

1 Tuesday, 22 February 2011
2 [Petkovic Defence Closing Statement]
3 [Open session]
4 [The accused entered court]
5 [The Accused Pusic not present]
6 --- Upon commencing at 2.16 p.m.
7 JUDGE ANTONETTI: [Interpretation] Could you please call the case,
8 Madam Registrar.
9 THE REGISTRAR: [Interpretation] Good afternoon, Your Honours.
10 This is case number IT-04-74-T, the Prosecutor versus
11 Jadranko Prlic et al.
12 JUDGE ANTONETTI: [Interpretation] Thank you, Madam Registrar.
13 Today, I'd like to greet, first and foremost, the accused, then
14 the counsel, everybody from the OTP, and all those assisting us. I'd
15 also like to greet a new face in the public gallery which will be of
16 assistance during our session.
17 We will continue with the closing argument of General Petkovic.
18 According to the new calculation made by the Registrar, they have one
19 hour and forty minutes left. So we gave you an extra five minutes,
20 compared to what I told you yesterday.
21 MS. ALABURIC: [Interpretation] Good afternoon, Your Honours.
22 Good afternoon to our learned friends from the OTP, the accused, and my
23 colleagues from the Defences, as well as to all those who are with us
24 today.
25 Yesterday, analysing the final brief of the OTP, we stopped at

1 paragraph 22. At the very end of the paragraph, you can see there an
2 assertion made by the OTP that Petkovic issued an order to arrest and
3 isolate all able-bodied Muslims throughout HVO-controlled territory.
4 Although we have discussed it to some extent, we can have another look at
5 the right-hand side column, where you see the order issued by
6 General Petkovic.
7 I apologise. I forgot to say that we should go into Sanction. I
8 hope we can resume. Apologies for omitting that in the first place.
9 In the right-hand-side column, we see the order by
10 General Petkovic, dated 30th June 1993. It is quite clear that it does
11 not encompass the entire HVO-controlled territory, because it was issued
12 to only one operational zone, which is South-Eastern Herzegovina. The
13 commander of that operational zone forwarded the order to only two
14 brigades, the 2nd and 3rd. Therefore, the assertion made by the
15 Prosecution is incorrect.
16 The next example is paragraph 28, in which the Prosecutor asserts
17 that Praljak was present at the meeting on the 11th of May, 1993, and
18 that the meeting was also attended by Petkovic and some others. I won't
19 go into the specific names on this occasion. In the
20 right-hand-side column, you see an excerpt from General Praljak's
21 testimony, page 40761. You will see there that General Praljak did not
22 say that the meeting was attended by General Petkovic. If we recall
23 other evidence, we see that General Petkovic, on the 10th of May, 1993,
24 in the evening, left for Kiseljak in order to meet with Sefer Halilovic.
25 On the 11th of May, both of them, Sefer Halilovic and General Petkovic,

1 arrived in Medjugorje. On the 12th of May, Halilovic and Petkovic signed
2 an agreement on the cessation of hostilities. Therefore, the Prosecutor
3 erroneously asserts that at the meeting referred to by General Praljak,
4 General Petkovic was in attendance as well.

5 The next example has to do with paragraph 104, which is legal in
6 nature. However, I found it necessary to refer to it briefly. In this
7 paragraph, the Prosecutor mentions the crime of terrorising civilians,
8 which can be committed with a direct or indirect intention. In the
9 right-hand-side column, although this is a legal matter, we prepared for
10 you an excerpt from the appeals judgement in the Galic case,
11 paragraph 104; as well as the appeal judgement in the Milosevic case,
12 paragraph 37; and the first-instance judgement in the Galic case,
13 paragraph 136, with the accompanying footnote, which clearly indicates
14 that the crime of terrorising civilians can only be committed with a
15 special, specific intention or intent.

16 The following paragraph we wanted to draw your attention to is
17 paragraph 193 of the final brief of the OTP. The Prosecutor asserts that
18 Petkovic, having testified about Operation South, wanted to paint a wrong
19 picture before the Chamber about the true nature of that operation. We
20 wanted to direct your attention at the following: The Prosecutor, during
21 their case, did not state a single word about Operation South, although
22 they had conducted an interview with the commander of that operation.
23 Therefore, they had all necessary knowledge about the purpose and intent
24 of that operation. The Petkovic Defence was the only one to include that
25 operation in our case, because the events which occurred during the

Page 52601

1 operation were of paramount importance for the withdrawal of Petkovic
2 from the position of the chief of the Main Staff. Therefore, it is
3 completely unfounded to state that the Petkovic Defence wanted to do
4 anything before the Trial Chamber concerning Operation South in order to
5 try to paint an erroneous picture.

6 The next issue has to do with paragraph 648, in which the
7 Prosecutor asserts in the chief of the Main Staff, I quote:
8 "... was superior to the HVO Command Staff."

9 Given that the Prosecution, in their opening statement objected
10 to the way the Petkovic Defence interpreted certain legal provisions, we
11 need to look at the wording of the provision, itself, in the
12 right-hand-side column and to see what it was that the OTP omitted when
13 describing the position of the chief of the Main Staff. The Prosecution
14 omitted the following: that the chief of the Main Staff is superior to
15 the HVO Command within the scope of general and specific powers vested in
16 him by the president of the Croatian Community of Herceg-Bosna. Your
17 Honours, this is not the sole example of the Prosecution interpreting
18 certain legal provisions by quoting only parts of those provisions, thus
19 displaying an incorrect interpretation of the entire legislation. Had
20 they quoted the entire sentence, they would have had to have admitted that the
21 chief of the Main Staff was not superior to all military commanders in
22 all matters, because it would go against their case against
23 General Petkovic. In this context, at page 277 of their brief, the OTP
24 state that Petkovic was at all relevant times either the number one or
25 number two HVO military commander. We reiterate, Your Honours, as we

Page 52602

1 also said in our final brief, that Petkovic was the chief of the
2 Main Staff, and that rights, duties and obligations of the chief of the

3 Main Staff, as the chief of any other staff, are not identical to the
4 rights and obligations of a commander. Given that we have discussed this
5 issue at length in our final brief, we do not find it necessary to repeat
6 all of our theses at this point.

7 In paragraph 162 of the final brief, the Prosecution states that
8 Petkovic could not recall who he received his salary from. We discussed
9 this at length during re-examination of General Petkovic, and we'll try
10 to sum up everything that took place in that regard.

11 The Prosecution referred to Petkovic's testimony in the Kordic
12 case. We prepared parts of the transcript in the following few pages,
13 and it is clearly stated there that Petkovic had no problem whatsoever
14 recalling who he received his salary from. However, in the Kordic case,
15 he was limited, in terms of questions and answers. Those limitations
16 were set by the Republic of Croatia, which also had its representatives
17 in the proceedings. That limitation also referred to the issue of salary
18 whilst serving with the HVO. There were no such limitations in this
19 case. Therefore, it is unambiguous, as it was also clearly stated by
20 General Petkovic that while serving with the HVO, he received his salary
21 from the Ministry of Defence of the Republic of Croatia. Therefore, in
22 the final brief, the Prosecution completely erroneously commented upon
23 Petkovic's testimony, in our view attempting to contaminate the entire
24 testimony and show it to be -- not to be credible.

25 We'll skip over a few pages.

Page 52603

1 The next example has to do with paragraph 881, in which the
2 Prosecution asserts the following, I quote:

3 [In English] "... as Pringle so amply stated, behaviour like
4 Petkovic ..."

5 [Interpretation] End of quote. When I read this part of the
6 final brief of the Prosecution, I indeed thought that Andrew Pringle did
7 comment on Petkovic's behaviour. Being unable to recall it, I went back
8 to Andrew Pringle's report. In the footnote, we see that it is
9 paragraph 68. We are going to show you paragraph 68 in the
10 right-hand-side column. In that paragraph, there is no reference to
11 General Petkovic the way the OTP stated. Therefore, the Prosecution
12 erroneously presented the contents of paragraph 68 to the Chamber, thus
13 contaminating the evidence and rendering separate meaning to it which the
14 evidence does not possess.

15 The next example is paragraph 882, which has to do with Prozor in
16 October 1992. Here, it is stated that Petkovic was familiar with
17 en masse forcible transfers of Muslims, as well as deportations. With
18 regard to this example about Prozor, we wanted to draw your attention to
19 the following fact: The OTP never charged any of the accused for the
20 crime of deportation in Prozor in October 1992. They did not do anything
21 of the sort concerning forcible transfer that allegedly was committed in
22 October 1992 in Prozor. Therefore, the crimes which should make part of
23 the Prosecution case with respect to JCE 1 do not form part of it, and
24 the Prosecution did not put forth any charges regarding that issue.

25 The next example is paragraph 883 pertaining to the same type of

Page 52604

1 crime. It has to do with Gornji Vakuf. We have discussed this at some
2 length in our final brief because we were limited by the word count.

3 I can sum it up as follows: None of the accused were accused of
4 deportation in Gornji Vakuf in 1992. An analysis conducted by the
5 Petkovic Defence indicates that the Prosecutor did not prove that the

6 civilians were forcibly transferred from Prozor in January and February 7 1993.

8 The next example has to do with paragraph 885 of the final brief.

9 The Prosecution refers to a letter of the 23rd of April, 1993.

10 Apparently, it was sent by Petkovic to Mate Boban. The letter itself had
11 to do with certain crimes committed in Central Bosnia, as reported to
12 General Petkovic by Tihomir Blaskic. In the right-hand-side column, you
13 see the beginning of the letter. We indicated this excerpt in order to
14 show that, indeed, it concerns Central Bosnia. What we wanted to say is
15 the following: The crimes committed in Central Bosnia in April 1993 do
16 not form the crime base of this case. We also believe that this document
17 is important because it unambiguously indicates that unlawful activities
18 described in the letter were not something that had been planned or
19 wished for by HVO commanders. Had it been the case, they would not have
20 reported about it to their superiors.

21 The next example is paragraph 887. The Prosecutor asserts that
22 the Monitors of the European Commission and other international
23 representatives condemned Petkovic and his behaviour. The Prosecutor
24 does not specify a single footnote or piece of evidence to corroborate
25 this. What we wish to say about it is the following: According to our

Page 52605

1 analysis of all UNPROFOR documents, as well as ECMM documents and the
2 documents of other international representatives, Petkovic was never seen
3 or portrayed as an extremist; rather, he was shown to be a moderate
4 person who was always in favour of an agreement. As regards the
5 hawk-dove system, if we take into account that simple division, Petkovic
6 was always seen as a dove.

7 The next example which we'll dwell on has to do with
8 paragraph 953 of the final brief, as well as paragraph 825 and 826 and
9 831, as well as parts of the closing arguments of Ms. West at page 52054
10 of the transcript. All these examples have to do with the alleged role
11 Petkovic played in the destruction of Stari Most, the Old Bridge. The
12 entire thesis of the Prosecution relies or hinges on a single document,
13 which is P6534, which is an order of the 8th November 1993. In the
14 right-hand-side column, Your Honours, you see excerpts of that order
15 prepared in the Croatian language so that you could see that the order
16 does not contain a signature. Therefore, the document does not have the
17 signature of General Petkovic. This fact alone need not mean much, but
18 let us take a closer look. I would like to remind you that this is
19 8 November 1993.

20 General Praljak, on transcript pages 41270, speaking about
21 document 4D834, said that General Petkovic had not been at Citluk on
22 8 November 1993, and that is why one order or one invitation was signed
23 by Slobodan Praljak, although it bears the name "Milivoj Petkovic," so
24 that Praljak gave evidence that on 8 November, General Petkovic was not
25 at Citluk.

Page 52606

1 Milivoj Petkovic, on transcript pages 49643, confirmed that,
2 indeed, on that day he was not at Citluk, but in Split, because on
3 7 November he was to meet General Briquemont.
4 Let us look at document 4D2026, which is General Petkovic's
5 document. He sent it to the UNPROFOR Command at Kiseljak. I repeat the
6 number, 4D2026. General Petkovic confirms having met General Briquemont
7 on 7 November at Divulje, which is just outside Split, so that,
8 Your Honours, the evidence confirms that Petkovic, on 8 November 1993,

9 was not at Citluk and did not sign the order issued on that day about
10 artillery activity.
11 What we consider very important is the fact that all this
12 evidence we have just cited was known to the Prosecution, because we've
13 seen it in this courtroom several times, but the Prosecution
14 intentionally neglected this evidence to draw General Petkovic into their
15 story as the person responsible for the destruction of the Old Bridge in
16 Mostar, as it were. We invite you, Your Honours, to assess all this
17 evidence and conclude what the truth is.
18 The next example is paragraph 872. It's about the meeting
19 between General Petkovic and Ratko Mladic in early July 1993. In this
20 section of Ratko Mladic's diaries, the alleged words of Petkovic are
21 related:
22 "Push your cannons forward a bit and let my guys from Travnik
23 die. They haven't fought, anyway."
24 In responding to submission that this excerpt from the diary be
25 admitted into evidence, we objected based on the fact that this doesn't

Page 52607

1 make sense. There is no logic in Petkovic firing at HVO soldiers. And
2 apart from that, Travnik fell a month earlier, and at Travnik there were
3 no HVO soldiers at all. I needn't go into this document any deeper, but
4 we are really impressed by the quality of faith the Prosecution put into
5 Mladic's diary. If Mladic should stand trial before this Tribunal one
6 day, we are curious to -- we will be curious to see how much Mladic's
7 diaries will be trusted.
8 The next example is from paragraph 900. The Prosecution claim
9 that Petkovic's statement that he never received Ivica Rajic's report of
10 23 October 1993 is not credible, and they say:
11 "This Petkovic evasion again holds no water."
12 Your Honours, in our final brief, we discuss the topic of
13 Stupni Do at length because we consider it very relevant, and we think
14 that this case is directly linked with General Petkovic's responsibility.
15 That's why we plan to deal with this matter for a couple of minutes. On
16 the right-hand side, we see the Croatian report of Ivica Rajic. It is
17 shown in Croatian to enable you to see that this report, Ivica Rajic's
18 report, contains an instruction for General Petkovic from General Praljak
19 to take care of the situation in Vares. We are showing this document
20 because it is addressed to Milivoj Petkovic at the Main Staff, and we can
21 see that the document indeed made it to the Main Staff, which is
22 confirmed by the handwritten words of General Praljak. If we read this
23 document in Croatian, then this document proves that a document which was
24 supposed to reach Milivoj Petkovic at the Main Staff indeed arrived at
25 the Main Staff. The Prosecution showed us no evidence that shows that

Page 52608

1 this document was indeed forwarded from the Main Staff to Petkovic in
2 Kiseljak.
3 The next example refers to paragraph 933. The Prosecution
4 asserts that Petkovic repeatedly received information from his soldiers
5 about the harassment and mistreatment of prisoners and detainees along
6 the front-line. In the footnote, there's a reference to document P6202.
7 In the right column, there is the document, itself. This is a document
8 which, on the 28th of October, 1993, was sent by Stanko Bozic, the
9 number-one man at Heliodrom, to Milivoj Petkovic. Our conclusions are
10 the following: One, the allegation is completely false that commanders
11 informed Petkovic about anything concerning the prisoners and their

12 labour on the front-line. And, secondly, this document contains not a
13 single word about mistreatment or labour on the front-line: This report
14 of Bozic's is the only report he sent to Petkovic, and we have clearly
15 pointed that out in Annex 12 to our final brief.
16 In paragraph 937, the Prosecution asserts that Petkovic had
17 information about the wounding and deaths of prisoners forced to work,
18 and that he received information about that repeatedly from the
19 representatives of the international community. The Prosecution also
20 asserts that Petkovic had that information while he was issuing orders
21 concerning forcible labour. In the footnotes, documents P5308 and P5967
22 are referred to. In the right column, you can see the dates of these
23 documents. One is from late September, and the other from October 1993.
24 Our conclusions are the following: The Prosecution failed to prove that
25 Petkovic had information about killed and wounded detainees in July and

Page 52609

1 August 1993, when he issued three orders in relation to the labour of the
2 detainees and prisoners. Thus, Petkovic spoke the truth, because he
3 spoke about his knowledge at the moment he issued these orders and not
4 later.

