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1 Wednesday, 1 July 2009

2 [Open session]

3 [The witness entered court]

4 [Accused Prlic and Coric not present]

5 [The accused entered court]

6 --- Upon commencing at 2.15 p.m.

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

9 THE REGISTRAR: Good afternoon, Your Honours. Good afternoon
10 everyone in and around the courtroom. This is case number IT-04-74-T,
11 the Prosecutor versus Prlic et al. Thank you, Your Honours.

12 JUDGE ANTONETTI: [Interpretation] Thank you, registrar.

13 This is Wednesday, July 1st, 2009, and I welcome everyone here,
14 notably Mr. Praljak, Mr. Stojic, Mr. Petkovic, and Mr. Pusic. I also
15 welcome the counsels from the Defence, notably Mr. Khan, who is always
16 with us, who seems to be in all courtrooms, morning and afternoon. I
17 also welcome Mr. Stringer and the people helping him, and all people
18 helping us also. I believe that Ms. Alaburic has something to say.

19 MS. ALABURIC: [Interpretation] Good afternoon to Your Honours and
20 everybody else in the courtroom. I wanted to respond to your offer of
21 yesterday that the additional time that I need for -- or additional time
22 for General Praljak's cross-examination I use the time that has been

23 accorded to the Petkovic Defence. I'd like to thank you once again for
24 giving us this possibility, and I'm sure that this was made in the best
25 of intentions, but I cannot accept that proposal for the following

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1 reasons, and they are reasons of principle: The Defence of
2 General Petkovic asked for additional time for examining the expert
3 witness, that is to say the accused Bruno Stojic, in keeping with the
4 guidelines issued, timely guidelines, and with the corresponding
5 explanations.

6 Now, our request for a total of four hours for the
7 cross-examination of this important witness was not accepted, but the
8 Honourable Trial Chamber gave us the right to cross-examine for a time of
9 one and a half hours. The Defence of General Petkovic, considering it to
10 be standard practice whereby the Defence has the right freely to
11 distribute the time it has been allotted for presenting its defence case
12 sent to the Honourable Trial Chamber on the 15th of December, 2008, a
13 notice informing them that they will use their own two and a half hours.
14 Approximately one month later, that is to say on the 12th of January,
15 2009, the Trial Chamber, proprio motu, as regards the notice by
16 General Petkovic, treated it as being an additional request for
17 additional time and refused that request.

18 The Defence of General Petkovic tabled a new request for the
19 reconsideration of the first decision and ruling and -- to appeal against
20 such a decision, but that request was rejected. Therefore, the Defence
21 of General Petkovic was not allowed, to the detriment of its own time, to

22 use its own time to use the Stojic Defence witness Mr. Dvor Marijan
23 during the time that it deemed necessary, that the Petkovic Defence
24 thought was necessary. We considered that thereby the rule had been
25 established whereby the Defence cannot distribute its own time in such a

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1 way as to extend the cross-examination of a defence witness from another
2 Defence team.

3 With every respect for the ruling and position taken by the Trial
4 Chamber, the Petkovic Defence, during the defence of Mr. Stojic, and
5 never again repeated the same request.

6 The proposal made yesterday, it seems to me that the Trial
7 Chamber changed its position on this topic. Now, to avoid any
8 misunderstanding with respect to your question, the Petkovic Defence at
9 this point in time is making an oral motion and requesting that the
10 Honourable Trial Chamber define its position with respect to the right of
11 using its own time by a Defence team in order to prolong the
12 cross-examination of the witness of another Defence team -- or, rather,
13 to define whether it is going to change the position it took during the
14 Stojic Defence case.

15 The Petkovic Defence considers that by changing the position on
16 this important issue the right of an accused to a fair trial would be
17 violated along the lines of Article 20 of the Statute, and Article 21(1)
18 of the Statute on equal rights and equality of arms for the accused.

19 Of course, it is possible that the Petkovic Defence has
20 erroneously evaluated the possible arguments as to the change in the

21 Trial Chamber's position, and therefore we expect that a decision on this
22 oral motion will be explained in the proper way, and the Petkovic
23 Defence, depending on how the decision is expounded, will see whether it
24 needs to seek legal remedies against that decision or not. If the
25 arguments put forward in the opinion of the Petkovic Defence are not

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1 contrary to the Statute and the rules of in Tribunal, then we will not
2 oppose such a decision. However, if we consider that by changing the
3 position on the part of the Trial Chamber one Defence team would be
4 privileged to the detriment of another, in this case General Praljak's
5 Defence and maybe the Petkovic Defence as well, we will oppose such a
6 change with respect to this important decision.

7 That is all, Your Honours, and thank you for your patience.

8 JUDGE ANTONETTI: [Interpretation] Well, the Trial Chamber will
9 deliberate on this and we'll issue a decision. Let me give the floor to
10 my fellow Judge, but personally, first I have something to say, something
11 that I wrote in a good number of opinions, and would I like to state it
12 again.

13 As far as I'm concerned, the cross-examination in its common law
14 sense, as resulting from the Rules of Procedure, is for the following:
15 It's whenever what the witness is saying is against your own interest.
16 Up until now, I really don't see how Mr. Petkovic's interest can differ
17 from those of Mr. Praljak. You'll have to demonstrate this to me. So
18 far Mr. Praljak has testified for dozens of hours, and I don't see where
19 or when he actually challenged or questioned Mr. Petkovic. First thing.

20 Second thing, this morning I was listening to other trials,
21 like -- because I usually do this to try, you know, and learn, and I was
22 listening to the pre-trial conference of Mr. Karadzic, and I noted that
23 in the time that has been allotted for cross-examination, Judge Bonomy in
24 person said that cross-examination would be allowed 60 per cent of the
25 time. I'm sure you know that here it's a hundred per cent of the time

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1 that is allotted. So we were extremely generous. I even believe that we
2 were excessively generous. We should have placed limits on this. The
3 problem is we placed no limits and now we run into problems.

4 Thirdly, we gave you an extra 45 minutes. You know, you only had
5 four hours. We gave you an extra 45 minutes which was taken from the
6 time that would the no be used by Mr. Pusic's Defence. So we were
7 lenient once again. You did not agree with this. The Trial Chamber
8 deliberated on this yesterday and said, Well, if Ms. Alaburic needs time,
9 well, she can just use her credit, the credit that she has. So this was
10 really extremely generous on our part. You still aren't happy with this
11 decision, and you're still coming up with the problem again, talking
12 about major principles, equality of arms, and so forth and so on.

13 Let me tell you, as far as I'm concerned, I can tell you as legal
14 professional that neither in the Statute or in the rules of procedure or
15 anywhere in any national documents do we have this problem, is there
16 anything on the limits of time. It's up to the Judges to decide, always.
17 We have to rationalise our time. We have to save time, and time, you
18 know, is not infinite. Of course not. And we have to take this into

19 account.

20 Of course, if during your cross-examination we note that there
21 are very important questions that require additional time, what do the
22 Judges do most of the time? You saw what we do here, you know, which is
23 something that is -- that is not done in other Trial Chambers. We Judges
24 put questions, you know, and the time that we use to put questions is not
25 taken, deducted from your allotment. So why do you complain? We could

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1 just, you know, not say anything, stay silent and let you operate. If
2 you'd rather have it that way, just tell us. But then instead of giving
3 you four hours, maybe we will give you an extra 20 or 30 minutes and we
4 will not put any question to the witness. But you're complaining, and I
5 really don't understand why you keep complaining.

