. Yesterday, you wanted to make a statement at the beginning of the
13 session to the Trial Chamber. I would like to say this: You have heard
14 the Trial Chamber. I will not repeat what they told you. Our time is
15 precious. We literally count minutes. So, please, make your own
16 assessment. If you think that your expert report and your end product,
17 as a scholar, is in any way jeopardised or made to appear flawed through
18 the cross-examination by the Prosecution, perhaps you can share parts of
19 this statement with us. But please listen to me very carefully. If you
20 think that it's just some insinuations and unconfirmed arguments, please

21 do not take up those minutes that we count so -- that are so precious to
22 us. So could you please just cut that short, as short as possible?

23 A. Well, I am not unfamiliar with the methods, and, of course, the
24 method of examination, which is legally well-founded, in effect brings
25 into doubt my public credibility because I do not have an opportunity to

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1 defend myself properly, so I want to preempt that by making a statement
2 in which I listed five items. I am not in any kind of way connected with
3 the Prosecution --

4 THE INTERPRETER: Interpreters note, the witness is kindly asked
5 to slow down.

6 THE WITNESS: [Interpretation] Well, I can provide you with the
7 document, and that in writing the expert report --

8 JUDGE TRECHSEL: You are asked to slow down. Please, don't
9 complain that I shout, because our nerves are really strained by you.
10 I'm sorry. It doesn't help your testimony.

11 THE WITNESS: [Interpretation] Thank you.

12 B, that in drafting the expert report and preparing for my expert
13 testimony, I did not carry out any kind of unlawful or unprofessional or
14 dishonourable actions with the Defence or with any other party, and no
15 offers to that effect had ever been made.

16 C, I wrote my expert report as an author with complete
17 independence. It is based on objective scientific standards, and with
18 the best of intentions, both as a human being and as a professional, to
19 the best of my abilities.

20 D, among many documents and sources that I inspected, I did not
21 keep away from the Trial Chamber or cover it up in any other way any
22 relevant pieces of information that I obtained in this manner that might
23 be of particular importance for the Trial Chamber in the making of their
24 judgement.

25 MR. KOVACIC: [Interpretation] Professor, thank you very much.

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1 I think it was a good idea for you to say that, so on my behalf and on
2 behalf of General Praljak's Defence, I would like to thank you for coming
3 here and for giving us your precious time. But you know how important
4 that is.

5 Thank you.

6 JUDGE ANTONETTI: [Interpretation] Professor, your testimony at
7 the Hague, at the request of the Defence team of General Praljak, has now
8 come to an end.

9 I wish you, on behalf of the other members of the Bench, a safe
10 journey home. And I shall ask the usher to escort you out of the
11 courtroom.

12 THE WITNESS: [Interpretation] Well, Your Honours, if I may thank
13 you, and to apologise for all the technical problems that I have caused
14 you. But, unfortunately, that's how it is, because I don't have much
15 experience in trials of this kind, where I have to be mindful of the
16 interpretation and everything else. So, once again, I apologise, and
17 thank you very much.

18 [The witness withdrew]

19 JUDGE ANTONETTI: [Interpretation] Before we adjourn for today,
20 Mr. Kovacic, you do confirm that we will hear the witness Arbutina on
21 Tuesday; is that right? All of this has been confirmed or is confirmed?
22 MR. KOVACIC: Yes, Your Honour, we will. I mean, he is not -- he
23 is not yet here, so force majeure I cannot control. But we check, and
24 everything is under control so far. He is scheduled to come, I believe,
25 on Sunday.

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1 JUDGE ANTONETTI: [Interpretation] Thank you.

2 Mr. Scott.

3 MR. SCOTT: Thank you, Your Honour.

4 As the Prosecution informed -- just to let the Chamber know, in
5 light of the comments that have been made today, the Prosecution advised
6 the Praljak Defence some days ago that we will have no questions for
7 Mr. Arbutina. There will be no cross-examination of that witness.

8 JUDGE ANTONETTI: [Interpretation] Very well.

9 Mr. Kovacic, since this is a 92 ter procedure, I assume that you
10 will put questions to this witness and ask him to confirm the document in
11 which he has specified a number of items. Is that right?

12 MR. KOVACIC: [Interpretation] Your Honour, the plan is, in fact,
13 for him to confirm that it is, indeed, his statement. But in the time
14 that we have been allotted, one hour, we wanted the Trial Chamber to get
15 an impression, a picture of the events, a little bit of smoke and the
16 sense, and then we will walk the witness through the statement. And I
17 believe that Mr. Praljak would like to ask some questions, because the

18 two of them fought and walked there in the field, and they smelt the
19 smoke. And we would like to use the witness to show the atmosphere of
20 voluntary fighting, and we would like to show you by this that it could
21 only be worse in Bosnia-Herzegovina.

22 JUDGE ANTONETTI: [Interpretation] One moment, Mr. Kovacic.

23 Since the Prosecutor told us he has no intention of
24 cross-examining this witness, all the more reason to prepare for the
25 testimony of the second witness so that the second witness can be heard

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1 straight after the first one. I assume the second witness will be
2 arriving on Sunday also. Is that right?

3 MR. KOVACIC: [Interpretation] We will do all we can to call the
4 next witness the same day, because they travel -- they're travelling
5 together.

6 JUDGE ANTONETTI: [Interpretation] Very well. Then make sure
7 Mr. Skender comes straight after him so that none of us waste any time.

8 MR. KOVACIC: [Interpretation] Yes. If we're talking about
9 planning, our next witness, Crnkovic, because of technical problems we
10 will not be calling him as a 92 ter witness, but we will maintain the
11 schedule because we think that we will be able to deal with him in the
12 time that was allotted to us.

13 And my colleague has just warned me to something that I've
14 already said: that through the testimony of both witnesses, we want to
15 demonstrate General Praljak's conduct in those difficult conditions, so
16 his pattern of conduct and his ethical and humanitarian standards. So

17 that's part of that story.

18 Thank you very much.

19 JUDGE ANTONETTI: [Interpretation] Very well.

20 If there are no further questions to be addressed, I would like
21 to thank all and every one, and ask you to be back for our hearing on
22 Tuesday at a quarter past 2.00.

23 Thank you.

24 --- Whereupon the hearing adjourned at 11.54 a.m.,
25 to be reconvened on Tuesday, the 22nd day of

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1 September, 2009, at 2.15 p.m.

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