5 The next example is about paragraph 962. Here, the Prosecution
6 refers to the topic of shelling and sniping, and they say that Petkovic
7 had information about that. The date of 23 September 1993 is mentioned
8 as the day when Pasalic complained to UNPROFOR. About this, we wish to
9 conclude that this shows that before September 1993, there were no
10 complaints about shelling by the HVO or about sniping of HVO members.
11 The following example is paragraph 964, in which the Prosecution
12 asserts that Petkovic personally denied humanitarian convoys free
13 passage. About this paragraph, we -- or rather there were several
14 footnotes to this paragraph which you see on the left, and on the right
15 you can see the list of documents with the dates of issuance. We have no
16 time now, Your Honours, but I believe there is even no need to go into
17 each and every of these documents, but we wish to draw your attention to
18 two documents which are extremely important to our minds.
19 The first such document is P3923. It's a letter sent by Tadic to
20 Jadranko Prlic on 3 August 1993, in which Darinko Tadic complains that
21 he didn't get an approval from General Petkovic for the passage of a
22 convoy from Bosnia to Split and back. So this is a letter dated
23 3 August 1993.

24 Let's take a look at the following document, P3895. This is an
25 order by General Petkovic issued one day earlier on 2 August 1993 and

Page 52610

1 sent to all HVO units. It is said here very clearly and unambiguously
2 that pursuant to the Makarska Agreement, as well as the
3 Sarajevo Airport Agreement, all HVO units shall enable the unobstructed
4 passage of convoys of humanitarian aid.

5 Therefore, there is no evidence showing that General Petkovic
6 obstructed the passage of any convoy carrying humanitarian aid.
7 The following example is about the chapter in the Prosecution
8 final brief in which it is asserted that Petkovic had at his disposal
9 various means to discipline HVO members, and in Annex G there is also an
10 overview of documents about the possibility of disciplining, which partly
11 relates to General Petkovic. Your Honours, we invite you to scrutinise
12 these documents from Annex G very carefully, because we will all easily
13 establish that the Prosecution failed to mention a single law or
14 regulation which would enable Petkovic to punish or exert control as

15 asserted by the Prosecution. And, furthermore, the following clearly
16 follows from Annex G: If Petkovic really knew the name of the
17 perpetrator and the crime committed, then certain measures were taken.
18 If, however, the perpetrator was unidentified, Petkovic issued general
19 instructions that appropriate investigative measures and sanctions shall
20 be taken. In that context, my learned friend Mr. Scott, on transcript
21 pages 51935 and the following, referred to document P1598, which you can
22 see in the right column. It is obvious from this document that
23 General Petkovic issued an order that an investigation shall be launched
24 against a member of the Main Staff, an officer in the Main Staff of the
25 HVO, concerning the misuse of a stamp. We would like to stress that this

Page 52611

1 is about a person who worked in the Main Staff; that is, a person who was
2 immediately subordinate to General Petkovic. He knew about this
3 misconduct and immediately took measures he considered appropriate, but
4 the Prosecution shows no evidence that any other officer or any other
5 employee in the Main Staff committed a crime against a Muslim about which
6 Petkovic knew but failed to do anything about it.
7 The following examples from paragraph 876, 930, 931, and 957, and
8 962 refer to an interesting standard for mens rea systematically used by
9 the Prosecution in their final brief not only with regard to
10 General Petkovic but also the other accused. For example, I quote:
11 "It is impossible that Petkovic was not aware ..."
12 Or:
13 "Petkovic could not have been aware ..."
14 Or:
15 "He would have had to try very hard not to be aware of it."
16 Your Honours, I think we all agree that these are not legal
17 standards for mens rea, as recognised by this Tribunal, and we really
18 fail to understand what the Prosecution really want to achieve with such
19 language when it comes to the mens rea of the accused.
20 The next paragraph is 973. This is a very important paragraph
21 for General Petkovic. Here, the Prosecution asserts that Petkovic, among
22 other things, ordered murder, as charged in Counts 2 and 3, and they go
23 on to explain in the footnote -- that is, in paragraph 1308, that these
24 orders were about prisoners of war who were killed during forcible
25 labour, forced labour. With regard to this, we wish to say the

Page 52612

1 following: Firstly, the Prosecution failed to prove that based on
2 Milivoj Petkovic's order, the crime of forced labour of prisoners of war
3 was committed. In addition, the Prosecutor failed to prove that pursuant
4 to any of Milivoj Petkovic's orders about forced labour, any detainee was
5 killed. Therefore, Milivoj Petkovic can certainly not be held
6 responsible for the alleged orders to kill prisoners of war during forced
7 labour.
8 The same topic was discussed by my learned friend Ms. West, and
9 she said that, one, Petkovic's order, dated 8 August 1993, was executed,
10 or, rather, that pursuant to that order, a crime was committed, and the
11 crime was forced labour by prisoners of war. Let's look at the
12 right-hand side of the page. First of all, the order number is 4020,
13 dated 8 August 1993. We see that it was sent to the Posusje Brigade, and
14 everybody else was copied. Let's look at the content of the order. The
15 first sentence reads:
16 "Order to fortify the achieved lines immediately."
17 That's the first sentence in the order, and that's an order, of

18 course. The second sentence reads:
19 "Prisoners and detained Muslims may be used for fortifying
20 lines."
21 The second sentence is a permission to use prisoners and detained
22 Muslims. And then the third sentence reads, and it is an instruction:
23 "To file a request to use prisoners."
24 An elementary school investigative analysis of this order, in our
25 view, Your Honours, show that this is not an order for prisoners of war

Page 52613

1 to be used for forced labour. However, it is a permission to use
2 prisoners of war, amongst others, who are sent to work.
3 Let's see what happened next. Document P4030, this is a request
4 issued by the Posusje Brigade Command. He is requesting to use
5 detainees. I would like to emphasise that a reference here is made to
6 Muslim detainees who will be performing certain tasks.
7 And the following document is P4068, 4068. Your Honours, the
8 document is presented here in both versions, in Croatian and English. We
9 would like to draw your attention to an error in translation. It is very
10 clear in the Croatian text that a hundred detainees were taken over,
11 detainees; whereas in the English translation, a reference is made to a
12 hundred prisoners. If this document had been translated properly, it
13 would arise from it that a hundred detainees had been taken over, and not
14 a hundred prisoners of war. And the following fact is also important in
15 the analysis of this document: There is no single piece of evidence
16 about the type of work that these hundred individuals were engaged in,
17 irrespective of their status, whether they were detainees or prisoners of
18 war. It is also important to say that there is no single piece of
19 evidence proving that those people worked voluntarily or that they had
20 been forced to perform those tasks. In other words, were they volunteers
21 or were they forced to do labour?
22 Why do we mention voluntary labour? Because of a witness who was
23 detained in the prison in Vitina. The witness was protected, so the
24 documents should not be broadcast.
25 Let's look at P10210. On page 3, Witness EI said, inter alia,

Page 52614

1 and I quote:
2 [In English] "Every morning, one of the guards would come to the
3 hangar and look for volunteers to go work for them. Some prisoners
4 volunteered as they were promised better food and also as the hangar was
5 made from tin, the temperature was sometimes 40 degrees inside, so it was
6 better to be outside even if it was to work."
7 [Interpretation] The witness also testified about work which
8 could not be considered inadmissible, and he also mentioned the types of
9 work which could be considered inadmissible. In this context,
10 Your Honours, we would like to point to the practice of this Tribunal,
11 which we believe is best illustrated by the first-instance judgement in
12 the Naletilic case, paragraph 259. In that paragraph, it is stated, and
13 I quote:
14 [In English] "As a result of the foregoing, the Chamber will have
15 to determine, on a case-by-case basis, whether the forms of labour
16 alleged in the indictment were indeed undertaken voluntarily or whether
17 the detainees were compelled to do so."
18 [Interpretation] Your Honours, we are familiar with the practice
19 of this Tribunal, and we know that some circumstances make voluntary
20 labour look different because of the circumstances. However, there is an

21 undisputed fact that the Trial Chamber has to take all of the
22 circumstances of each case into account. In this case, we have not dealt
23 with that.
24 Let's conclude about all that has been said so far. Petkovic's
25 order was not an order for the unlawful labour of prisoners of war. It

Page 52615

1 is, however, permission that certain work could be done by using
2 prisoners and detainees. There is no evidence that any prisoner of war
3 had to do any unlawful labour. There's also no evidence that detainees
4 were forced to work.
5 With regard to the topic of unlawful labour, there are two other
6 Petkovic's orders. Since the Prosecution agrees with the Petkovic
7 Defence that nothing was done in order to execute those two orders, we
8 are not going to waste any time on them. I would just like to draw your
9 attention to our final brief, where the topic was covered at great
10 length.
11 And now we come to the topic of the siege of Mostar. Maybe some
12 day Ms. West and I will co-author a paper on the topic because we spent
13 so much time discussing it. On transcript page 52069, my learned friend
14 Ms. West said, in a nutshell, that Muslim civilians could not leave
15 East Mostar. Your Honours, we don't have any more time, nor do we think
16 that it is necessary to deal with main routes and alternative routes that
17 led from East Mostar towards Jablanica and further on towards
18 Central Bosnia. However, in this case there is no dispute about the
19 following thing: First of all, there's no single piece of evidence that
20 any of the civilians was killed or wounded while leaving East Mostar and
21 going towards Jablanica. There is no single piece of evidence showing
22 that the HVO opened either artillery or any type of fire to prevent any
23 individual or group of civilians who wanted to leave East Mostar and go
24 in the direction of Jablanica. As we look at the evidence on file, we
25 can see that there is no proof that anybody was either killed or wounded.

Page 52616

1 The most important thing for this topic is the issue whether that
2 communication was at all possible and whether that communication was
3 en masse. As we go on, we will be using exclusively Prosecutor's
4 evidence to show that the communication was indeed possible, that the
5 communication was en masse, and that the communication was basically
6 hindered by the authorities of Bosnia and Herzegovina.
7 The first document that we would like to show you is a protected
8 document, and that's why I'm not going to talk about the contents. I'm
9 just going to give you the number of the document, P9181. And this
10 document, at the end of the chapter that we are showing to you, it says:
11 [In English] "The movement remains limited due to the danger of
12 the journey and the fact that BiH ..."
13 [Interpretation] I would like to repeat the number, P9851, 9851.
14 I'm not going to repeat the entire sentence. I'll continue:
15 [In English] "... and the fact that the BiH Army permission must
16 be obtained to leave, such permission reportedly being difficult to
17 obtain."
18 [Interpretation] The following evidence that we would like to
19 draw your attention to is Witness BB's testimony, transcript page 25335.
20 The witness said as follows, I quote:
21 [In English] "We were very well aware of the --"
22 MR. SCOTT: Sorry, Your Honour. We can't have this quoted in
23 open session.

24 THE INTERPRETER: Microphone for the Prosecutor.

25 MS. ALABURIC: [Interpretation] Very well, Your Honours, we can go

Page 52617

1 into private session.

2 JUDGE ANTONETTI: [Interpretation] Registrar.

3 [Private session]

4 (redacted)

5 (redacted)

6 (redacted)

7 (redacted)

8 (redacted)

9 (redacted)

10 (redacted)

11 (redacted)

12 (redacted)

13 (redacted)

14 (redacted)

15 (redacted)

16 (redacted)

17 (redacted)

18 (redacted)

19 (redacted)

20 (redacted)

21 (redacted)

22 (redacted)

23 (redacted)

24 (redacted)

25 (redacted)

Page 52618

1 (redacted)

2 (redacted)

3 (redacted)

4 (redacted)

5 (redacted)

6 (redacted)

7 (redacted)

8 (redacted)

9 (redacted)

10 (redacted)

11 (redacted)

12 (redacted)

13 (redacted)

14 (redacted)

15 [Open session]

16 THE REGISTRAR: We are in open session, Your Honours.

17 MS. ALABURIC: [Interpretation] And now continuing on the same

18 topic, let's look at 4D719. This is a report about the situation in the

19 area north of East Mostar. We have seen the document a lot of times in

20 this courtroom. Let's look at it once again. The 4th Command of the

21 BiH Army controlled that area and established, I quote:

22 "... a great problem for the command of the operational group is

23 transport of civilian population and others marching in the direction of

24 north and south. That is why it is necessary for civil authorities to

25 take over the transport of civilians. There are huge problems with the

1 transport of wounded people and other things required by the town. There
2 is a need to repair the armoured transporter for this purpose and its
3 usage in night-time."