6 You made your oral motion. Fine. You will get a decision to
7 answer this motion.

8 I don't know what my fellow Judges have to say. I'm sure that
9 they all have their own opinion, and my colleague Judge Trechsel wanted
10 the floor.

11 JUDGE TRECHSEL: Well, first of all of course I agree. We will
12 examine the question and give you an answer. But, I would indeed like to
13 hear with a bit more precision why you consider that the -- a change
14 which would -- if it is a change. I'm not aware that we actually ever
15 really discussed this. I'm not aware that we discussed it. But if we
16 now were to change the practice in that we would allow Defence teams to
17 make use of their time credit to cross-examine witnesses, in what way do

18 you consider that this could impair the fairness of proceedings?

19 MS. ALABURIC: [Interpretation] Thank you, Your Honours. I'd like
20 to thank Judge Antonetti and Judge Trechsel for their observations.

21 I'd just like to put right something that Judge Antonetti said
22 recorded on page 5, line 3. His Honour Judge Antonetti said that I did
23 not agree with the decision made by the Honourable Trial Chamber whereby
24 the Petkovic Defence would be given an additional 45 minutes from the
25 time remaining with respect to Mr. Fahrudin Ibrisimovic and the Pusic

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1 Defence. That assertion is not correct. I did not challenge that
2 decision in any way, nor did I require leave to appeal the decision. All
3 I did was yesterday at the beginning of the cross-examination, I said
4 that all the documents had been prepared on the assumption that I had six
5 hours, but if I did not have six hours, then I would skip over some
6 subjects and some areas. That's all I said. So in no way did I bring
7 into question the Trial Chamber's decision.

8 Now, Your Honour Judge Trechsel, I'm going to repeat what we
9 wrote in our request for reconsideration of your decision not to allow me
10 to use my own time for questioning an expert witness. I reminded you on
11 that occasion that for the presentation of the Prlic defence the Defence
12 teams were allowed to use their own time in order to extend the time for
13 the cross-examination of individual witnesses, and that is an indubitable
14 fact.

15 Now, believing that practice had been established thereby, I
16 asked the same right when it came to Witness Dvor Marijan. I can give

17 you lengthy explanations as to what organisation of time means to each of
18 the Defence teams and the possibility of discussing certain areas using
19 their own time and additionally examining the witnesses of other Defence
20 teams. Had I had sufficient time at my disposal to cross-examine Dvor
21 Marijan, perhaps I would not today using exactly the same documents
22 broach exactly the same topics with General Praljak as the witness
23 sitting in the chair at this point in time. However, at that time I did
24 not have enough time, and from Your Honours' questions I can understand
25 where the problems lie in understanding the competencies for bringing

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1 criminal procedures to bear and responsibilities -- criminal
2 responsibilities for crimes committed, and I consider that I had
3 sufficient time to clarify those matters using the Stojic Defence
4 witnesses who came into this courtroom to discuss precisely those topics.

5 Similarly, I consider that it is completely unacceptable that
6 during the Defence case of Bruno Stojic the rule was used whereby one's
7 own time was not used. And I'd like to remind you that none the Defence
8 teams in this courtroom after your decision with respect to the Praljak
9 Defence request for additional time with respect to Dvor Marijan posed a
10 similar request, because as far as we were concerned there was no dilemma
11 as to that being the position taken by the Honourable Trial Chamber.

12 Now, theoretically what can happen is this, for example, the
13 Stojic Defence, for example, has at its disposal some ten hours, I
14 believe, which it did not use for its own examination. Now, if you
15 change your position with respect to the right of using your own Defence,

16 and I'm only putting this as a hypothesis, as a hypothetical, the Stojic
17 Defence can then be brought in to a situation of being privileged whereby
18 at the detriment of their own time, using up their own time in
19 questioning General Praljak or General Petkovic without having to in
20 keeping with the guidelines table a request for additional time with the
21 Trial Chamber and explain the reasons for that, for that request.

22 Therefore, according to the guidelines we all have the right to
23 ask for additional time. That is indubitable. But we would like to
24 convince the Trial Chamber that our reasons are valid ones, and if we
25 succeed in doing that then there is no doubt that we will be allotted

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1 time, but if we change the practice with respect to using one's own time
2 credit or credit time, then we will enable other Defence teams outside
3 that rule to extend the time they have for the cross-examination of
4 witnesses from other Defence teams.

5 There, Your Honours, is what I wanted to ask you briefly, and if
6 we are going to appeal to the Trial Chamber decision, then we'll be
7 supplying further explanations.

8 JUDGE ANTONETTI: [Interpretation] Let me give the floor to
9 Mr. Stringer so he can tell us what his point of view is regarding what
10 you just said to give us grounds for your oral motion, and the Trial
11 Chamber will then deliberate and we'll issue a decision on this next
12 week.

13 MR. STRINGER: Thank you, Mr. President. Good afternoon to you
14 and Your Honours and to everyone else.

15 Beyond observing that we are in complete agreement with what the
16 president's just said about the generosity in terms of time that's been
17 granted, I think to all of the Defence teams, and the flexibility that
18 the Trial Chamber has shown at various times in accommodating the various
19 teams in their wishes to get additional time for cross, beyond expressing
20 our agreement with that, we don't have a position to take in respect of
21 the application by counsel. We don't support it, nor do we oppose it.
22 We think since it goes to cross-examination by the Defence, especially of
23 a co-accused, it's -- it's not for the Prosecution to take a position,
24 and so we will accept, obviously, whatever ruling the Trial Chamber makes
25 on that issue for now and also for the remainder of the Defence cases.

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1 MS. ALABURIC: [Interpretation] Your Honour, if you allow me just
2 one sentence. I think I'm duty-bound to give you my position as regards
3 the magnanimity or generosity regarding the time allotted to each Defence
4 team. If you are giving the example of the accused Karadzic who was
5 granted the right to cross-examine the witnesses to the amount of 60 per
6 cent of the time that the Prosecution gets, I would like to say that the
7 Petkovic Defence had far less time because we had only one-sixth part of
8 the time allotted to the Prosecution.

9 Other Defence teams are other Defence teams. That's not the
10 Defence of Milivoj Petkovic.

11 As regards the right to the cross-examination of witnesses on the
12 part of -- or called by other Defence teams, well, this is immaterial at
13 this point in time, and I don't think that this was a generous rule. I

14 think it was relatively strict, but I definitely do acknowledge the
15 effort of the Trial Chamber to give additional time to the Defence teams
16 for their examination of the witnesses whenever they could show cause for
17 that.

18 JUDGE ANTONETTI: [Interpretation] Very well. The Trial Chamber
19 will issue a decision on this, and Ms. Alaburic, you have the floor to
20 pursue your cross-examination.

21 Mr. Stringer?

22 MR. STRINGER: Thank you, Mr. President. Apologies to counsel
23 for this, but I -- while we're on procedure, if I could just make one
24 remark or comment for the Trial Chamber. Today we received -- I don't
25 know whether the Trial Chamber has seen it yet or not, but a letter came

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1 in from one of the accused, Dr. Prlic, and he's asking essentially for an
2 opportunity to make further submissions of documents. It's a letter.
3 It's not a motion from the Prlic Defence, and I just wanted to clarify
4 that for the record what the status of the letter is, because I want to
5 make sure that the Prosecution has an opportunity to respond to the
6 letter.