4 And just one more document about that topic. This is an excerpt
5 from Esad Sejtanovic's book. This is on page 184, and I quote -- I will
6 just read the last sentence. You see the entire chapter:
7 "By repressive measures, regrettably, we prevented the outflow of
8 the population and reduced any movement of population to the minimum."
9 I conclude, Your Honours, the Prosecutor's documents and
10 documents issued by the BiH Army and its members fully confirm the fact
11 that people could leave East Mostar en masse, that the population used
12 the routes available to them, but the Muslim authorities -- or, rather,
13 the BiH Army prevented the departure of civilians en masse. I am not
14 talking about the lawfulness of such procedures on the part of the
15 BiH Army, but I believe that it is very important in these proceedings to
16 put the siege of Mostar in context.

17 And now we are at the very end of our analysis of the
18 Prosecutor's final brief.

19 In paragraph 308 [as interpreted], the Prosecutor asks for a
20 sentence of 40 years, and the Prosecutor bases that request on the
21 following. The paragraph is 1308. Firstly, if we look at the speech,
22 that was never uttered, and then he bases the request on the order of
23 30th June 1993 about the isolation of the Muslim soldiers of the HVO and
24 military conscripts of the BiH Army who were also reserve force of the
25 BiH Army, and, as we said -- and as we showed, the decision was

1 legitimate and was issued for security reasons. A request for such a
2 sentence, the Prosecutor bases on the assertion that Valentin Coric
3 [as interpreted] ordered that POWs be used for forced labour, although
4 there is not a single piece of evidence in existence to show that any POW
5 performed any forced labour pursuant to Petkovic's order. Their request
6 further relies on the assertion that Mr. Petkovic, having issued orders
7 in July and August 1993, knew of the wounding and killing of people who
8 had to do the labour, although documents confirm that, first, such
9 knowledge was gained by Petkovic as late as September and October 1993
10 for the first time. Finally, their request is based on the assertion
11 that Petkovic participated in an orchestrated cover-up of the crime in
12 Stupni Do. The Prosecutor knows well that Petkovic, as deputy chief of
13 the Main Staff or deputy commander of the Main Staff, had no commanding
14 authority and could not independently take any action. He could only
15 work according to orders and instructions of his superiors.

16 As of 9 November 1993, Ante Roso was at the helm of the
17 Main Staff. We did not put forth a single piece of evidence in this
18 courtroom which would have to do with Ante Roso, the chief of the
19 Main Staff, and his opinion or position vis-a-vis the crimes committed in
20 Stupni Do.

21 This is what we wanted to tell you about the Prosecution final
22 brief, in its part which directly affects General Petkovic. We will now
23 go back to General Petkovic, himself, wishing to show you what was the
24 level of Petkovic's knowledge, his mens rea and actus reus in the
25 relevant period of time.

1 Let us look at document P279. I apologise for the mistake. We

2 have the wrong year recorded. The document is actually from 1992. This
3 is the speech that was not delivered, which the Prosecution stipulates as
4 the only item which would connect Petkovic with anti-Muslim activities
5 and the like. We once more wish to state that this speech was supposed
6 to have been delivered, but was not, at the meeting with municipal
7 representatives specified in paragraph 2. We also wanted to draw your
8 attention to the fact that in this speech that was not delivered, it was
9 recorded that still certain parts of the municipalities of Mostar and
10 Stolac were not liberated because parts of those municipalities were at
11 that point in time still under the control of the Serb forces.
12 Therefore, the topic of liberation and introduction of Croatian rule in
13 all municipalities referred to in the meeting was actually excluding the
14 parts of Mostar and Stolac that had not been liberated. As for the
15 interpretation of this speech that was never held, you can take our word
16 for it or you can take the word of the Prosecution for it.
17 However, we suggest that we view this document in the context of
18 other documents by General Petkovic to see what the true meaning of the
19 document is. The true meaning is also visible if we look at 4D830, which
20 is also P907. That is Petkovic's report for the period of 1992. In its
21 conclusions, it unambiguously states that HVO controls 90 per cent of the
22 territory envisaged as the Croatian entity. HVO, therefore, has no need
23 for any offensive operations, and it is stated that the HVO is fully
24 capable to defend the liberated areas. Furthermore, it states that HVO
25 controls 70 per cent of the free territory of Bosnia-Herzegovina. A

Page 52622

1 logical conclusion is that the remaining 30 per cent is controlled by the
2 Army of Bosnia and Herzegovina. Therefore, it is beyond dispute that the
3 free territory was seen to comprise both the territory held by the HVO
4 and the Army of Bosnia and Herzegovina. Finally, the sentence that is of
5 utmost importance is this:
6 "The Croatian people, having organised their own armed forces,
7 managed to defend not only themselves, but also the majority of Muslims."
8 In our view, it unambiguously confirms that it was not the
9 intention of either the HVO or the author of this report to undertake any
10 anti-Muslim activities. The goal was to defend both Croats and Muslims,
11 and that was the task of the HVO. It is also confirmed by the next few
12 documents, which we'll only touch upon.
13 Document 4D397, the 20th of June, 1992. Petkovic sent a letter
14 to the HVO in Konjic and Gornji Vakuf. Inter alia, he says:
15 "On behalf of Croats and Muslims, I beg you to overcome this
16 situation. As the members of the armed forces of Bosnia-Herzegovina, you
17 are bound to do that."
18 The next example is P633, an order of the 23rd of October, 1992,
19 to the HVO in Tomislavgrad. Petkovic states:
20 "Find and talk to those with the greatest responsibility and
21 influence."
22 The next document is 4D399 of the 16th of November, 1992, an
23 order to Zeljko Siljeg, commander of an operational zone. Petkovic
24 states:
25 "Get in touch urgently with the Command of the BH Army in

Page 52623

1 Gornji Vakuf to overcome mistrust ..."
2 The next document is 4D389, an order of the 16th of December,
3 1992, which Petkovic sent to Zeljko Siljeg and Tihomir Blaskic:
4 "In executing this order, achieve full co-ordination with

5 Bosnian Army units."
6 The next document, P1115, January 13, 1993. Petkovic issued this
7 order to the HVO in several municipalities. He states:
8 "Where possible, set up joint teams with the Muslim side to solve
9 the past or current conflicts."
10 The next document, P1190, January 18, 1993, Petkovic's letter to
11 the HVO in Central Bosnia. He states:
12 "Please avoid conflicts of any kind, because we and the Muslims
13 do not want our dispute to escalate again."
14 Document 4D433 of January 20, 1993. Petkovic issued an order to
15 the HVO in Konjic:
16 "Establish contact with the BH Army in Konjic ..."
17 The next document, 4D19, dated January 27, 1993. Petkovic
18 states:
19 "Resolve all disputes through negotiations ..."
20 February 9, 1993, document 4D75, Petkovic's letter to Halilovic:
21 "I looked forward to each new soldier, Croatian or Muslim,
22 because I knew that they had a common goal."
23 March 23, 1993, document P1709, a joint order by Petkovic and
24 Pasalic:
25 "Resolve all disagreements by joint agreements with mutual

Page 52624

1 understanding and readiness by both sides to make concessions."
2 April 18, 1993, Petkovic to all operational zones. It is
3 document P1959. Petkovic states:
4 "Establish communication with the BH Army Command ..."
5 Mostar, May 9, 1993. Let us recall the testimony of
6 General Petkovic at transcript page 49541, among others. As soon as
7 Petkovic had learned of the conflict, he advised Mate Boban to get in
8 touch with Alija Izetbegovic. He tried to contact Sefer Halilovic
9 personally. We see the result of that the next day, May 10, 1993.
10 Mate Boban and Alija Izetbegovic issue an order on a cease-fire. That is
11 document 4D456 and 4D457.
12 May 10, 1993, to May 12, 1993. Petkovic was with Sefer Halilovic
13 throughout that period of time. Their meeting resulted in an agreement,
14 which is P2344.
15 June 1, 1993, document P2599, Petkovic's order to all operational
16 zones:
17 "... negotiate with the Muslim side ..."
18 June 9, 1993, the fall of Travnik. Petkovic explains his
19 reaction upon having learned of the fall. It is page 49456 of the
20 transcript. Petkovic asked to meet Halilovic.
21 The next document, 4D1355, General Petkovic's interview to the
22 daily "Vecernji List" in August 1994. General Petkovic explains how he
23 had come to Bosnia-Herzegovina with the intention of staying for about a
24 month, but he remained longer. What is of importance to us is the
25 following: General Petkovic, in 1994, said that the results of fighting

Page 52625

1 the Army of Bosnia-Herzegovina were not very favourable for the HVO, but
2 the reason was probably in that the HVO had not prepared for a war with
3 the Muslim side. This is the truth, Your Honours. This is Petkovic's
4 truth. It may not be an absolute, objective truth, but it is the truth
5 of General Petkovic.
6 We are coming to the end of General Petkovic's closing arguments.
7 We pondered on what we should tell you by way of conclusion to indicate

8 what was the most important thing for General Petkovic at the time.
9 Therefore, we decided to show you a number of documents which would
10 indicate that the HVO was a legal armed force and that it was a part of
11 the armed forces of Bosnia and Herzegovina, as well as that all HVO
12 fighters in Bosnia and Herzegovina as it exists today honours their
13 service in the HVO, much as they do to all former members of the Army of
14 Bosnia-Herzegovina. This shows that the HVO was not a criminal armed
15 force put together in order to implement a criminal enterprise. It
16 fought for Bosnia-Herzegovina, much as the Army of Bosnia-Herzegovina
17 did. All rights that the fighters of the army are entitled to are also
18 extended to HVO fighters. We showed you those documents in our Annex 1
19 of the final brief. Perhaps we can have another look at them.
20 Document P2002, agreement between Halilovic and Petkovic. The
21 date is April 20, 1993. In item 1, it is stated:
22 "The B and H Army and the HVO are legitimate military forces of
23 the Republic of Bosnia-Herzegovina and are accorded equal treatment."
24 Document P2078 of April 24, 1993, a joint statement by
25 Izetbegovic, Boban and Tudjman. Inter alia, mention is made on the

Page 52626

1 agreement on the legal status of both the Army of Bosnia-Herzegovina and
2 the HVO.
3 The next document is P2091, annex to the aforementioned joint
4 statement signed by Halilovic and Petkovic. It is stated:
5 "The Army of B and H and the HVO will keep their individual
6 identities and establishment of the command."
7 "They will form the joint command ...," in item 2.
8 Document 4D1234, the Washington Agreement, in which both sides
9 are mentioned which were to establish a joint military command, that is
10 to say, the HVO and the Army of Bosnia and Herzegovina.
11 Document 4D826, Law on Armed Forces of the BH Federation, dated
12 1996. It is stated that:
13 "The Army of the Federation is composed of the formations of the
14 Army of Bosnia and Herzegovina and the Croatian Defence Council ..."
15 Your Honours, have a look at the second paragraph of this
16 document. In this document from 1996, it is stated:
17 [In English] "Peacetime forces are constituted of (civilian)
18 persons in the service of the Federation, conscripts and professional
19 troops."
20 [Interpretation] We wish to draw your attention to the language
21 "conscripts," the word "conscripts." As we have extensively argued, we
22 consider this to be a crucial notion in this trial. As shown in this
23 document in 1996, conscripts of the Army of Bosnia-Herzegovina were
24 considered members of the armed forces.
25 The following document is 2D628, the Law on the Rights of

Page 52627

1 Defenders and Members of their Families from 2004. It shows that the
2 same rights are enjoyed by members of the BH Army and HVO members.
3 Document 2D1183 is the Law on the Special Rights of Recipients of
4 War Decorations from 2005. We can see that extends to both members of
5 the BH Army and members of the Croatian Defence Council.
6 And the last document we're about to show is 2D1181, a decree on
7 old-age pensions under favourable conditions from 2007. We see that it
8 applies both to members of the BH Army and members of the HVO in the same
9 way.
10 Your Honours, we will finish by the break. We only have a few

11 final remarks.

12 Milivoj Petkovic and his Defence have never claimed that he is
13 infallible, neither as a man nor as a professional soldier. Maybe today,
14 based on all the information we have today, Milivoj Petkovic would have
15 taken some other decisions in his life and in his military career. It is
16 certain, however, that Petkovic came to Bosnia-Herzegovina in good faith
17 to defend, as a professional soldier, first and foremost, his homeland,
18 Croatia, which was attacked -- being attacked from the territory of BiH,
19 but also to help the Croatian and Muslim peoples to defend themselves in
20 Bosnia-Herzegovina.
21 He participated in the creation and development of the Croatian
22 Defence Council, as an army of both the Croatian and the Muslim peoples
23 in Bosnia-Herzegovina. Petkovic honestly believed that the Croatian
24 Defence Council was one of the armed forces of Bosnia-Herzegovina. All
25 BH legislation confirmed that today -- confirms that today.

Page 52628

1 Neither Milivoj Petkovic nor his colleagues planned to wage war
2 on the BH Army, nor did they prepare for that war. Maybe that is why the
3 BH Army was so successful in taking territory controlled by the
4 Herceg-Bosna authorities from April 1993 on.
5 Your Honours, we saw from numerous documents that Petkovic was
6 not a man of war. Remember his words from the clip that we showed to you
7 in our opening statement, Your Honours. I quote:
8 "It is better to talk for two years than to wage war for one
9 day."
10 This is Milivoj Petkovic.
11 General Petkovic gave testimony before you, Your Honours. It
12 wasn't easy for him. It takes strength to do that. General Petkovic
13 wanted to show you that all his acts were guided by military logic and
14 that were justified from the military point of view. They may not have
15 been the best, but surely they weren't criminal and most certainly not
16 directed against the civilian Muslim population.
17 We invite you, Your Honours, to assess the facts based on a
18 comprehensive analysis of all evidence and the correct determination of
19 the context of Petkovic's actions or omissions. We especially invite you
20 to establish precisely what the legal obligations of the chief of the
21 Main Staff of the HVO were under the legislation of Herceg-Bosna pursuant
22 to the decisions of the supreme commander.
23 Milivoj Petkovic was chief of Main Staff, and his position must
24 not be confused with the position of a military commander. We believe,
25 Your Honours, that in that case, you will find out that Milivoj Petkovic

Page 52629

1 hasn't committed any one crime, that the Prosecution failed to prove that
2 he ordered or instigated or aided or abetted anybody in the commission of
3 crimes or that he was -- or that he is in any other way criminally
4 responsible for crimes committed. An acquitting verdict will then be the
5 only correct decision.
6 This is the end of the Petkovic Defence final arguments.
7 I wish to thank you, Your Honours, for the good co-operation
8 during these five years. I would also like to thank my learned friends
9 from the Prosecution, who showed much understanding for our applications
10 to be awarded additional time. And we also considered that the
11 Prosecution must be given a chance to do a good job, because if they do,
12 that will place the Petkovic Defence in a favourable position as well.
13 I would like to thank our colleagues from the other Defences for

14 their co-operation. I would like to thank the Registry and all persons
15 who assisted us, and especially to the interpreters, with special
16 emphasis on the French booth.
17 Thank you.
18 JUDGE ANTONETTI: [Interpretation] Mr. Scott.
19 MR. SCOTT: Excuse me.
20 Your Honour, I know it's about time for the break, but at some
21 point today, and I just want to alert the Chamber or raise it with the
22 Chamber at the least inconvenient moment and without obstructing the
23 Coric closing that will begin in a few minutes, I can only assume --
24 Mr. Stringer and I and the Prosecution team can only assume at some point
25 the Chamber will want to hear thoughts in terms of connection -- requests

Page 52630

1 for rebuttal before we actually get up against that time, so that
2 everyone, including, of course, most importantly the Chamber, can plan
3 accordingly.
4 Based on what the Prosecution has heard so far, we do expect to
5 request a substantial amount of rebuttal. I don't know when the Chamber
6 will want to take that up. We're prepared to address it today, but we
7 just raise it and put it in the Chamber's hands so that that can be
8 addressed at the appropriate moment, but presumably not -- not at the
9 last minute, so to speak.
10 Thank you.
11 [Trial Chamber confers]
12 JUDGE ANTONETTI: [Interpretation] The Trial Chamber has taken
13 note of the Prosecutor's intervention. The Bench thinks that we are yet
14 to hear the closing arguments of the Coric Defence and the Pusic Defence,
15 and, therefore, it is only after that we will move on to that stage of
16 the trial when it's the Prosecution's turn for their response. Then we
17 will deal with your position, and not at this moment, while we will
18 entertain only the closing argument of the Defences.
19 We'll have a 20 minutes' break now, after which I will give the
20 floor to the Coric Defence counsel.
21 --- Recess taken at 3.45 p.m.
22 --- On resuming at 4.08 p.m.
23 JUDGE ANTONETTI: [Interpretation] We continue with the trial.
24 I give the floor to the Coric Defence.
25 [Coric Defence Closing Statement]

Page 52631

1 MS. TOMASEGOVIC TOMIC: [Interpretation] Good afternoon,
2 Your Honours. Good afternoon to everybody in and around the courtroom.
3 At the beginning of the closing arguments on behalf of the
4 Valentin Coric team, I would like to extend my thanks to everybody who,
5 with their committed efforts, have contributed to our bringing this trial
6 to an end, to the Judges, and all employees of the Chamber, my learned
7 friends from the Prosecution, and all Prosecution staff, my colleagues
8 from the Defence and all members of their teams, the Registry, the
9 technical personnel, the security guards, and especially our interpreters
10 deserve all our thanks, because without them, our voice would remain
11 unheard. I would like to use this opportunity to thank all those who I
12 may have forgotten to mention.
13 After several years of trial and after analysing the statements
14 of hundreds of witnesses contained in over 50.000 pages of the
15 transcripts and over 10.000 documents, two weeks ago we were able to hear
16 the Prosecution's final and best arguments. We listened to the

17 Prosecution closing arguments patiently. For all of us who have seen all
18 evidence in this trial and heard all witnesses, both the Prosecution as
19 well as Defence witnesses, it was difficult to listen to the Prosecution
20 closing arguments patiently. It was just as difficult as it was to read
21 the Prosecution final brief. It was difficult, Your Honours, because
22 both the Prosecution final brief and their closing arguments were
23 intended to divert the attention of the Trial Chamber from the evidence
24 led, but instead wanted to focus the attention of the Trial Chamber to
25 insinuations instead of concrete facts.

Page 52632

1 Your Honours, at the end of their closing arguments, the
2 Prosecution mentioned the victims of various conflicts throughout human
3 history, including the victims of the Holocaust. Every victim, even if
4 it's one single person, deserves justice. And the Valentin Coric Defence
5 deeply and honestly sympathises with each victim, but not one of the
6 victims mentioned, not even the victims of Hiroshima and Nagasaki, cannot
7 be compared with the Holocaust for one important reason. Terrible as
8 their fate may have been, and as much as we all may sympathise with them,
9 all these victims were members of warring parties, whereas the victims of
10 the Holocaust were not. They were systematically exterminated only
11 because they were Jews.
12 After the closing arguments of the Prosecution, I was thinking
13 how I should start my closing arguments, and then something occurred to
14 me that I had heard some time ago from a more experienced and wiser
15 colleague. She said to me, When a common man reads the contents of an
16 indictment in the media, for that common man, the accused is already
17 guilty, he is as good as convicted.
18 Talking about the judgement of the public, there is no principle
19 that nobody is guilty until his guilt is proved beyond reasonable doubt.
20 Why am I saying that? Because during the closing arguments of the
21 Prosecution, we heard the indictment once more. But, Your Honours, we
22 are -- we do not stand trial before the public or a lay jury. These
23 accused are being tried by professional Judges who, based on the analysis
24 of all evidence, will individually and, together with all other Judges,
25 will decide whether this Prosecution was able to prove the allegations in

Page 52633

1 the indictment beyond reasonable doubt.
2 At the end of his closing arguments, my learned friend Mr. Scott,
3 in the manner of a true knight of international justice, appealed to the
4 Court to listen to the voices of the victims. Your Honours,
5 international justice includes satisfaction for the victims, but not in
6 line with the Machiavelli's principle of achieving your goal at any cost.
7 International justice was -- protecting the rights of the victims,
8 includes establishing the truth and protecting the rights of the accused.
9 International justice means that this Prosecution must prove the
10 defendant Valentin Coric guilty beyond reasonable doubt.
11 The Prosecution wishes to present itself as knights of
12 international justice. With all due respect for my learned friends from
13 the Prosecution, Your Honours, in the case of Valentin Coric, this
14 Prosecution has not acted in the least knightly. In their closing
15 arguments, the Prosecution asserted that some Defences, in their final
16 briefs, used linguistic gymnastics and a selective presentation of
17 evidence. Your Honours, in the case of Valentin Coric, the Prosecution
18 did all that and more. It ignored the statements of their own witnesses
19 when it didn't suit them. The same documents were interpreted in

20 different ways, depending on which one of the accused it pertained to.
21 They fabricated facts that were not to be found in the documents. This
22 is not the way one acts who struggles for international justice and the
23 rights of victims. That is the way one acts if he or she wants victory
24 at all costs. The Coric Defence, during its closing arguments, will
25 show, by presenting several examples, that these are not merely hollow

Page 52634

1 words.

2 In their final brief, in paragraphs 982, 993, 1039, and in their
3 closing arguments, the Prosecution, in order to show that my client was
4 committed to the project of some Greater Croatia, quoted part of a
5 publication that says that people were selected for the military police
6 who were faithful to the Croatian idea and the homeland. The document
7 I'm referring to is P8550. Whenever the Prosecution, in their final
8 brief, tried to prove this thesis, it relies on this very document, one
9 document only. The Prosecution does so because no other proof can be
10 found in over 10.000 documents that have been presented in this trial,
11 and they were unable to find anything else even in the statements of
12 hundreds of witnesses.
13 The Prosecution ignores the answer of a protected witness, who is
14 questioned what this Croatian idea is that is mentioned in this
15 publication, although no other witness has testified about that. The
16 transcript pages are 51316 through 51318. And the witness said that in
17 1992, when the war started in Bosnia-Herzegovina, the homeland he was
18 fighting for was Bosnia-Herzegovina. He added that the Croatian idea for
19 the Croats in Bosnia-Herzegovina meant that they should be one of three
20 equal and constituent peoples. The witness said that was the way he
21 understood it and that it cannot be understood differently. Your
22 Honours, it doesn't really matter how the Prosecutor or the Defence
23 interpret documents pertaining to that period. What matters is the fact
24 how the witnesses interpret those documents and how they interpreted them
25 at the time.

Page 52635

1 My learned friend Mr. Stringer said that it is not as clear as to
2 how many Muslims would have been partisan to that idea which, according
3 to the Prosecutor, was a condition for a job with the military police.
4 My learned friend Mr. Stringer has probably failed to acknowledge that in
5 this case, there is ample evidence about the fact how many Muslims there
6 were in various units of the military police during the relevant period
7 of the indictment. The Prosecutor has failed to acknowledge that
8 Witness Andabak, on transcript pages 50949 through 50950, said that in
9 the battalion that he commanded, there were 30 per cent Muslims, which,
10 in numerical terms, meant a hundred men. The commander of the
11 2nd Light Assault Battalion was Muslim.
12 Another witness, on transcript page 51318, said that in another
13 military police unit, at first there were between 30 and 40 Muslims and
14 some dozen Serbs, and later on that there were over 50 Muslims and
15 anything between 10 and 15 Serbs.
16 Witness Desnica, a Defence witness, in his statement, 5D5109,
17 paragraph 9, was recorded as having said that Muslims and Croats alike
18 attended military training or police training.
19 I would like to draw the Trial Chamber's attention to documents
20 P2970 and P4850. Your Honours, all of those proves that Muslims in the
21 military police understood the terms "Croatian idea" and "homeland" in
22 the same way as the protected witness mentioned before, and not in the

23 way interpreted by the Prosecutor. This also shows that Valentin Coric
24 shared the opinion of the protected witness. Otherwise, he would not
25 have put forth a Muslim as the commander of a light assault battalion.

Page 52636

1 This is, Your Honour, the first example to show that the Prosecutor, when
2 he doesn't really have any proof for his arguments, instead of proof
3 which exists, offers to the Trial Chamber their own unproven and
4 unfounded interpretations of the documents.
5 In their final brief and in their closing arguments, in
6 paragraph 982 and 986, the Prosecution for the first time tried to extend
7 the alleged criminal responsibility of Mr. Coric by referring to his
8 appointment to the duty as a minister of the interior in November 1993,
9 as well as all of his other appointments within the Croatian Republic of
10 Herceg-Bosna throughout 1994 and 1995. It is inappropriate and too late
11 for the Prosecution to offer arguments that did not exist in the
12 indictment, arguments which were not presented during trial. It is too
13 late to do it now. Both the indictment and the pre-trial brief limited
14 the scope of Coric's alleged criminal responsibility to a period up to
15 November 1993, and during that period they limited his responsibility as
16 the chief of the Administration of Military Police, and you can find this
17 in paragraphs 12 and 17.5 of the indictment.
18 The Prosecution ignores the fact that as the minister of the
19 interior, Coric demanded the return of the civilian police from the
20 front-line. He wanted them to return in order to be able to fight crime.
21 This is corroborated by document P6837. The Prosecutor also ignores the
22 fact that Coric continued performing certain duties in
23 Bosnia and Herzegovina even after the war, or, rather, after the Dayton
24 Accords. He was a cantonal minister of the interior as well as the
25 deputy minister for civilian affairs in Sarajevo. This is corroborated

Page 52637

1 by document P9053. These appointments demonstrate that Mr. Coric was a
2 professional and not somebody who was rewarded for crimes against
3 non-Croats.
4 In their final brief, the Prosecution refers to several meetings
5 attended by Mr. Coric or at which his name was mentioned. The
6 Prosecution requests from the Trial Chamber to arrive at a conclusion,
7 based on those meetings, that Coric was a part of some alleged criminal
8 plan. In paragraphs 982 and 986 of the Prosecution's final brief, the
9 Prosecution claims that Coric was rewarded for his leading role in the
10 so-called Herceg-Bosna project, and that his appointment as the
11 Ministry of the Interior minister was approved by Tadjman, Boban and
12 Prlic.
13 As far as the leading role of Coric is concerned, I would like to
14 point out that there are documents on file which show that he attended no
15 more than four meetings of the HVO government. As you can see from the
16 documents P4111, P4275, P5799 and 2D8454, the only reason why Coric was
17 present at those four meetings was his duty to report about joint
18 operations by the military and civilian police in their fight against
19 crime, operations that were undertaken and which were planned. It arises
20 clearly from the minutes of those meetings that the participants in the
21 meetings, instead of discussing any kind of Herceg-Bosna criminal
22 project, they actually discussed the need for further empowerment of the
23 civilian and military police forces and creation of such an operative
24 plan according to which the civilian and military police forces would
25 work together with a view to fighting and stopping crime. The four

1 meetings which were held with a view to fight crime as efficiently as
2 possible, and if at those four meetings Mr. Coric had contributed to any
3 kind of project, such a project cannot be defined as illegal or criminal.
4 His appointment as the minister of the interior, which was based on his
5 role played at the HVO meetings concerning his efforts to prevent crimes,
6 certainly makes a lot of sense. The Prosecutor's negative conclusion,
7 which arises from the same meetings, does not have any logical basis and
8 doesn't make sense.

9 As concerns the meeting illustrated by document P6581, it should
10 be emphasised that it is clear from the minutes of the meeting that
11 Tudjman was hardly aware of Valentin Coric's existence. At that meeting,
12 Mr. Prlic stated that Coric was currently the head of the military police
13 and that he enjoyed a lot of trust among the troops. In this case, we
14 did not see any proof that would either confirm or disprove the alleged
15 statement by Mr. Prlic concerning the trust of the army.

16 The Prosecutor also refers to document P2099, quoted in
17 paragraph 984 of their final brief. The Prosecutor claims that Coric
18 also enjoyed support by Ivan Jarnjak. It also stems from the transcript
19 that Tudjman again didn't know who Valentin Coric was or at least didn't
20 know too well, and that Jarnjak's support was based only on the fact that
21 that gentleman, during that meeting, said that him and Coric used to bump
22 into each other in their karate club. It clearly arises from the
23 documents that Coric did not attend any of the two meetings and that
24 there is no single piece of evidence that would lead to a conclusion that
25 he was ever familiar with the contents of those meetings.