7 Our view is that, without getting into the substance of the
8 issue, my own view, if you will, is I remembered a recent ruling by the
9 Trial Chamber in which it was critical of notices that had been filed by
10 parties, and the Trial Chamber observed that it did not consider notices
11 to be motions under the rules and that it wasn't going to consider itself
12 to be seized of things said or asserted in notices so that it wasn't

13 going to issue any rulings on them, and I think the Prosecution position
14 is that in respect of the letter from the accused, it falls into the same
15 category or it should. It's not a motion, and our suggestion would be
16 that if the Prlic Defence wants to make this application by motion, it
17 should do so at which time then the Prosecution would file its response.
18 Otherwise, I'm not sure how we would be expected to respond to a letter
19 that's come directly to the Trial Chamber from an accused, and so we're
20 seeking the Trial Chamber's guidance on that.

21 JUDGE ANTONETTI: [Interpretation] Ms. -- could you please give us
22 some information on this?

23 MS. TOMANOVIC: [Interpretation] Good afternoon to the Chamber and
24 everyone in and around the courtroom.

25 Mr. Karnavas, yesterday, after receiving your decision manage to

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1 have it translated, and he took the translated decision to Mr. --
2 Dr. Jadranko Prlic in the detention unit. They discussed the decision,
3 but as of yesterday, no decision was taken on their part regarding this
4 decision of yours.

5 This morning Mr. -- Dr. Prlic spoke to Mr. Karnavas twice and
6 notified him of his wish to send a letter to the Honourable Trial
7 Chamber. Well, you've seen the contents thereof.

8 Now, what status the Trial Chamber will accord to this letter,
9 it's entirely at the discretion of the Chamber. If you want any
10 additional information or if you would like to have a hearing about the
11 status of this letter or to discuss it in any form, I propose that we

12 take 15 minutes of our time at the end of our hearing so that we don't
13 hinder Ms. Alaburic's cross-examination, and Mr. Karnavas will be here to
14 provide any additional arguments that you might require.

15 JUDGE ANTONETTI: [Interpretation] Ms. Tomanovic, very well.
16 Yesterday the Trial Chamber received the B/C/S version. We were awaiting
17 the translation. We obtained early in the afternoon, and obviously it
18 seems that the accused Prlic is directly calling directly upon the Trial
19 Judges with this letter. It's extremely polite. We have nothing to say
20 about this letter. There is a copy of this letter to the Prosecution as
21 well as to the counsels -- to all counsels of Defence, and he is raising
22 this problem in his letter, but of course he also says that it is a very
23 unusual way to proceed, to write a letter.

24 The Trial Chamber will thus deliberate on the legal status that
25 is to be granted to this letter, whether it will fall within the category

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1 of the famous notices that Mr. Stringer told us about. If that's the
2 case, then the Trial Chamber will say that the Trial Chamber only
3 authorises motions filed by the counsels, and because of that the Trial
4 Chamber will not look into this letter, or the Trial Chamber may decide
5 to have a different position, say that the accused is always entitled to
6 seize his Judges, after all, because there absolutely needs to be some
7 circuit between the accused and their Judges. And if that's the decision
8 we choose and that's the avenue we choose, then we will try to do decide
9 on this. But I'm always trying to find the hidden agendas, you know,
10 behind all these letters. I want to know what the real motivation was

11 for writing this letter.

12 Mr. Prlic should have told his counsel, "I don't agree with the
13 content of the Trial Chamber's decision so please make a certification of
14 appeal." That would have been the traditional way of doing things. If
15 he'd rather use another avenue, that might mean something. Maybe there's
16 something wrong, something I don't know about. You know, Mr. -- I
17 already told you, Ms. Tomanovic, the fact that Mr. Prlic does not want to
18 attend the trial means that something is wrong. He might feel that he
19 hasn't been heard correctly, that he is not being listened to, that he
20 has not been understood correctly, which might explain why he no longer
21 wants to attend the trial, thinking that maybe this is just a mock trial.
22 Maybe that's what he thinks.

23 I'm -- I already told Mr. Karnavas all this, because I wanted
24 Mr. Karnavas to try and convince Mr. Prlic come back in the trial. If he
25 had been here, you know, he might have been very useful during the

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1 examination of Mr. Praljak either directly or through his counsels. It
2 could have been very useful if Mr. Prlic had been there. It's always
3 better to be there, anyway.

4 He does say that he is following the trial. I hope he is, but I
5 think he would be in a better situation to follow the trial if he were
6 attending it, but you all know that this has to do with the fact that the
7 Trial Chamber did not admit the voluminous work that he did when he
8 drafted a huge document. You know, that was probably very useful to his
9 defence, but you know that for procedural reasons we could not admit this

10 document. It was impossible to admit it.

11 In its decision the Trial Chamber clearly told and showed you
12 that the document could very well be tendered at one point in time,
13 during Mr. Praljak's examination. He could stand up, he could have stood
14 up and said, "I made a study. I would like to admit -- I would like to
15 tender this document that I wrote because it might either confirm or go
16 against what Mr. Praljak is saying." It could have been a procedure that
17 could have been used, and the Trial Chamber thus would have been placed
18 in other legal situation.

19 I must say that in the 30 years of my career it's the first time
20 that I have an accused that does not -- that refuses to attend his own
21 trial. And coming from Mr. Prlic, I must say that I'm quite
22 flabbergasted, especially given the very high responsibilities that he
23 had at the time. So there is a problem some place, and maybe this matter
24 is just a fallout of this problem.

25 We'll take all this into account. We'll look at the human

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1 situation, the psychological situation, and the legal situation to try
2 and find a good solution that will satisfy the interests of justice, the
3 interest of your client and the interest of the Prosecution also.

4 Thank you.

5 JUDGE PRANDLER: Yes, I would like to say the following, that I
6 do agree, of course, with our President, what he has been saying. Just
7 for the record, I would like only to -- to read out the quote, two parts
8 of the letter which I believe are important. Again, let me say that of

9 course the Chamber will deliberate on this issue and will make its own
10 decision. So I believe that in the original letter, Mr. Prlic made two
11 important points, and I quote the first part of it when he said:

12 "I would like to take this opportunity to ask the members of the
13 Trial Chamber simply to grant leave to my Defence to file another motion
14 to introduce new evidence in accordance with the rules established by
15 this Chamber. Of course, no new documents would be introduced. No new
16 documents would be introduced. It is my opinion that this would not
17 constitute a precedent."

18 And now the second point which I believe that is important to
19 summarise and to -- and to quote, it is the following, that:

20 "I would like to take this opportunity to ask the members of the
21 Trial Chamber simply to grant leave to my Defence to file another motion
22 to introduce new evidence," but afterwards, actually the letter
23 continues:

24 "That I do not think that the appeals procedure, which as I
25 understand my Defence wishes to start, is necessary if my request is

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1 granted. I understand that it is outside the regular procedure.
2 However, it has a very clear and decent intention, to offer all the
3 parties in the proceedings the relevant documents to make a just ruling."

4 So I quoted these parts in order to shed light on the thinking of
5 Mr. Prlic, but again, as we agree in this Trial Chamber, we are going to
6 discuss this matter further and to -- to reach a decision on it.

7 Thank you.

8 JUDGE ANTONETTI: [Interpretation] Yes. I could add also the last
9 paragraph of this letter, Mr. Prlic wishes the Trial Chamber Judges all
10 the best in their -- in the procedure. So Mr. Prlic is also fully aware
11 that this trial must be held in the best conditions possible, and he
12 would like to contribute to this, and this is good news.