1 In their final brief, the Prosecutor on several occasions, for
2 example, in paragraphs 11, 236 and 1003, refers to a meeting which was
3 attended by Mr. Coric and General Praljak. The document number is P1788.
4 During their closing argument, the Praljak Defence already objected to
5 the authenticity and credibility of the handwritten notes. They
6 challenged their authenticity, and we're not going to go over the same
7 arguments again. In that part, we would like to join General Praljak's
8 Defence. Moreover, there is no link between Coric's presence at that
9 meeting and his participation with regard to the words uttered at that
10 meeting by Mr. Praljak. At that meeting, Coric answered questions about
11 the new organisation and the numerical strength of the military police.
12 And with this regard, he stated that the military police would adhere to
13 their former ways until a new agreement is reached. Valentin Coric's
14 words were not part of a political speech. They also did not present an
15 expression of any criminal intent.

16 The Defence would like to remind the Trial Chamber that
17 General Praljak, in his testimony, in answering questions by the
18 honourable Judge Antonetti, said that he had never engaged in any
19 political talks with Coric, nor was he ever familiar with Coric's
20 political views. You can find those words on page T-41499 of the
21 transcript.

22 In paragraph 364 of their final brief, the Prosecutor claims that
23 Jadranko Prlic, in his statement, document P9078, provided to the
24 investigator of this Tribunal, referred to Coric as a clerical fascist.
25 In that way, he ranked him among the group of people close to Tudjman and

1 thus responsible for the war crimes committed by the HVO. Your Honours,
2 this is simply not true. There is no place in that statement where
3 Jadranko Prlic referred to Valentin Coric as a clerical fascist.
4 Everything you can find in the document is the fact that Prlic and Coric
5 did have some misgivings and disagreements.
6 Your Honours, none of the aforementioned documents shows that
7 Valentin Coric had any kind of opinion, any kind of a political view,
8 which would be in favour of the secession of the HZ-HB from Bosnia and
9 Herzegovina and the creation of some sort of a Greater Croatia.
10 My learned friend Mr. Stringer, at the beginning of his closing
11 argument, referred to the judgements in the Kvocka and Krajisnik cases
12 and claimed that Coric's Defence had erroneously said that Mr. Coric
13 could not be convicted for his participation in a joint criminal
14 enterprise if his command responsibility was not simultaneously
15 established pursuant to Article 7(3) of the Statute. Although it is true
16 that these two legal forms of responsibility, pursuant to Article 7(3)
17 and for JCE 7(1) [as interpreted] are different, like in any other case,
18 that responsibility for the JCE pursuant to Article 7(1) must be
19 established using concrete facts in the case; in other words, before the
20 Trial Chamber.
21 In the Kvocka case quoted by the Prosecutor, the accused were
22 charged not only with ordering crimes to be committed, and orders being
23 given to their subordinates, but also participating in those same crimes.
24 In the Krajisnik case, there were also concrete facts which led to the
25 judgement the way it was handed down. However, let's come back to the

Page 52641

1 Prosecutor's case against Valentin Coric, because this is precisely what
2 the Trial Chamber has to take into account, and you will see why we are
3 claiming here that a responsibility, through Mr. Coric's participation in
4 the joint criminal enterprise, cannot be proven if at the same time
5 Coric's command role over the military police was not proven.
6 In the appeal judgement in the Kvocka case quoted by the
7 Prosecutor, paragraph 28 reads:
8 [In English] "If the Prosecution relies on the theory of joint
9 criminal enterprise, then the Prosecutor must plead the purpose of the
10 enterprise, the identity of the participants, and the nature of the
11 accused's participation in the enterprise."
12 [Interpretation] In paragraph 33 of the same judgement, the
13 Appeals Chamber elaborates that statement and says:
14 [In English] "The Trial Chamber can only convict the accused of
15 crimes which are charged in the indictment."
16 [Interpretation] Why, in their final brief, the Prosecutor did
17 not invoke the part of the indictment with relation to Mr. Coric, in
18 relation to Mr. Coric? Your Honours, if we look at the indictment,
19 paragraphs 12 and 17.5(A) to (N), in the pre-trial brief, the same
20 paragraphs, the nature and way of participation in the JCE that
21 Valentin Coric is charged with, we actually see that the Prosecution
22 asserted that Coric, based on military -- based on command responsibility
23 in the military police, participated in the JCE. That is why we assert
24 that the problem with ascertaining Coric's command line intertwines with
25 the issue of ascertaining his participation in the JCE. In the second

Page 52642

1 amended indictment, in the part which has to do with Mr. Coric, it only
2 states that he had de jure and de facto command and control over HVO
3 military police. The Prosecutor could now conclude that he should have

4 presented a better or different case against Mr. Coric. However, they're
5 stuck with what they had said previously.
6 In predominating jurisprudence, where the Prosecution need not
7 prove that there was a superior-subordinate relation between the accused
8 and physical perpetrators or indirect perpetrators, they have to prove
9 that the accused held at least some kind of authority position that could
10 have incited another to commit a crime following an order by the accused.
11 This thesis is further corroborated by the judgement in the Milutinovic
12 case in paragraph 87.
13 In our final brief, paragraphs 67 to 72, we presented a detailed
14 analysis about who it is exactly that the Prosecution asserts were
15 Coric's subordinates, and in the pages following that we explained in
16 detail whether Mr. Coric had a command role. And this is the topic I am
17 going to cover in the next part of my presentation.
18 The Prosecution and Petkovic Defence, in their final brief, offer
19 several different theories about who, when, and how, commanded the
20 military police. Let me cite a few examples.
21 In paragraph 988, the Prosecution asserts that Coric commanded
22 the military police, administratively and operationally. In
23 paragraph 683, the Prosecution submits that Praljak's subordinates,
24 including the military police, respected his superior authority. In
25 paragraph 684, the Prosecution submits that Praljak had command

Page 52643

1 responsibility over the military police, which had been re-subordinated
2 to him by Boban and Stojic for combat operations. In paragraph 686, the
3 Prosecution submits that Praljak commanded the entire spectrum of work of
4 the military police, not only their participation in combat operations.
5 Petkovic's Defence, in paragraphs 96 and 97 of their final brief,
6 state that the chief of the Main Staff commanded the military police only
7 when it was re-subordinated to him. In paragraph 99, the
8 Petkovic Defence state that the commander of the
9 Military Police Battalion in the operational zone was subordinated to the
10 operational zone commander, in terms of regular military police tasks,
11 and to the Military Police Administration when professional activities
12 were in question. In paragraph 103, the Petkovic Defence state that the
13 regular military police tasks were not within the remit of the chief of
14 the Main Staff, and that it was because of that, those military
15 commanders were subordinated to the head of the Department of Defence, in
16 terms of regular military policing tasks. In paragraph 106, the
17 Petkovic Defence submit that in relation to the military police units
18 within operational zones and brigades, there was a double chain of
19 command leading up to the military commander and the chief of the SIS or
20 to the Military Police Administration.
21 In several paragraphs of Defence 4D, such as paragraphs 99, 100,
22 106 and 204, they assert that the military police administration
23 commanded the military police.
24 Your Honours, different theories, which actually represent a
25 Plan A, a Plan B, or a Plan C, and so on, indicate that the party

Page 52644

1 offering so many different theories actually lacks any evidence to prove
2 beyond a reasonable doubt any of them.
3 The Coric Defence, as is well known in this courtroom, throughout
4 the five years of this trial and in its final brief, defended only one
5 thesis. The Coric Defence need not bother to construe different theories
6 depending on which turn the case takes because we based our arguments on

7 the evidence presented; not only documentary evidence, but also based on
8 witness testimony. Our thesis, which is what I'm going to remind the
9 Chamber about in the continuation of my closing argument, were confirmed
10 not only by the witnesses of the Defence 5D, but also by Prosecution
11 witnesses as well as the witnesses of the Defences of Mr. Petkovic and
12 Mr. Praljak.

13 Your Honours, concerning commanding over the military police, the
14 Coric Defence submits that the evidence in this case indicate the
15 following: The units of the military police were organised in five
16 battalions, four of which had their respective operational zone, and only
17 one did not have a standing territorial deployment. This is confirmed by
18 documents P936, P128, P957, and it was also confirmed by the following
19 witnesses: Witness Andabak, at transcript pages 50906 to 50908, 50912,
20 50915, 50917 to 50918, and 50920; CC, a Prosecution witness, at
21 transcript pages 10452, 10453, and 10458; EA, another Prosecution
22 witness, at transcript pages 24875 to 24880, and 24884 to 24886; OTP
23 Witness C at transcript pages 22520, 22521, and 22524 to 22527; as well
24 as NO, a witness of Defence 5D in his statement which was admitted in
25 this case as 5D5110 in its fourth paragraph.

Page 52645

1 The single battalion, without a standing territorial deployment,
2 could be sent to a specific operational zone following Mr. Coric's order.
3 In order to be able to do that, he had to receive an order from the
4 Main Staff which had previously been approached by the operational zone
5 commander to do so. This is confirmed by documents 5D4040, 5D4030, 5D4039,
6 5D440, and P5478. It was also confirmed by several witnesses, such as
7 Witness Andabak, a Defence witness of Defence team 5D, at pages 50911 and
8 50912; an OTP Witness C at transcript pages 22524 to 22527; EA, another
9 OTP witness, at transcript pages 24879 to 24881. That situation was
10 changed towards late July, but I will address that issue at a later stage.
11 In their daily tasks, the military police battalions were commanded
12 by operational zone commanders. This is confirmed by documents 5D5095,
13 5D4374, 5D4375, P2534, P4063, 3D2584, 3D1785, 5D2195, 5D4380, 5D1054,
14 P2548, P2640, P3135, 5D4392, 5D3052, 5D3046, P1913, P1972, 5D3044, 5D3019,
15 P5731, P3593, P5411, 3D798, P781, 5D2102, P4251, P1238, P2836, and P1359.
16 Since I don't have sufficient time to do so, I am unable to list
17 all such documents here. However, this issue was also confirmed by the
18 following witnesses: OTP Witness EA at transcript page 24876 to 24877;
19 OTP Witness CC at transcript page 10458 to 22527 and 22451 to 22453 --
20 sorry, I apologise to the interpreters. I seem to have skipped a line. OTP
21 Witness C at transcript pages 22524-22527 and 22451-22453. I apologise to
22 the interpreters, and will go back two lines because I forgot to read out
23 one witness. OTP Witness CC at transcript page 10458, Defence Witness, 5D,
24 NO at transcript pages 51181 to 51182, Defence Witness, 4D, Petkovic at
25 transcript pages 50249 to 50254 and 50260 to 50261; Defence Witness, 4D,

Page 52646

1 Pavlovic at transcript pages 46905 to 46907; Defence Witness, 5D, Andabak
2 at transcript pages 50906, 50907, 50917, 50918, 50934, 50935, 50939 to
3 50942, 50950, and 50951; Defence Witness, 5D, Vidovic at transcript
4 page 51512. There were also certain situations in which a commander --
5 the commander of an operational zone re-subordinated individual companies
6 or parts thereof to the commanders of his own brigades or to the
7 battalions contained in those brigades. This is confirmed by documents
8 5D2102, and P02846. It was also confirmed by Defence Witness, 5D,
9 Andabak at transcript pages 50934 and 50935.

10 Your Honours, daily tasks of the military police include all
11 those affairs which are part of the scope of work of the military police.
12 It is confirmed by documents 5781, P635, P4063, P1238, P1359, P2836,
13 P4251, P2534, 3D2584, 3D1785, 5D2102, 5D5095, 5D4374, and 5D4375.
14 THE INTERPRETER: Interpreter's correction: The first document
15 in this sequence is P781.
16 MS. TOMASEGOVIC TOMIC: [Interpretation] It was also confirmed by
17 the following witnesses: Defence Witness, 4D, Pavlovic at transcript
18 page 46905; Prosecution Witness C at transcript page 22325;
19 Defence Witness, 5D, Andabak at transcript pages 50917 and 50918; and
20 Defence Witness, 4D, Petkovic at transcript pages 50232 to 50260.
21 I will enumerate but a few of those daily tasks of the military
22 police: Securing facilities, bringing in deserters, control of entry and
23 exit in an area of responsibility, detection of crime, internal security
24 of military prisons, and taking part in providing security for POWs. It
25 is confirmed by documents P1148, P143, and P837. It was also confirmed

Page 52647

1 by the following witnesses: Defence Witness, 4D, Petkovic at transcript
2 pages 50232 to 50236, and 50349 to 50261 [as interpreted]; OTP Witness EA
3 at transcript page 24878 and 24879.
4 Your Honours, the daily tasks of the military police are regular
5 tasks that the military police carries out anywhere in the world. The
6 Coric Defence, therefore, simply fails to understand about which
7 professional activities the Petkovic Defence speaks in paragraph 99 of
8 their final brief. Apart from the active military police about which I
9 have just spoken, there was also the brigade military police. The
10 brigade military police was organised in platoons, and every brigade had
11 one such platoon in their structure. The brigade military police was in
12 all matters subordinated to the brigade commanders, just as any other
13 unit belonging to that brigade. The brigade commanders commanded the
14 brigade platoons. The brigade commanders selected personnel for these
15 platoons as well as appointed and -- appointed members of these platoons.
16 Brigade commanders were supposed to launch, and they did launch,
17 disciplinary proceedings against members of the brigade platoons of the
18 military police. This is confirmed by documents P4262, 5D538, P1099,
19 P4413, P990, P2595, 5D5106, 5D5107. This was also confirmed by
20 witnesses: The 5D Witness, Andabak, on transcript pages 50913 through
21 50928; the 4D Defence, Petkovic, on transcript pages 50226 through 50229;
22 Prosecution Witness CC on transcript pages 10449 and 10458; Prosecution
23 Witness C on transcript pages 22525 through 22527; and the 3D and
24 4D Witness Tokic on transcript page 45507.
25 Military commanders commanded the units of the military police,

Page 52648

1 no matter if we're talking about the brigade or the active military
2 police in combat operations. This was confirmed by the following
3 Prosecution witnesses: Witness CC on transcript page 10458; Witness EA
4 on transcript pages 24876 and 24877, as well as 24879 through 24880; then
5 there is Prosecution Witness C on transcript pages 22520 and 22540
6 through 22541; the next is the 3D Witness Skender on transcript page
7 45241; the 4D Witness Pavlovic on transcript pages 46894 through 46895,
8 and 46905; the 3D Witness General Praljak on transcript page 42692; the
9 4D Witness Petkovic on transcript pages 49791 through 49795; the
10 5D Witness Andabak on transcript pages 50933 through 50934; then the
11 5D Witness NO in his statement which was admitted as 5D5110 in paragraphs
12 4 and 5.

13 Your Honours, throughout the period covered by the indictment
14 while Valentin Coric was chief of the MP Administration, the military
15 police, in its daily tasks as well as in combat operations, was commanded
16 by military commanders in their respective zones of responsibility. That
17 was confirmed by 5D Witness Andabak on transcript pages 50909 and the
18 following. Why was that the case, Your Honours? Any operative zone
19 commander and, within that operative zone, any brigade commander had
20 their respective zone of responsibility. The zone of responsibility has
21 a certain depth and width, and includes not only the front-line, but also
22 a stretch of territory behind it. The depth is determined based on the
23 security assessment of the area commander, and it can go up to 10 or 15
24 kilometres. In one operative zone, where the zone of responsibility of
25 the commander of a brigade ends, the zone of responsibility of the

Page 52649

1 commander of another brigade begins. That is confirmed by documents
2 P4819 and P3135. It was also confirmed by witnesses: The 3D and
3 4D Witness Tokic on transcript page 45343; and the 5D Witness Andabak on
4 transcript pages 50943.
5 The commander of a zone was the person who knew best what was
6 happening in his zone. He knew where enemy positions were. He knew what
7 the security situation was like. He knew what the points of entry and
8 points of exit into or from his zone of responsibility were and where he
9 will set up check-points. He was the one who knew which forces he had at
10 his disposal. The following witnesses confirmed that: The
11 5D Witness Andabak on transcript pages 50943 and the following;
12 Defence Witness Skender, that is, 3D Witness Skender, on transcript pages
13 45310 and 45283; then 5D Witness Vidovic on transcript page 51453; the
14 3D and 4D Witness Tokic on transcript pages 45336 through 45547; then
15 there is 2D Witness Bandic on transcript page 38105. That is why,
16 Your Honours, this commander was the one who decided daily which part of
17 his forces, including the military police, would do what.
18 At daily briefings which had to be attended and, indeed, were
19 attended by the commanders of the military police, among others, assigned
20 tasks and received reports. That was confirmed by 5D Witness Andabak on
21 transcript pages 50932 through 50934, then 50940 and 51146. That
22 commander received written reports from all his units, including the
23 military police. That is confirmed by documents P970, 5D4385, P4063,
24 P2836, P1359, P377, P458. There have also been witnesses who confirmed
25 that: Prosecution Witness C on transcript page 22323; 5D Witness Andabak

Page 52650

1 on transcript pages 50931 through 50959; and 5D Witness NO in his
2 statement which was admitted into evidence as 5D5110. It is the fifth
3 paragraph of that statement.
4 What is the role of the commander in his zone of responsibility?
5 We can tell by reviewing document P3135. Colonel Obradovic states in
6 this document that he issues that order pursuant to the unlimited
7 authority that he received by civilian and military structures in keeping
8 with the widening of his zone of responsibility.
9 The following situation also proves that the commanders of
10 operative zones had effective control over the military police in their
11 zones. There are several orders issued by Valentin Coric to military
12 police in the case file, and these orders do not relate to professional
13 structures, staffing, or familiarising with legislation. In such orders
14 that relate to military police tasks, Valentin Coric in the preamble
15 invokes the Main Staff or some other high-ranking body. Why does he do

16 that if they are his subordinates? Why doesn't he simply say, Do it, as
17 he does in case of instructions? The only logical conclusion is the
18 following: Because these military policemen cannot carry out the order
19 unless they are allowed to do so by the commander of the operative zone
20 who commands them on a daily basis. And the superior of that operative
21 zone commander is the Main Staff, so if Valentin Coric invokes an order
22 of the Main Staff, the commander of the operative zone will not be able
23 to prevent the implementation of that order. This confirmed by documents
24 5D4282, P2020, P875, and P864. This thesis of the Coric Defence is
25 confirmed by the order on check-points, which is co-signed by

Page 52651

1 General Praljak, the head of the Department of Defence, and
2 Valentin Coric. I'm referring to document P875. The same document also
3 has an alternative number, and that is P876.
4 During his testimony, Mr. Praljak said that he co-signed that
5 order for it to have more weight. Your Honours, this order was issued to
6 the military police. This is recorded on transcript page 40539.
7 There is a sentence in the structure of the military police that
8 is used both by the Prosecution, in their brief, and also by the
9 Petkovic Defence. It says that the Military Police Administration is in
10 charge of and commands military police units. At first glance, this
11 sentence may be in contradiction with what I've just said, and I'm sure
12 that Your Honours remember that this caused much debate during this
13 trial. Probably this situation would remain unresolved to this day if --
14 hadn't we heard witnesses in this case, and the witnesses, loudly and
15 clearly, under oath and without second thought, said to this
16 Trial Chamber that the military police, in its daily tasks as well as in
17 combat operations, was commanded by military commanders, rather than the
18 Military Police Administration. This is confirmed by many documents, of
19 which I have mentioned only a few.
20 The witnesses confirmed that the Military Police Administration
21 was responsible for staffing, the provision of MP equipment, training,
22 and disciplinary proceedings against military police members. This is
23 confirmed by 5D Witness Andabak on transcript pages 50906 and the
24 following. This was also confirmed by NO in his statement which was
25 admitted into evidence as 5D5110.

Page 52652

1 Who commands the military police, and how, and what kind of role
2 the Military Police Administration has in this context is best
3 illustrated by Judge Trechsel's question to Defence Witness Skender and
4 the answer this witness provided. Judge Trechsel said:
5 "I don't think it is -- this is possible. We need to clarify
6 this. If there are two commanders who can give orders, that both are
7 entitled to do this, this would appear rather disorderly. Could you not
8 clarify this for us, please, in administrative terms? The military
9 policemen were still part of the Military Police Administration, whereas
10 as far as their work on the ground, while they are part of the brigade,
11 it is only the brigade commander who tells them what they must do on the
12 battle-field?"
13 [In English]
14 "A. Yes, that's right.
15 "Q. I think this had made things clear, and we have been able to
16 iron out some of these differences we had. Thank you."
17 [Interpretation] End quote.
18 And now I will just briefly say something about one part of

19 administrative authorities, those that the Military Police Administration
20 had vis-a-vis military police units.
21 The chief of the Military Police Administration, de jure, was in
22 a position to appoint company commanders and lower-ranking officers in
23 the units of active military police. When it comes to the battalion
24 commanders, he only -- he could only propose appointments. This is
25 illustrated, for example, by document P143.

Page 52653

1 The candidate for battalion commander in any operative zone was
2 pre-selected by a commission. For example, a commission for deciding on
3 the candidates for the commander of the 1st Battalion, one of the members
4 was a representative of the Main Staff, whereas the commander of the
5 operative zone was a member of a commission appointing commanders for
6 other active battalions. This was confirmed by Witness Andabak on
7 page T-50914 as well as document P960. However, the fact that some
8 commanders may have been selected unbeknownst to Valentin Coric, and the
9 examples for that are documents P3409 and P4494.
10 The example of Mijo Jelic is the best illustration of the extent
11 to which the Administration of the Military Police de facto participated
12 in the staffing policy. Mijo Jelic, Your Honour, was the commander of
13 the 1st Light Assault Battalion on the 2nd of July, 1993. On that day,
14 pursuant to Miljenko Lasic's order, and he was the commander of the
15 South-East Herzegovina Operative Zone, he was appointed as the commander
16 of one sector in the city of Mostar. Nobody consulted Valentin Coric
17 prior to that. Nobody even formally informed him about that. This is
18 proven by document P3117.
19 On the 6th of August, 1993, the chief of the Main Staff appointed
20 Mijo Jelic as the commander of the defence of the city of Mostar. Nobody
21 consulted Valentin Coric. Nobody sought his opinion yet again. This is
22 proven by document P3983.
23 It is true, Your Honours, that at that point Mijo Jelic was a
24 military policeman. However, when it comes to his destiny,
25 Valentin Coric could have as big a say as he could have if at that point

Page 52654

1 in time Mijo Jelic was, for example, a postman.
2 Let me give you another example as to what kind of authority
3 Valentin Coric had, or better said, didn't have over the military police.
4 Valentin Coric wanted to discipline a member of the military police.
5 However, General Praljak prevented him from doing that. General Praljak
6 said that he was the one who had operative command over that particular
7 military policeman. You will see proof of that in documents P3068 and
8 5D4394.
9 The Prosecution and the Petkovic and Praljak Defence teams claim
10 that it was only from the 28th of July, 1993, pursuant to Valentin Coric,
11 seen in document P3778, the military police was engaged and
12 re-subordinated to military commanders. In pleading their case, these
13 Defence teams go even further and say that the military police were
14 subordinated to them for a very brief period of time and for very
15 specific tasks.
16 Your Honours, I have just listed the names of all the witnesses
17 who confirmed that throughout all that time, the commanders of the
18 military police were military commanders, both when they were engaged in
19 combat as well as when they were performing their daily duties.
20 Your Honours, no order on re-subordination had to exist in order
21 for military commanders to be in command, and there is a simple reason

22 why such an order did not have to exist. The military police were
23 already re-subordinated to military commanders by their organisation.
24 Document P3778 is not a document testifying to re-subordination. This is
25 what it is: Before this order was issued, Valentin Coric, pursuant to an

Page 52655

1 order of the Main Staff, had to move the military police from one zone to
2 another, because they had their own permanent territorial deployment.
3 Likewise, he sent the 1st Battalion, pursuant to the Main Staff orders,
4 wherever the Main Staff wanted to send the battalion. This order which
5 Valentin Coric did not issue of his own will, but rather pursuant to an
6 order that he had already received from the Main Staff, completely throws
7 out Valentin Coric from the story. From that moment, military commander,
8 headed by the Main Staff, deployed military police units wherever they
9 wanted and whenever they wanted. This is confirmed by the fact that all
10 witnesses which I have already mentioned, in addition to Praljak and
11 Petkovic, confirmed that the de facto system of command over the military
12 police functioned equally throughout all that time in all of the
13 operative zones.

14 The following examples that show that military commanders
15 commanded over the military police, these are the examples for the orders
16 of military commanders for the daily tasks of the military police:
17 P3039, P3135, P2030, P2548, P1359, P2836 - I apologise, Your Honours.
18 Could you please bear with me for a moment - P2640, P1913, 5D2195,
19 5D4040, 5D3044, 5D3046, 5D3048, 5D3052, 5D3019, 5D1054, 5D4392, 5D4030,
20 5D5095, 5D4374, 5D4380.

21 And now the example showing that even before the order by
22 Mr. Valentin Coric was issued, commanded over military police in combat:
23 3D1785, 5D2102, 5D4387, 5D4385, 5D4382, 5D4375, 5D4376, 5D4377.

24 And now examples of orders issued by the Main Staff to the
25 military police via the Military Police Administration for their daily

Page 52656

1 tasks: P323, P708, 5D4282. There was no single order that went straight
2 from the Main Staff via the Military Police Administration for combat
3 activities.

4 And now examples of orders issued by the Main Staff, sent
5 directly to the military police without the involvement of the
6 Military Police Administration for daily tasks: P638, P377, P2534,
7 P1344, P933, P458.

8 And now examples of the Main Staff orders sent directly to the
9 military police for combat operations, without the involvement of the
10 Military Police Administration: P1888, P3117, P3128.

11 Your Honours, this may be a good time for our next break, I
12 believe.

13 JUDGE ANTONETTI: [Interpretation] Very well. I was waiting for
14 the last digit to enter the transcript. There are a lot of numbers.
15 It is, indeed, time to take our last break of 20 minutes.

16 --- Recess taken at 5.31 p.m.

17 --- On resuming at 5.50 p.m.

18 JUDGE ANTONETTI: [Interpretation] We continue.

19 You have the floor.

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

21 Another part of the Prosecutor's case, argued in their final
22 brief in paragraph 1058, as well as in their closing argument, as well as
23 in the Petkovic final brief in paragraph 95, is the fact that
24 Valentin Coric received combat reports. Your Honours, we assert that

25 Valentin Coric did not receive a single combat report. We also claim

Page 52657

1 that he did not issue a single combat order. A combat report has to
2 contain the following: Information about the enemy, including the
3 enemy's activities; deployment and future intentions; information about
4 one's own forces, including activities in the course of the previous day;
5 the technical deployment problems and how they were dealt with; losses;
6 requirements with regard to the materiel and technical equipment; as well
7 as other requirements. All this information has to be very precise.

8 This is proven by documents 5D4385 and P1915.

9 A combat order or an order for combat has to contain the
10 following: Information about the enemy; information about the enemy
11 forces; information about their technical equipment and deployment;
12 deployment of one's own forces and their precise combat tasks; the
13 description of signals and communications; the plan of movements; the
14 designation of command posts and strategic points; the designation of
15 artillery support; instructions and tasks which concern the security
16 organs and intelligence organs; instructions and tasks for the engineers
17 as well as the logistics men. This is proven by documents P3246, 5D4387,
18 P1933, P1932, P4719, P4777, P3117, and 4D1700. There is no evidence in
19 the case file proving that Valentin Coric ever received such reports or
20 ever issued such orders.

21 In paragraph 998, the Prosecutor claims that Valentin Coric
22 personally carried out the inspection of the front-line in Mostar, and
23 that after that he was the one who ordered that reinforcements should
24 arrive, and how they would be deployed. Of the nine documents invoked by
25 the Prosecutor, in that only one has something to do with the specific

Page 52658

1 situation. This is document P5657.