13 Ms. Tomanovic, you might tell him this. It would be even better
14 if he came back, you know, to attend his trial. That way he could give
15 us his point of view. He could actually tell us why the decision of the
16 Trial Chamber jeopardised something as far as he's concerned.

17 I never told any accused not to speak out. So he can come back.
18 He should come back. He should tell us everything, you know, that he has
19 against us and then we could continue with this trial, because it's not
20 good for him to be far from his trial.

21 Obviously, Mr. Prlic must be in despair, you know, and must feel
22 very poorly about being placed in this situation. I believe that
23 everyone now must chip in. He must understand that we do have a Rule of
24 Procedure and Evidence. Contrary to what some people think, it's a very
25 good regulation that really helps -- that allows us to do many things.

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1 It's a mixture between civil and common law. As far as civil law, a lot
2 of things are allowed. Of course, some items have been locked by -- in
3 practice by a number of Trial Chambers but it's only because one Trial
4 Chamber will not allow one thing that another Chamber must absolutely
5 abide by that. This is a very versatile Rules of Procedure and Evidence.
6 Judges can ask questions, for example, this is allowed in the

7 regulation -- in the Rules of Procedure. And in the Rule of Procedure an
8 accused can also complain and say why he's not interested with this or
9 that. So Mr. Prlic's interest is to come back in the courtroom to tell
10 us what's wrong. If it's a problem with time, the Trial Chamber has
11 already answered. The Appeals Chamber confirmed its -- the decision, but
12 we can ask the Appeals Chamber once again, you know. It's -- not
13 attending your trial is not a good thing. We were very surprised, you
14 know, the day he left the courtroom we were in confronted with a fait
15 accompli. We didn't expect this at all. No one expected this; whereas
16 as if he had opened his heart before, you know, and told us about what
17 was wrong, you know, we would have found a solution. We will study this
18 letter and we will issue a decision on this after having deliberated on
19 the question.

20 Mr. Stringer, you want to take the more again?

21 MR. STRINGER: Yes. Thank you, Mr. President, just to clarify.
22 If I understand correctly, the Trial Chamber is going to deliberate and
23 issue a decision, and the decision is going to be about what status to
24 give this so that the Prosecution knows in what we way can file our
25 response, because we obviously want to be able to respond in some fashion

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1 to the requests that are being made in this document, so I just wanted to
2 clarify that that's the decision that's going to be coming down as
3 opposed to a decision on the merits of the requests that are being made
4 by Dr. Prlic.

5 JUDGE ANTONETTI: [Interpretation] Absolutely, yes. It's on the

6 statute of this letter.

7 MS. TOMANOVIC: [Interpretation] If I may, just very briefly to
8 take some of Ms. Alaburic's time and to thank the Chamber for their
9 comments, since Dr. Jadranko Prlic is regularly reading the transcripts
10 from the trial, he will read everything that you have said, and I will
11 also inform him this evening as I do every evening after the hearing. We
12 discuss at length the developments at the trial, and I believe that
13 Dr. Jadranko Prlic will convey his opinion in a proper way to you.

14 And finally, let me say something that I should have said right
15 at the beginning but I forgot. Mr. Karnavas would like to apologise for
16 not being in court today. He's dealing with some administrative issues
17 that are very important that the Registry has asked him to do, and the
18 deadline is next Monday. But at any rate, if you wish to open any
19 additional discussion on this topic, he can be here within 20 minutes.

20 JUDGE ANTONETTI: [Interpretation] Very well. We will continue
21 with our cross-examination, but my fellow Judge Trechsel has something to
22 say.

23 JUDGE TRECHSEL: Just a very light observation. You have not
24 used Ms. Alaburic's time. It remains intact. Thank you.

25 MS. TOMANOVIC: [Interpretation] Thank you. Yes, I really would

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1 not like to get into any conflicts with Ms. Alaburic.

2 MS. ALABURIC: [Interpretation] Thank you very much. Thank you,
3 Your Honour, Judge Trechsel. I never doubted for a moment that this
4 minor slip of the tongue of my colleague Ms. Tomanovic would be corrected

5 by you and we always count on your interventions.

6 WITNESS: SLOBODAN PRALJAK [Resumed]

7 [Witness answered through interpreter]

8 Cross-examination by Ms. Alaburic: [Continued]

9 Q. [Interpretation] Mr. Praljak, good afternoon.

10 A. Good afternoon, Ms. Alaburic. Good afternoon to Your Honours and
11 to everyone in the courtroom.

12 Q. General, we stopped at the second model. The US army is waging
13 war in the US territory, and I have been thinking, trying to avoid any
14 question which would require you to provide a legal opinion of any sort,
15 so I thought that it would be best to phrase my question in the following
16 way: If you were the commander of the US army and if you were to defend
17 the USA on its own territory, would you consider that public law and
18 order would be something that the police would be taking care of and that
19 the perpetrators of any crimes would be prosecuted by the bodies that are
20 duty-bound to do so?

21 A. Yes. That's how it is actually done.

22 Q. If you allow me to use the phrases, the wording that you used in
23 your examination-in-chief, does that mean that you, as the commander, are
24 responsible for what's going on at the front line and that the
25 developments in the rear are something that the organs that have this in

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1 their jurisdiction would take care of that?

2 A. Yes, but if I learn of something, if I come across a crime in the
3 course of the commission and if no one else is aware of it, then I am

4 duty-bound to do that. They do it ex officio, but I am also duty-bound
5 if I learn of something to seek assistance from the organs in whose
6 jurisdiction it is.

7 Q. Well, we will deal with this in some greater detail later, but
8 for the time being let's just draw some conclusions.

9 So if we take these two models, the US army occupying Iraq and
10 the US army defending the US territory on its territory, now if we tried
11 to transpose those two models to Herceg-Bosna, what would you say? Is
12 the HVO operating in accordance with the first model or the second model?

13 A. We were not an occupying army. We did not occupy anything. So
14 we were simply -- we simply had behind us an organisation. Well, it was
15 a weak organisation, but such as it was, it was supposed to do its job as
16 best it could. It did its job but not well enough to prevent all those
17 things, but a lot was done.

18 Q. General Praljak, could you please tell me whether the civilian
19 authorities and the military authorities were in fact in embryonic
20 stages, were getting organised and were trying to deal with the situation
21 as best they could?

22 A. They were indeed an embryo, and those who don't know how
23 difficult it is to create a society, it takes decades, decades, and I
24 could be talking about that for hours. Legal professionals usually
25 believe that as soon as they issue laws, a state of law with the rule of

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1 law and order would ensue but that's not the case. Society is the most
2 complicated form in nature which sometimes takes decades to take off the

3 ground.

4 Q. Very well, General. Let's move on to the next topic. We're
5 still talking about documents in binder number 1, and the third topic is
6 the HVO as an element of the armed forces of the Republic of Bosnia and
7 Herzegovina and a Joint Command.

8 General Praljak, a lot of the documents in the binder are already
9 in evidence. I have included them, however, because I wanted to provide
10 the Trial Chamber to have as many documents in one place, because those
11 documents confirm that the HVO was a component of the armed forces.

12 Let's go through the documents together, and let's do it as
13 quickly as we can. The first document is P339, an agreement on
14 friendship and cooperation which was signed on the 21st of July, 1992, by
15 Franjo Tudjman and Alija Izetbegovic.