2 And now could we go into private session for a couple of minutes,
3 please.

4 JUDGE ANTONETTI: [Interpretation] Madam Registrar.

5 [Private session]

6 (redacted)

7 (redacted)

8 (redacted)

9 (redacted)

10 (redacted)

11 (redacted)

12 (redacted)

13 (redacted)

14 (redacted)

15 (redacted)

16 (redacted)

17 (redacted)

18 (redacted)

19 (redacted)

20 (redacted)

21 (redacted)

22 (redacted)

23 (redacted)

24 (redacted)

25 (redacted)

Page 52659

1 [Open session]

2 THE REGISTRAR: We're in open session, Your Honours.

3 MS. TOMASEGOVIC TOMIC: [Interpretation] Your Honours, the
4 Prosecution claims that Valentin Coric received, personally, to his
5 attention all the reports that were issued by every single military
6 policeman of the HVO. The Coric Defence has described at great length in
7 their final brief the system of reporting within the military police.
8 Therefore, we will not belabour the point now. I will just briefly say
9 that evidence on file and testimonies of witnesses demonstrate that when
10 it came to regular reporting, in case of active battalions, only summary
11 reports could reach Valentin Coric via the operative duty service.
12 Summaries compiled by the duty operations officers, who included into
13 those summary reports whatever events they deemed important. This was
14 confirmed by Witnesses Andabak, a Defence witness, on transcript
15 page 50931; Prosecution Witness C on transcript page 22560. This is also
16 corroborated by documents P420, P423, and P6722. Only in very rare
17 cases, only in very exceptional situations, were reports sent straight to
18 Valentin Coric.
19 As far as the brigade military police were concerned, the brigade
20 military police never sent their reports to the Military Police
21 Administration or to the military police battalions. The brigade
22 military police sent their reports to brigades. This, for example, was
23 confirmed by Witness Andabak on transcript page 50929. Another example
24 to corroborate that is document P4110.
25 How come that only the reports of the 5th Battalion of the

Page 52660

1 Military Police mention the activities of the brigade military police in
2 their area is a special subject which was dealt with by the Coric Defence
3 in their closing brief, so we will not belabour the point again.
4 The Petkovic Defence, in paragraph 106 of their final brief,
5 assert that with regard to the military police, there existed a double
6 chain of command, as well as that there were problems in commanding the
7 military police. They invoke two documents and a number of transcript
8 pages from the testimony of General Praljak. On those pages, there is no
9 mention made about this assertion by the Petkovic Defence. Witness NO
10 was shown these two documents, and he stated that no military commander
11 ever mentioned to him any double command chain with regards to the
12 military police. No one ever mentioned to him any problems which would
13 have to do with commanding the military police. We'd like to stress that
14 that witness, according to his own testimony, personally knew basically
15 all military commanders of the HVO. It was recorded at transcript
16 pages 51326 and 51328. Besides, in Mr. Petkovic's report for six
17 months -- for a period of six months in 1993, an entire spectrum of
18 problems is outlined, but not a single one has to do with the military
19 police. It is document P3642.
20 Your Honours, I'd like to draw your attention to document P4792.
21 In that document, the chief of the Main Staff ordered the commander of
22 the North-Western Herzegovina Operational Zone, Mr. Siljeg, not to let
23 through UNPROFOR vehicles, UN vehicles, and UNHCR vehicles through the
24 check-points, but that it should be done in a way so as to suggest that
25 it was done by the MPs manning the check-points of their own accord.

Page 52661

1 Your Honours, the Coric Defence submits that this is the best example to
2 illustrate how and why fairy-tales were constructed about the double

3 command chain and the recalcitrance of the military police.
4 At the beginning, I said that I will use the many examples to
5 show, inter alia, how the Prosecutor ignored their own witnesses and
6 testimonies when it was not to their advantage. They did so precisely in
7 this case when they were trying to show that Valentin Coric and the
8 Military Police Administration commanded the units of the military
9 police. Leaving aside the fact that the Prosecutor ignored a number of
10 Defence witnesses and their testimonies, even though some of them
11 appeared as Defence witnesses, contradicting the thesis put forth by the
12 representative Defences, Your Honours, the Prosecutors in this case
13 ignored their own witnesses, C, CC, and EA.
14 In spite of all statements by Prosecution witnesses, as well as
15 Defence witnesses, the Prosecution puts forth their thesis that Coric
16 commanded the military police by trying to show that through three
17 witnesses, Witness E and the accused Petkovic and Praljak. It is only
18 good fortune for the Prosecution that the accused testified. Otherwise,
19 after an investigation which took a number of years, and five years of
20 proceedings in this courtroom, and after a few hundred witnesses, the
21 only witness who could address that thesis would have been Witness E.
22 First, I'd like to deal briefly with the credibility of
23 Witness E.
24 Without any hesitation, the Prosecution declared the
25 Coric Defence Witness NO a war criminal, and all that about a man who has

Page 52662

1 never been charged, let alone sentenced, for a war crime. On the other
2 hand, without any hesitation, in order to corroborate their thesis, they
3 relied (redacted)
4 (redacted)
5 (redacted). I'd like to remind Your Honours that
6 there are exhibits confirming that in this case, which are 2D511, 2D512,
7 and 2D513.
8 Having analysed the testimony of the accused Petkovic and
9 Praljak, which was used in order to prove the Prosecution thesis against
10 my client, the Prosecution, in their final brief, said the following;
11 paragraph 3:
12 [In English] "This is especially true of the testimony of the
13 accused Praljak and Petkovic, who lied repeatedly when they were not
14 evading questions on important issues. Their self-serving testimony is
15 entitled to little weight."
16 [Interpretation] Paragraph 836:
17 [In English] "Praljak lied under oath."
18 [Interpretation] Paragraph 839:
19 [In English] "Praljak repeatedly lied to the Trial Chamber during
20 weeks of his sworn testimony, both in direct and cross-examination. When
21 he was not lying, he was evading giving direct answers to questions."
22 [Interpretation] Paragraph 840:
23 [In English] "Later in his testimony, Praljak distinguished
24 between vital truth and factual truth. It is not clear which of these
25 varieties of truth Praljak employed while testifying."

Page 52663

1 [Interpretation] Paragraph 862:
2 [In English] "Petkovic had great difficulty giving direct,
3 truthful and candid answers during his testimony."
4 [Interpretation] Paragraph 900:
5 [In English] "This Petkovic evasion again holds no water."

6 [Interpretation] Paragraph 935:

7 [In English] "Petkovic assurances cannot be believed."

8 [Interpretation] Similar or same qualifications the Prosecutor

9 repeats in paragraphs 650, footnote 1502, paragraph 746, 837, 838, 864,
10 867, 870, 873, 902, 905, 908, 909, 936, and 939.

11 Although in all these paragraphs the Prosecutor qualified the two
12 accused as notorious liars, they did not think twice before using their
13 testimony to confirm their thesis against my client, Valentin Coric, and
14 all that despite the fact that the testimony in question is contradictory
15 with the testimony of other Prosecution witnesses as well as Defence
16 witnesses of the same accused, Petkovic and Praljak. This, Your Honours,
17 is a very good example showing that the Prosecution, depending on who the
18 target is, offers different interpretations of testimony, assigning them
19 different probative value.

20 Your Honours, there is a possibility that a witness, though not
21 credible, sometimes may say something truthful. However, in order to be
22 trusted, what he said needs to be confirmed by someone credible, someone
23 that this Court can trust. However, if that witness speaks differently
24 from all the other witnesses who the Court can believe, and if such
25 testimony assists the person in question to be personally exculpated,

Page 52664

1 such a person cannot and must not be believed.

2 The Prosecution, in their final brief, say that Valentin Coric
3 hid behind his desk, pretending to be a clerk, a bureaucrat. Your
4 Honours, Valentin Coric did not hide then and is not hiding now. At the
5 time, Valentin Coric was prevented from taking part in the appointment of
6 military policemen. He was prevented from instituting disciplinary
7 procedures.

8 I'd like to remind Your Honours that Valentin Coric requested the
9 Main Staff to withdraw military policemen from the front-line. Proof of
10 that is document P5471 and General Praljak's testimony, who stated that
11 it was his decision not to meet that particular request by Coric. It was
12 recorded on transcript pages 40988, 40989, 42523 to 42527.

13 Your Honours, had Valentin Coric been the commander of the
14 military police, he would have withdrawn those men. He would not have
15 needed any -- Praljak's permission, nor would Mr. Praljak have been able
16 to decide on that. Valentin Coric's Defence is not shying away. Our
17 assertions are confirmed by evidence and credible witnesses.

18 I'd like to move on to another topic now.

19 The Prosecution, in paragraph 1036 of their final brief, assert
20 that Valentin Coric was informed on the 30th of January, 1993, of the
21 misconduct of the military police in Prozor. In doing so, the
22 Prosecution invokes document P1362, in which the brigade commander of
23 Rama, by the name of Zutic, states that no order was implemented unless
24 the military police had its own interest in doing so. By the same token,
25 mention is made of a problematic military policeman whose nickname was

Page 52665

1 Banja Luka.

2 Your Honours, first I'd like to draw your attention to an order
3 of that same brigade commander, Mr. Zutic, dated the 27th of January,
4 1993, that is to say, three days prior, in which he states, by sending it
5 to the military police:

6 "I order that at military police check-points in the area of our
7 municipality, the personnel staffing the check-points from the military
8 police should be informed of the following:

9 "1. No Muslim can traverse the area of this municipality;
10 "2. Buses travelling through the area of the municipality should
11 be controlled more carefully, and any Muslim found on board such buses
12 should be removed;

13 "3. Goods and cargo Muslims are trying to transfer through our
14 municipality should be seized."

15 This order is in force immediately, and the personnel at all
16 check-points should be acquainted with it. Your Honours, this is
17 document P1327. It is clear what the order in question is. The
18 Coric Defence asserts that the military police conducted themselves in a
19 legal fashion by not implementing this order.

20 Your Honours, I'd like to remind you that in document P1362,
21 referred to by the Prosecutor, the brigade commander mentioned the
22 military policeman by the nickname of Banja Luka as a problematic person.
23 In paragraph 1036, the Prosecution again asserts that this Banja Luka
24 person was a military policeman. Your Honours, not only that he was
25 never a military policeman, he was even declared unfit to serve the army,

Page 52666

1 as can be seen in the criminal report submitted against him, which is
2 document P4836.

3 In paragraph 1037 of their final brief, the OTP assert that
4 Miroslav Bralo was released from detention, although a criminal report
5 was submitted against him for murder, with a view to including him in
6 combat operations. The Coric Defence would like to
7 retrace [as interpreted] that the military police submitted a criminal
8 report against that person for the murder of a Muslim, and following that
9 report he was detained in the military prison Kaonik. It is clearly
10 illustrated by P1405. The Kaonik Military Prison was not under the
11 competence of neither the military police nor the Military Police
12 Administration, and they had no say over who could be released from
13 detention. The Kaonik Military Prison was under the authority of the
14 Central Bosnia Operational Zone, as indicated by document P1478.
15 In paragraph 1017 of their final brief, the Prosecution assert
16 that Coric, on 25 October 1992, was informed by Siljeg, commander of the
17 North-West Herzegovina Operational Zone, about criminal misconduct of the
18 military police. In paragraph 1018, they continue the story by saying
19 that four days later, which would be the 29th of October, a meeting was
20 held in Ljubuski, attended by Coric, and that it was there where he was
21 informed of that criminal conduct. Your Honours, first of all, that
22 meeting, which is in document P1350, was not held four days later. It
23 was three months later, in January 1993. In that document, there is no
24 mention of either Siljeg or any criminal conduct by the military police.
25 Quite the contrary, the military police was praised by those in

Page 52667

1 attendance. The problems discussed there concerning crime were the
2 technical issues the Crime Service was facing, which had nothing to do
3 with criminal acts. In other words, to assert that some criminal conduct
4 by the military police was discussed at the meeting is a simple
5 fabrication.

6 Let me return to Mr. Siljeg's report. Let me first refer to the
7 document the Prosecution cites, and that is P648. This document doesn't
8 deal with any sort of command conduct by the military police, which is
9 seen from the reply to that document, which is 3D424. Instead, the
10 document is about vehicles that the military police had taken from
11 thieves and which it was returning to the rightful owners. This was

12 confirmed by Witnesses Andabak and Praljak, and everything is explained
13 in detail in paragraph 617 of our final brief.
14 Now I would like to say a few words about the commander of the
15 North-West Herzegovina Operative Zone, whom the Prosecution cites several
16 times in their attempts to try to prove that the military police was
17 involved in illegal conduct. This operative zone commander, Mr. Siljeg,
18 is the same one the Prosecution points out in paragraph 880 of his final
19 brief as an example of a commander who uses abusive language when
20 referring to Muslims. This man, Your Honours, is the same one who,
21 although he knows perfectly well that at that point in time he had
22 prisoners in Prozor, lied to the Health Section of the Department of
23 Defence that he doesn't have any, and he goes on to say, You have no
24 right to issue orders to me. That can be seen in document P6203. That's
25 the same man, Your Honours, who was tasked by the commander of the

Page 52668

1 Main Staff not to let UNPROFOR, UN, and UNHCR vehicles pass and to
2 misrepresent it as arbitrary conduct of the military police. That's
3 document P4792. That man is the very same commander who, in the
4 document, gives instructions to conceal dead bodies, which can be seen in
5 document P1308. It's the same man who accuses the military police of
6 stealing tanker-trucks from the convoy, although he knew that these
7 tanker-trucks were in his possession. A longer story about this incident
8 can be found in our closing -- in our final brief in paragraph 748. This
9 is the same man, Your Honours, who follows orders to tidy up his
10 prisoners before the Red Cross arrived. That's P4188. This,
11 Your Honours, is the credible evidence that the Prosecution puts forward
12 against the military police and Valentin Coric. But with who does this
13 gentleman -- this commander have problems, Your Honours? He doesn't have
14 a problem with Franjic, for example. He doesn't complain of him. Well,
15 that's hardly surprising because that man, Franjic, is his own man, an
16 earlier brigade commander turned military policeman, and when he was
17 supposed to be arrested, the same Siljeg accepts him again as the brigade
18 commander. The entire chronology is described in detail in our final
19 brief in paragraphs 612 and 617.
20 I will tell you who was a problem for Mr. Siljeg. Your Honours,
21 it was Mr. Andabak who was a problem for him, the commander of the
22 military police battalion that covered his operative zone. And who is
23 Mr. Andabak? Mr. Zdenko Andabak continued his military career after the
24 war in the Armed Forces of Bosnia-Herzegovina. Mr. Andabak became
25 colonel of those armed forces, and he was commander of the

Page 52669

1 Combat Simulation Centre under the Training and Doctrine Command.
2 Mr. Andabak stated that on transcript pages 50904 and 50905, as well as
3 in document 5D5084. Mr. Andabak couldn't have become an officer in the
4 Armed Forces of Bosnia-Herzegovina if there had been a shadow of doubt
5 that he had ever committed a crime, especially a war crime against
6 Muslims.
7 I'm going to move on to another topic now.
8 In their final brief, the Prosecution asserts that Valentin Coric
9 commanded the Convicts Battalion and that Valentin Coric and the military
10 police tolerated the criminal activities of the Convicts Battalion and
11 its members. Under the Rules of Procedure and Evidence and the
12 jurisprudence of the Tribunal, it is impermissible for the Prosecution to
13 put forward a new thesis for the first time now, after five years into
14 the trial, in their final brief, and only now mention a new subordinate