16 In bullet point 6, General Praljak, it says as follows:

17 "The armed element of the HVO is an integral part --"

18 JUDGE PRANDLER: Excuse me, Ms. Alaburic. I believe it is simply
19 a technical problem but to be sure. You said, I quote: "The first
20 document is P339," but I believe it should be 1339. Isn't it so? 1339.

21 MS. ALABURIC: [Interpretation] No, Your Honours. I called number
22 P399. This is the first document in the third group of documents. This
23 is the fifth topic on my list -- or, rather, in the binder, the fifth
24 topic, and [Previous translation continues] ... [In English] "armed
25 forces."

1 JUDGE PRANDLER: Thank you.

2 MS. ALABURIC: [Interpretation]

3 Q. General Praljak, we're looking at bullet point 6 where it says
4 and I quote: "The armed element of the HVO is an integral part of the
5 armed forces of the Republic of Bosnia and Herzegovina. The HVO will
6 have its representatives in a Joint Command of the armed forces of Bosnia
7 and Herzegovina."

8 General, in your opinion would this be an indisputable proof to
9 show that the HVO was part of the BiH armed forces and that together with
10 the BiH army it was supposed to establish a Joint Command?

11 A. Ms. Alaburic, I believe that I have spent hours talking about
12 this. This is indeed correct and there is nothing to add to this.

13 Q. General, I'm going to skip all the documents that are already in
14 exhibits in order to --

15 JUDGE ANTONETTI: [Interpretation] General, I have already asked
16 this same question to another witness, but the witness did not have your
17 political or -- knowledge or military competencies, and I think that you
18 can answer this question.

19 In the document -- the documents is an international agreement
20 signed by Mr. Izetbegovic and Mr. Tudjman. It is an agreement on
21 friendship and cooperation, a fairly traditional agreement according to
22 international law.

23 Looking at the Constitution of the Republic of Croatia, and you
24 know that I have already asked you several questions on that matter, I
25 had noticed that international agreements had to be ratified by the

1 Sabor. This specific agreement, was it examined by the Sabor? Was it
2 published by the official journal of the Republic of Croatia, or was it
3 an agreement that stayed as a confidential agreement on the shelf and
4 without the Sabor being -- knowing anything about it.

5 THE WITNESS: [Interpretation] The agreement was publicised. It
6 gained a very high profile in public on account of the fact that this was
7 an agreement that opened or provided prospects. Whether it was ever
8 published in the Official Gazette, I don't know. I've never checked that.

9 It was certainly something that was discussed at a session of the
10 parliament. The parliament has a scope of precisely defined activities
11 which enable it to restrict the foreign policy pursued by the president of
12 the state, such as army deployment, not being allowed to change borders
13 and so on.

14 Whether this type of agreement on friendship and cooperation
15 would fall within the remit of the parliament's work and ratification, I
16 can't tell you at this moment because I don't know. But I know some
17 other things, for example, what the president of the state could not do
18 without the approval of the parliament.

19 JUDGE TRECHSEL: Mr. Praljak, you will agree with me: If you
20 will tell us all the other things that you know we will never finish. So
21 I think it's better if we remain limited to the question.

22 I have another question for you with regard to this text, for
23 instance. On page 20, line 6 following, this afternoon you have said,
24 and I quote: "Legal professionals usually believe that as soon as they
25 issue laws, a state of law, that the rule of law, order would ensue, but

1 that is not the case."

2 Now, I have no idea wherefrom you take your ideas of what lawyers
3 think, because you definitely are not a lawyer, and I can assure you that
4 this is not what an informed lawyer thinks at all, on the contrary.

5 In this case isn't this an agreement which mainly is paper but
6 which never really came to life?

7 THE WITNESS: [Interpretation] Your Honour Judge Trechsel, my
8 experience gained in politics and working with legal professionals speaks
9 to the contrary. I've been listening to people, and I still listen to
10 people in the states that pass democratic laws. Only yesterday talking
11 about the ineffectual nonexistence of democracy. I heard that that was
12 the case in Hungary. A vast number of such people, and I will apologise
13 when I say, with all due respect, that I am familiar with law and even
14 fewer people are familiar with sociology and everybody speaks about
15 society. Please don't keep on telling me I'm not a lawyer. None of you
16 are a professor of sociology. None of you have read books. And they
17 still talk -- in other words, my experience --

18 JUDGE TRECHSEL: Stop.

19 THE WITNESS: [Interpretation] You put a question.

20 JUDGE TRECHSEL: I asked a question, yes. How much of this paper
21 was actually transferred into reality and did not remain paper? A
22 declaration of nice intents which, however, I would say history shows,
23 was not really serious and not implemented.

24 THE WITNESS: [Interpretation] The answer is as follows: On the
25 Croatian part we honoured everything. Croatia offered and implemented

1 a -- bullet point 4 where it says that they will help in the area of
2 jurisdiction and judiciary. Further on, diplomatic relations were
3 established on the Croatian part.

4 Then bullet point 10, the ministry did meet the ministry of
5 finance; for example, through that ministry Croatia assisted various
6 ministers of Bosnia and Herzegovina with performing their job and
7 travelling, for example.

8 Let's go on. Pursuant to this agreement, Croatia received the
9 refugees, raised humanitarian and financial aid. Croatia also helped
10 with every matter concerning sports and athletic competitions and sent
11 delegations and teams of Bosnia-Herzegovina to some large competitions
12 such as the Olympic Games. Croatia consistently advocated matters
13 mentioned under bullet point 1 which is was full equality of the three
14 constituent peoples, and the establishment of constituent units.

15 Croatia provided help with the delivery of electrical -- Your
16 Honour, you've asked me a question, did you not?

17 JUDGE TRECHSEL: Yes, and you are well aware of the fact that it
18 related to bullet point 6, and you're talking about all sort of different
19 things. Did that join --

20 THE WITNESS: [Interpretation] The agreement never took off the
21 ground, but bullet point 6 did.

22 JUDGE TRECHSEL: Well, we'll hear certainly about that. Thank
23 you.

24 MS. TOMANOVIC: [Interpretation] I apologise. This is a huge

25 mistake in the transcript. I don't know how this was translated into

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1 English. General Praljak actually said, Your Honour, Judge Trechsel, you
2 said that this agreement has never taken off the ground, and this is not
3 what General Praljak is saying, so it is not a dead letter on paper.

4 THE WITNESS: [Interpretation] I heard Judge Trechsel saying this
5 is another dead letter on paper, and I am disputing that, and I'm saying
6 that as far as Croatia is concerned, this agreement was honoured. It was
7 not honoured in terms of bullet point 6 as a result of total resistance
8 on the part of Mr. Izetbegovic and his generals. As far as Croatia is
9 concerned, it was honoured -- honoured in all of its elements, and it
10 would have been honoured even in bullet point 6, because we were trying
11 for almost two years to implement that as well, and there are other
12 documents speaking to that effect.

13 JUDGE ANTONETTI: [Interpretation] General Praljak, point 6 you
14 have two paragraphs. Now, you have in mind the first paragraph which is
15 on the way the army is composed and the HVO, and it was necessary to have
16 your point of view. But there's also the second paragraph which,
17 according to me, may be even more important, because we're here talking
18 about the joint criminal enterprise.

19 In the second paragraph it is said explicitly something about the
20 constitutional problems linked to the defence matters in Croatia.
21 Izetbegovic signed and seems that by signing this paragraph he recognises
22 the legality of the Croatian Defence Council, because there's an explicit
23 reference to the effect that it has to be compatible with the

24 Constitution of the RBiH.

25 In your recollection was there at the time at the level of

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1 Croatia, I'm not talking here about Bosnia and Herzegovina, any thoughts
2 on the legal and constitutional aspects of this questions. And actually
3 the conclusions we can see them in this second paragraph. And somebody
4 could actually draw the conclusion the fact that Mr. Izetbegovic does not
5 put into question the legality of the Croatian Defence Council.

6 THE WITNESS: [Interpretation] As far as I know, Mr. Izetbegovic
7 never questioned the legality of the Croatian Defence Council. All laws
8 that were adopted by the HVO and the HZ HB were expressly worded in the
9 following way: The Republic of Bosnia-Herzegovina, the HZ HB, until a
10 political internal solution was found. All the laws were interim laws,
11 and they were all in compliance with the Constitution of
12 Bosnia-Herzegovina. More or less all the laws were adopted from the
13 former Yugoslavia. The few lawyers that were down there of course could
14 not produce hundreds upon hundreds of new laws in such a short period of
15 time. A vast number of laws and regulations -- the regulations were
16 adopted by the Bosnia-Herzegovina from Yugoslavia, and HZ adopted their
17 respective laws from the federal republican laws. And if you will
18 remember Mr. Jaganjac's report where I say, "Okay, if the Washington
19 Agreement was indeed signed, then the HZ HB no longer exist." HZ HB was
20 not for its own purpose. It was in February 1993. There was nothing in
21 dispute on the Croatian side, and he conveys that as a message as Alija
22 Izetbegovic's advisor to his boss, and he says there's nothing in dispute

23 here. HZ HB no longer exists as soon as the agreement is signed. We
24 have already --

25 JUDGE ANTONETTI: [Interpretation] General Praljak, I have one

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1 last question. And I'm saying that you're testifying here under oath,
2 but you know, this means that I attach great importance to the questions
3 as well as your answers. This is a warning, that I'm giving you even at
4 all times.

5 As far as you remember, in the government of the Republic of
6 Croatia and the different meetings you attended, either at that level or
7 at the level of Herceg-Bosna, where you were either just a private or the
8 commander of the HVO, I would like to know whether you knew about the
9 decision made by the constitutional court which in its decision declared
10 that the Croatian Defence Council was illegal. We saw this decision, and
11 consequently, of course, all decrees made by the Croatian Defence Council
12 were illegal also. Were you aware of this? Did you know about this at
13 the time?

14 THE WITNESS: [Interpretation] Yes. Your Honour Judge Antonetti,
15 thank you for the warning. I am testifying here with full concentration.
16 I am very focussed, and I believe that my brain is still working quite
17 decently and properly. I am sharing with you everything I know. I'm
18 providing the best possible answers from the point of view of my
19 analytical and synthetical brain, and I'm providing you with very precise
20 information.

21 The decision arrived from the Supreme Court. However, this was

22 accompanied by a piece of information according to which the decision had
23 been reached in an illegal, unlawful way, that people who reached the
24 decision at the Supreme Court were only Muslims and that according to the
25 information that existed at the time, there had been no quorum. They

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1 were not in a position to reach any decisions. They even forged the
2 facts, and they said that a judge was there although he wasn't. So that
3 decision is what I'm saying, according to our view, did not have the
4 validity of a legal document for a simple. The conditions were the same
5 or similar to the conditions that were in place when the Republika Srpska
6 was proclaimed. So the existence of Republika Srpska and the
7 confirmation of the Serbian state, because that's its title in the Dayton
8 Accords, is not a document that brings people to the court for joint
9 criminal enterprise.

10 I'm still thinking logically, and I don't think that you can
11 avoid thinking logically at this Tribunal.

12 MS. ALABURIC: [Interpretation]

13 Q. Now, General Praljak, let's try and speak more precisely. You
14 mentioned the decision by the Supreme Court, and it was in fact a
15 decision of the Constitutional Court of Bosnia-Herzegovina; isn't that
16 right?

17 A. Yes, I misspoke. That's right.

18 Q. And let's be specific with regard to another point. The proposal
19 of the decision of the Constitutional Court. Judge Antonetti asked you
20 and said that the Constitutional Court was proclaimed by the HVO to be

21 unconstitutional. We have seen documents here according to which the
22 decision to set up the HZ HB was proclaimed unconstitutional.

23 A. Yes, that's correct. But since we're on the subject,
24 Judge Antonetti showed me the Constitution of the Republic of
25 Bosnia-Herzegovina. However, Judge Antonetti, in part of the

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1 Constitution it says the purified text of the Constitution passed by the
2 Presidency and that purified text does not mean that it was just simple
3 corrections, but they changed the Constitution. So they sifted through
4 the text and throughout what they did not want. It was a revised text,
5 actually. And so -- and the Presidency of a state enacts a Constitution.
6 Where does that exist, and it's all jumbled up. It's a jumbled up legal
7 act. I don't think we've seen that anywhere.

8 Q. Well, this is a very broad topic, and I'd like us to go back to
9 the questions we were discussing. Let's conclude.

10 Nobody of Bosnia-Herzegovina ever concluded that the HVO, either
11 the civilian section or the military section, would be unconstitutional
12 or unlawful; is that right?

13 A. That is right.

14 Q. Now, General Praljak, let's try and provide an answer about the
15 international ratification of agreements, a question raised by
16 Judge Antonetti, and he's asked the question several times and I'm going
17 to set aside some of my time to go into that area. And may we have on
18 e-court P19.

19 JUDGE TRECHSEL: I would still like to ask a question with regard

20 to the previous 00339 document. I think there can be no dispute that
21 this is an agreement between Croatia and Bosnia-Herzegovina. Would you
22 agree to that, Mr. Praljak?

23 THE WITNESS: [Interpretation] That's correct, Judge Trechsel,
24 Your Honour.

25 JUDGE TRECHSEL: Thank you. Now, if one looks at bullet point 6,

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1 it appears that obligations are -- are set up for the HVO. That is to
2 say, this is supposed to bind an entity which is not a party to the
3 agreement, because the HVO is neither identical to Croatia nor identical
4 to the BiH.

5 Now, by what arguments can one say that this agreement binds the
6 HVO? You may say that it's too technical a question and that you prefer
7 not to answer because you're not competent. I would absolutely accept
8 that.

9 MS. ALABURIC: [Interpretation] Judge Trechsel, if you'll just
10 allow me to follow -- with a follow-up question to ask the witness a
11 follow-up question, and let's start out from the introduction to this
12 agreement in which it is stated that the agreement was passed after talks
13 between the delegations of the Republic of Bosnia-Herzegovina and the
14 Republic of Croatia.

15 Now, General Praljak, in the delegation of the Republic of
16 Bosnia-Herzegovina, was there the Croatian component in that
17 tuce [as interpreted, and therefore in that agreement between two states
18 we have the provision which relate to the HVO as well.

19 A. Yes.

20 JUDGE TRECHSEL: Well, I'm not very happy by the way you have
21 organised and engineered this question, Ms. Alaburic. You have given the
22 answer, actually, in a tortuous way. What you have explained is obvious,
23 and I'm aware of that. It has nothing to do with the fact that here
24 there are obligations for a party which is not a party to this agreement,
25 full stop. The introduction does not speak of the HVO at all, and the

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1 HVO is something different from Bosnia and Herzegovina. I think there is
2 no answer to this question, and I think we should go on.