15 over whom Valentin Coric allegedly had authority. The jurisprudence of
16 the Tribunal stipulates that all matters of substance shall be described
17 in the indictment in detail, including all allegedly subordinate persons
18 for whose acts the accused is -- was or is allegedly responsible under
19 Article 7(3), in order for the accused to be informed what he can defend
20 himself against. That is corroborated by various legal authorities who
21 we cite in paragraph 6 and paragraphs 67 through 72 of our final brief.
22 The indictment identifies as his subordinates only the military police of
23 the HVO, and thus informs the accused Coric of his potential
24 responsibility under Article 7(3). We can read that in paragraph 12.
25 Thus, this change in the Prosecution case at the very end of the trial

Page 52670

1 infringes upon the principle of a fair trial and the rights of the
2 accused and must be refused by the Trial Chamber.
3 In paragraph 1028, the Prosecution, citing a single document, for
4 the first time in this trial asserts that Valentin Coric had authority
5 over the Convicts Battalion and that he issued an order to them.
6 Your Honours, the document which the Prosecution cites is P1517, and it
7 is an order issued by Valentin Coric, but that order wasn't issued to the
8 Convicts Battalion, but to the military police, although mention is made
9 of the Convicts Battalion in the order. It can also be seen from the
10 document that Valentin Coric here doesn't act on his own, but rather was
11 ordered to issue this order.
12 The Prosecution tried to corroborate their assertion that
13 Valentin Coric tolerated the crimes of the Convicts Battalion without
14 reacting to them. They used several documents to that end. They cite
15 document P5477, which was sent to head of the Department of Defence. The
16 same document, only sent to or addressed to the chief of Main Staff, is
17 Exhibit 2D974. In this document, Mr. Vidovic from the Crime Service of
18 the Military Police warns the then chief of Main Staff of all problems
19 that they are facing due to crime and neglect of discipline in military
20 units, including the problems these units are creating at the Heliodrom,
21 and especially points out the situation in which the detained members of
22 the Convicts Battalion were released following Tuta's orders. In the
23 original document, as well as in the English translation, Vidovic calls
24 these criminals heroes, but the word "heroes" is in inverted commas. In
25 their final brief, paragraph 1034, the Prosecution, quoting from this

Page 52671

1 document, leaves out the inverted commas, and thus totally changes the
2 meaning of what Vidovic wrote and meant. This, Your Honour, is yet
3 another example of misquoting evidence by the Prosecution.
4 Based on that document, the Prosecution construes another thesis;
5 namely, that Vidovic, although he's a member of the military police,
6 contacts the Main Staff because he knows that he cannot expect help from
7 Coric. The Prosecution here prefers to construe something like that
8 rather than to accept the only logical conclusion to which anybody -- at
9 which anybody reasonable will arrive. Your Honours, it is clear and
10 logical that Vidovic contacted the Main Staff, because to Vidovic's
11 understanding, the Main Staff was superior to the armed forces and, due
12 to that fact, had the power and the authority to discipline Tuta, the
13 commander of the Convicts Battalion. This was confirmed by Vidovic,
14 himself, when he gave evidence before this Court so recorded on
15 transcript pages 51644 and the following.
16 The Prosecution construes the following from this, without any
17 foundation: that Coric was the one who released criminals from prison to

18 enable them to take part in combat operations. It is obvious from the
19 document which I have just quoted or which I have just cited that those
20 mentioned above were released pursuant to Tuta's rather than Coric's
21 orders, and that the military police informed the Main Staff about that.
22 Document P5891 contains another example in which Lasic, operative zone
23 commander, orders the release of another group of soldiers from
24 detention, and these soldiers were remanded in custody for a crime -- on
25 criminal charges. Your Honours, there is not a single order issued by

Page 52672

1 Valentin Coric along the same lines, namely, that criminals should be
2 released.

3 The Prosecution also, citing document P3928 in paragraph 1031,
4 assert that it follows from one sentence of that document that the
5 Convicts Battalion, pursuant to Coric's orders, enjoyed immunity from
6 criminal prosecution. That is simply untrue, Your Honours, because the
7 sentence in question can be interpreted either way. That is why it is
8 irrelevant why this sentence is interpreted by either the Prosecution or
9 the Defence. It is relevant how credible witnesses of that time
10 interpret it.

11 Witness Vidovic, in his evidence, explained that the criminal
12 offences of members of various criminal groups were registered, not in
13 order to tolerate their crimes, but in order to prepare a comprehensive
14 police and judicial operation against these criminals. Various HVO
15 bodies took part in these preparations, and this operation was eventually
16 carried out. This was confirmed by Witness Bandic and by Witness NO.
17 The Coric Defence has dealt with this in detail at paragraph 286 of its
18 final brief, and there is no need for me to repeat what has already been
19 mentioned there.

20 About the allegations in paragraph 1033 of the Prosecution final
21 brief about a particular incident, I would like to draw the attention of
22 the Trial Chamber to documents 5D2097, 5D2095, and P6893, as well as to
23 the evidence given by Witness Vidovic on transcript pages 51495 through
24 51497. It follows from these documents that not only were criminal
25 reports filed, but also an on-site investigation was conducted. We see

Page 52673

1 that both the military police and the civilian police took part in the
2 investigation, that the prosecutor was informed and so was the
3 investigative judge. The Coric Defence asserts, and I will go into more
4 detail later, that as of the moment when the Court and the
5 Prosecutor's Office are informed of the case, the police no longer has
6 any authority over the case. Instead, it's the investigative judge who
7 has authority.

8 To corroborate their thesis that Coric tolerated the crimes of
9 ethnic cleansing, the Prosecution several times, both in their closing
10 arguments and in their final brief, cite document P2802. In that report
11 of the military police for 15 June 1993, under the heading "Crime," we
12 can read the following: During the previous day, not one criminal
13 offence was recorded, not one incident; only the ethnic cleansing of the
14 town of persons of Muslim ethnicity has been recorded. From this
15 sentence, the Prosecution somehow drew the conclusion that it proved that
16 the military police considers ethnic cleansing not to be a crime. The
17 Defence asserts that the Prosecution's conclusion is completely wrong and
18 unfounded, and that is confirmed by documents P2769, P2574 and P2749.
19 It's about this same case that is described in the document cited by the
20 Prosecution. It can be seen from these documents that the military

21 police in this particular case went out on the ground upon receiving a
22 report that Stela and his soldiers were harassing Muslim civilians. It
23 is also obvious that these criminals said that they had been ordered by
24 their superior, Tuta. It can also be seen that the military police was
25 looking for one of them. It is obvious that the situation was verging on

Page 52674

1 armed conflict between the military police and the criminals.
2 Your Honours, it is also obvious that the military police immediately
3 reported to the Main Staff about the entire incident.
4 Your Honours, it is clear that at that moment, the military
5 police did whatever they could at that moment. The situation threatened
6 to turn into an armed conflict between two military formations, of which
7 one was acting on the orders of their superior, who was a criminal, and
8 the orders were of a criminal nature. Everything was happening in the
9 city among the civilians, and the only thing the military police could do
10 at the moment was to inform the Main Staff. They could only hope for
11 some assistance from their joint superior. That's why they addressed
12 him.
13 The Defence here would like to draw the Trial Chamber's attention
14 that in one of the documents, it says that the military police was
15 powerless, because instead of being engaged in proper policing, they had
16 to man the lines. Your Honours, it is precisely because of this type of
17 situation that Coric wanted the police to be withdrawn from the
18 front-lines.
19 The Prosecution offered a very ironical comment when they said
20 that light assault battalions normally do not engage in criminal
21 investigations. It is true, Your Honours, that they don't, they don't
22 engage in criminal investigations. However, imagine a situation when you
23 have only a few crime investigations [as interpreted] armed with nothing
24 but pistols. They cannot encounter dangerous groups, they cannot arrest
25 anybody. It is a notorious fact that in such cases, crime inspectors

Page 52675

1 need the support of intervention police, and in this particular case, the
2 intervention police would have been light assault battalions or units.
3 Your Honours, would the military police have undertaken
4 everything that they did, would they have issued several reports about
5 this incident, if that incident had been something completely normal for
6 them and if it had been something completely desirable? I'm sure that
7 they wouldn't. Likewise, they would not have included the incident under
8 "Crime" in document P2802 had they not considered the incident to be a
9 crime. Every other interpretation, Your Honours, is nothing but an
10 attempt to engage in some linguistic gymnastics, resorting to an
11 awkwardly-worded sentence in order to prove one's thesis, although all
12 other evidence point to a completely different and an only logical
13 conclusion. And I'd also like to say that despite the Prosecution's
14 claim, it is not true that the document bears the stamp of the military
15 police. The document bears the stamp of the 3rd Battalion of the
16 Military Police, precisely the unit to which the document was sent.
17 Your Honours, even the Prosecutor, in paragraph 293 of their
18 final brief, claims that the military police often reported about
19 infringements and crimes committed by Tuta's units. We claim that on the
20 case file there's a series of documents which show that police
21 investigations were undertaken against those people and that criminal
22 reports were filed. Due to the time restrictions, we're not in a
23 position to cite all of them. Therefore, we are pointing to just a few

24 of them: P6727, P6893, 5D4168, 5D4169, 5D5022.

25 In paragraphs 1046 through 1055 of their final brief, in the part

Page 52676

1 that concerns Valentin Coric, the Prosecutor claims that Coric commanded
2 the military police as well as supported the military police engagement
3 in combat, although he knew only too well that that would have a negative
4 impact on the policing, especially in crime prevention and fight against
5 crime. However, quite contrary to that thesis, the Prosecution, in the
6 same final brief in paragraphs 565 and 752, which concern the accused
7 Stojic and Praljak, asserts that Coric tried to intervene quite
8 legitimately in order to withdraw the military police from the front-line
9 in order for them to be able to fight crime. In paragraph 742 and 748 of
10 their final brief, the Prosecution admitted that General Praljak was the
11 one who obstructed Coric's request and that General Praljak was the one
12 who kept the military police on the front-lines. Your Honours, this is
13 yet another example how the Prosecutor uses the same facts and interprets
14 them in different ways, depending on the goal that they wish to achieve.
15 The Defence asserts that Valentin Coric, within the limitations
16 of his powers and abilities, did everything that he possibly could to
17 actively fight crime of all types. And just like the Prosecution asserts
18 in paragraphs 565 and 752, this is why he sent the request for the
19 military police to be withdrawn from the front-lines in order to be able
20 to do their normal policing. This is recorded in Exhibit P5471.
21 The Prosecutor's expert Tomljanovic confirmed
22 that the military police had manpower issues and that these issues
23 reflected negatively on their crime/combat capabilities, especially in
24 1993, when military policemen were engaged in combat. This was recorded
25 on transcript pages 6347 and 6348.

Page 52677

1 Moreover, in their final brief, the Prosecutor claims that the
2 Prosecutor Witness Biskic had a different position than Coric with regard
3 to the engagement of military police in combat, implying that the witness
4 did not agree with Coric's actions, and that Biskic was actually the one
5 who finally withdrew the military police from the front-lines once Coric
6 had left the position. Contrary to the allegations by the Prosecution,
7 in his testimony before this Trial Chamber, Witness Biskic didn't
8 criticise Coric. Actually, he absolutely supported his position, and he
9 totally agreed with the intentions and positions that arise from document
10 P5471, and that was recorded on transcript pages 15279 and the following.
11 Contrary to the Prosecutor's allegations, Biskic actually
12 testified that he wasn't the one who was in a position to withdraw the
13 military police from the front-lines. Actually, it was done by
14 General Praljak's successor, at his request. That was General Roso, who
15 was also the new chief of the Main Staff in December 1993. This was
16 recorded on transcript page 15282. Therefore, again in this case the
17 Prosecutor maintains a position contrary to the positions of his own
18 witnesses, one of whom is an expert witness. He erroneously interprets
19 the testimonies of their own witnesses. He ignores parts of testimony
20 which doesn't support his thesis, and all that with an objective to
21 confirm their construct at all costs, although that construct is not
22 founded in any of the evidence on file.
23 The testimony of Biskic was corroborated by
24 Defence Witness Vidovic. He said that behind document P5471 was a
25 sincere desire for the military police to withdraw from the battle-field

1 in order to be able to fight crime, and that was recorded on transcript
2 page 51518.

3 Defence Witness, 1D, the late Mr. Buntic confirmed that the issue
4 of the military police engagement in combat was discussed at HVO
5 sessions, and that was recorded on transcript pages 30566 and the
6 following.

7 Once all the evidence is reviewed, it's very difficult to
8 understand how the Prosecutor, based on document P5471, which is
9 Valentin Coric's request for the military police to be withdrawn from the
10 front-lines, can draw a conclusion that that corroborates a criminal
11 behaviour. Your Honour, Coric's intentions presented in that request
12 were honourable and sincere, which is corroborated by the fact that he,
13 in his capacity as the minister of the interior, already in
14 November 1993, immediately after having taken up the position, sent
15 another one, an almost identical request. However, at that time the
16 request concerned the civil police. Proof of that is document P6837.

17 The only possible and logical and viable conclusion which can be drawn
18 from this action of my client is that that was a benevolent and
19 appropriate step in the fight against crime.

20 Your Honours, I am about to embark on a somewhat lengthier and
21 bigger topic. So since I only have five minutes left, I would like to
22 conclude today and resume tomorrow.

23 JUDGE ANTONETTI: [Interpretation] Very well.

24 Madam Registrar is going to give me the account of the time that
25 you have left. I believe that you have another two and a half hours, but

1 Madam Registrar is going to give me the exact time.
2 Tomorrow, we resume at 2.15, and on Thursday we're supposed to
3 sit in the morning at 9.00. So tomorrow, we shall continue with the
4 Coric Defence arguments, and after that we will hear from
5 Pusic's Defence.

6 And I would like to wish everybody a good evening. Until
7 tomorrow.

8 --- Whereupon the hearing adjourned at 6.54 p.m.,
9 to be reconvened on Wednesday, the 23rd day of
10 February, 2011, at 2.15 p.m.

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25