3 THE WITNESS: [Interpretation] The HVO is Bosnia-Herzegovina,
4 Judge Trechsel. The HVO is Bosnia-Herzegovina. Here you have talks
5 between two statesmen. One is from Bosnia-Herzegovina and the other is
6 from Croatia.

7 JUDGE TRECHSEL: Mr. Praljak. Mr. Praljak, we are sitting in
8 this trial for more than three years. This is the first time that I hear
9 someone pretend, and under oath, that the HVO is Bosnia and Herzegovina.
10 It is most definitely not, but you do not understand such matters, so I
11 will not hold it against you.

12 I think we should go on with the question, Ms. Alaburic, please.

13 THE WITNESS: [Interpretation] No. No. My answer was very
14 precise and no --

15 JUDGE TRECHSEL: Mr. Praljak. Mr. Praljak, it is enough. You
16 cannot speak as much and as often and on what you want. I have now asked
17 Ms. Alaburic to continue it, and that is what should happen.

18 MS. ALABURIC: [Interpretation]

19 Q. General Praljak, we're going to look at the transcript of that
20 discussion --

21 A. Just a minute, Ms. Alaburic. I'm not a chair here. I'm not just
22 a chair, and I should kindly like to ask Judge Trechsel when he makes a
23 point, which he can write down in a judgement, I'd like him to bear in
24 mind that I'm a witness for the truth. Not only just for Judge Trechsel
25 or anybody else but for the truth, and when I say that HVO is part of

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1 Bosnia-Herzegovina and is Bosnia-Herzegovina, I don't say that those
2 circles coincide, but it means that the HVO was set up to defend
3 Bosnia-Herzegovina. So the expression I used was quite clear and
4 understandable and truthful. If Judge Trechsel does not agree, then in
5 his judgement he can write down and say Praljak lied and I sentence him
6 to 20 years' imprisonment, but I'm a witness for the truth here and of
7 the truth, and I am talking the floor exactly what that answer warrants
8 or send me home and I'll stay in my cell.

9 Q. We have some ten documents to go through, General Praljak, and
10 they're going to show precisely what you're saying, and that's my
11 objective, to show the Trial Chamber that the HVO is in fact a part of
12 Bosnia-Herzegovina and that HVO, in fighting on the territory of
13 Bosnia-Herzegovina, is defending Bosnia-Herzegovina, and we'll come to
14 that little by little, step-by-step.

15 I'd just like to propose that we digress for a moment and try and
16 provide an answer to Judge Antonetti's question about the verification of

17 international agreements in the Croatian parliament.

18 MS. ALABURIC: [Interpretation] And for that I'd like to put up on
19 e-court document P19, which is the Constitution of the Republic of
20 Croatia from 1990, and let us look at Article 133 of that Constitution,
21 and that is the last page of the Croatian text and the penultimate page
22 of the English version.

23 Q. Article 133 is the one I'd like us to look at, and we can read it
24 all together.

25 "In which cases international agreements signed by the

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1 responsible individuals on behalf of the Republic of Croatia must be
2 verified in parliament and by parliament."

3 We have a situation, first of all, when that international
4 agreement which entails the passage or amendment of laws; secondly, when,
5 an international agreement of a military or political nature or another
6 international agreement financially binds the Republic of Croatia; and
7 third, international organisations by which international organisations
8 or alliances are granted powers, powers derived from the Constitution of
9 the Republic of Croatia?

10 JUDGE TRECHSEL: Could you say what you're quoting from,
11 Ms. Alaburic?

12 MS. ALABURIC: [Interpretation] Your Honour, I'm quoting from the
13 Constitution of the Republic of Croatia, which is document -- the
14 document that we can see on our screens, on e-court. We have it in our
15 binders, but this is an attempt to respond to the question raised by

16 Judge Antonetti, and it -- we are in fact dealing with Article 133 and
17 not 33 as the record says, but we have Article 133 up on our screens now.

18 Q. Now, General Praljak I'm in the going to ask you anything about
19 that because it speaks for itself, it's quite obvious, and I hope that
20 Judge Antonetti has now received an answer to the question that he was
21 rightly interested in.

22 Let's move on to other documents which had to do with the HVO as
23 a component part of the armed forces of Bosnia-Herzegovina. And the next
24 document for us to look at is the decree about the armed forces, the
25 decree law on the armed forces of Bosnia-Herzegovina where we can see

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1 that the HVO is a component part.

2 We're going to mix -- skip that document because it already has
3 exhibit status and move on to the next one which is 4D410. 4D410.
4 4-1-0.

5 THE INTERPRETER: Could Judge Trechsel's microphone please be
6 switched off, thank you.

7 MS. ALABURIC: [Interpretation] The next document is 4D1524.
8 4D1524. And this is a piece of information from the Chief of Staff of
9 the Supreme Command of the armed forces, Sefer Halilovic, in which at the
10 end of point 1 he says:

11 "The Army of the Republic of Bosnia-Herzegovina, within whose
12 composition are the armed formations of the HVO."

13 A. I can't find that document, Ms. Alaburic.

14 Q. It's the third document in order, but it's come up on our screens

15 on e-court, so you can take a look at it there. At the end of para 1,
16 Sefer Halilovic says -- he talks about the armed formations of the HVO
17 being a part. Now, General Praljak, to the best of your knowledge, Sefer
18 Halilovic in his documents, did he treat the HVO in the same way as a
19 component part of the armed forces of Bosnia and Herzegovina as we have
20 already seen?

21 A. Wherever it is to his advantage. When it was to his
22 disadvantage, then he failed to do that.

23 Q. Let me repeat the question. My colleague says it was not
24 transcribed, and my question was whether Sefer Halilovic in his documents
25 also described the HVO as a component of the armed forces of

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1 Bosnia-Herzegovina, and the answer has been correctly recorded, so we can
2 move on.

3 Now, the next document, General Praljak, is 4D1523, and that is a
4 document from the security administration of the Supreme Command Staff.
5 Take a look at the beginning of the second paragraph where it says that
6 in Zenica, in addition to the BH Army units, and then in brackets it says
7 what the BH Army comprises of, and then it goes on to say that there is
8 also the HVO.

9 Now, General Praljak, to the best of your knowledge was the HVO
10 in the Zenica area active as a component part of the armed forces of
11 Bosnia-Herzegovina?

12 A. Yes.

13 Q. All right. Thank you. Now, the next document is an exhibit. So

14 we'll skip that, but I'll give the number of the document so it's
15 recorded. It is 1D2077.

16 And the next document, which is also an exhibit, is document
17 1D2432.

18 Now, General Praljak, we'll stay with that document for a moment
19 because it's one that is signed by Alija Izetbegovic, and that is why it
20 is of special importance.

21 Let us look at point 1 of this order where he says:

22 "The armed forces of Bosnia and Herzegovina (the BH Army and the
23 HVO) ..."

24 Tell us, please, General, without a doubt Alija Izetbegovic, at
25 least the point at which he wrote this order, considered that the HVO was

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1 a component part of the armed forces of BH; is that right?

2 A. Yes, right.

3 Q. Very well. Now let's go on to the next document which is also an
4 exhibit, and it is a joint statement by Izetbegovic and Mate Boban dated
5 the 27th of January, 1993. The number of the document is P1329, and at
6 the end of point 2 it says that a Joint Command will be established.

7 Now, General Praljak, you told us that at that time you were
8 involved in the formation of a Joint Command for the two components of
9 the armed forces of BH. Was that how things stood? Is that how it was?

10 A. Yes, even before and after that. It went on for a year. There
11 were great efforts made in the course of a year, at least on the Croatian
12 side, to establish a Joint Command.

13 Q. Now let's look at the next document. It is 4D19, which is an
14 order issued by General -- well, he was a brigadier at the time it, so I
15 apologise, by Brigadier Milivoj Petkovic, and it refers to the
16 implementation of a joint statement made by Boban and Izetbegovic, which
17 we looked at earlier on, and in point 3, General Praljak, here it says
18 that: "At the level of the operation zones contact will be made with the
19 corresponding army commands in order to set up joint commands."

20 Now, my question to you is this, General Praljak: Is it true and
21 correct that these joint commands were supposed to be established at the
22 level of the operation zones and then united at the level of the Main
23 Staff -- or, rather, the General Staff of the BH Army?

24 A. Correct.

25 Q. The document number has been recorded, so we can move on to the

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1 next document, which is P1341. And it is an order, once again from
2 Milivoj Petkovic. It is the 28th of January, 1993, and once again based
3 on the joint order by Mate Boban and Alija Izetbegovic that we saw
4 earlier on, and what is being established here is a coordinating body for
5 the 4th Corps area -- or, rather, for South-east Herzegovina as far as
6 the HVO is concerned, and an order, and let's look at it together in the
7 lower left-hand corner, the order is being sent to the operative zone of
8 the HVO and the 4th Corps of the BH Army.

9 Tell us, General Praljak, to the best of your knowledge at the
10 end of January 1993, in conformity with all these orders and all the
11 previous activities, attempts were really made at establishing a Joint

12 Command; is that right?

13 A. Yes, and not only in this operative zone but in all the operative
14 zones where the HVO was in contact with the BH Army, and the parity was a
15 3:3 ratio, three Muslims, three Croats. And the coordinating body
16 selected people for appointment, and two of these, one Croat and one
17 Muslim, were politicians and the our four were soldiers.

18 Q. Look at the next document which is identical to the previous one,
19 but now it is issued by Commander Arif Pasalic on behalf of the BH Army.
20 It's 4D366. We're talking about the same people, the same coordinating
21 body. The order is completely identical in its contents as the one
22 signed by General Petkovic; is that so?

23 A. Yes, that's correct.

24 Q. We have our next document, which is an exhibit. It's P1467.
25 P1467. We will not dwell on that. So let us look at our next document.

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1 It's 4D1205. This pertains to the cooperation in the Central Bosnia
2 Operational Zone, or, rather, in the area of responsibility of the
3 3rd Corps of the BH Army.

4 General Praljak, this document confirms that in February 1993 the
5 two armies worked together, tried to resolve all the problems. Does that
6 correspond to your knowledge of the events in the field?

7 A. Yes.

8 Q. Did you take an active part in the efforts to calm the situation
9 down in Central Bosnia at that time?

10 A. I put in a great deal of energy and passion. A huge amount of

11 passion. At least those who know me know what I look like when I'm
12 passionate about something.

13 Q. So we looked at the documents from early 1993. Now I would like
14 to remind you that some of your statements -- of some of your statements
15 in the examination-in-chief so that we can perhaps confirm some of them
16 once again. You told us that after the Vance-Owen Plan was signed by the
17 representatives of the Bosnian Croats or Croats from Bosnia and
18 Herzegovina, that the Herceg-Bosna authorities thought that the war was
19 over, that Boban in fact ordered a demobilisation, and that everybody was
20 convinced, sincerely convinced that joint commands would be set up and
21 that that would be an end for any large-scale conflicts between the BH
22 Army and the HVO. Did I understand correctly what you said in your
23 examination-in-chief?

24 A. Yes, correctly. This plan was signed by Alija Izetbegovic too.

25 Q. In its entirety?

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1 A. In its entirety as far as the Croats were concerned. So -- well,
2 as regards the territory, the military, the constitutional principles, so
3 the essential elements were signed, and there was this sincere
4 conviction, first of all, that this marked the end to the conflicts, that
5 the Joint Command would be set up, and then Mate Boban, acting on the
6 basis of that belief, which was apparently unreasonable, reduced the
7 number of soldiers. Well, you couldn't even pay their salaries, so a lot
8 of them went abroad.

9 Q. Let us look at what is happening a couple of months later.

10 JUDGE ANTONETTI: [Interpretation] It's nearly a quarter to. I
11 think it would be a good idea to take a break. So you will continue
12 after the break. We'll break for 20 minutes, and we'll continue
13 afterwards.

14 --- Recess taken at 3.44 p.m.

15 --- On resuming at 4.10 p.m.

16 JUDGE ANTONETTI: [Interpretation] Ms. Alaburic.

17 MS. ALABURIC: [Interpretation] Thank you, Your Honour. I would
18 like to apologise to the interpreters because it appears that at the
19 beginning of our work today I was going too fast, and they told me that
20 in ten years they have not seen anything of that magnitude, so horrible,
21 and I really apologise and I will do my best to mend my ways.

22 Q. General Praljak, let us move on to our next document. That's
23 P2002. It's an agreement entered into -- in Zenica on the 20th of April,
24 1993, by Sefer Halilovic and Milivoj Petkovic in the presence of the
25 representatives of the international community, its organisations.

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1 Now, General Praljak, at this point in time I'm only interested
2 in paragraph 1, which states that:

3 "The BH Army and the HVO are legitimate military forces of the
4 Republic of Bosnia and Herzegovina and shall be accorded equal
5 treatment."

6 Now, my question to you, Mr. Praljak -- or General Praljak, I
7 assume that you were aware that this document was signed on the 20th of
8 April in Zenica?

9 A. Yes.

10 Q. And to your knowledge is it a fact that in other documents, not
11 only this agreement adopted at that time in April 1993, the treatment of
12 the two armies in Bosnia and Herzegovina was the same, they were treated
13 equally, at least in documents?

14 A. Yes.

15 Q. Our next document is an exhibit --

16 JUDGE ANTONETTI: [Interpretation] General Praljak, this
17 document -- now, I don't know if General Petkovic will testify, but if he
18 does, I will ask him a question.

19 General Morillon, did you meet him at one point?

20 THE WITNESS: [Interpretation] No -- or, rather, yes. On one
21 occasion in Medjugorje, but we didn't --

22 JUDGE ANTONETTI: [Interpretation] This French general received a
23 military education in French military schools, and he must make a
24 distinction between nonprofessional army, paramilitary groups, and a
25 traditional army. In this specific document, he chairs a meeting. A

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1 meeting is chaired by himself and Mr. Thebault. He says that the HVO is
2 a legitimate army of -- of the Republic of Bosnia and Herzegovina.

3 Could he be mistaken? You met him once. Is he someone that
4 cannot understand what the army is?

5 THE WITNESS: [Interpretation] That's impossible based on what I
6 knew about him and from his speeches and public addresses. Well, to my
7 mind, he was one of the most honourable generals of the international

8 community, and he was extremely well-informed and the most objective, the
9 most impartial, to my mind.

10 MS. ALABURIC: [Interpretation]

11 Q. General Praljak, please tell us, the fact that you did not meet with
12 General Morillon, apart from this one occasion that you mentioned, is that a
13 consequence of the fact that General Petkovic was in charge of contacts with
14 the international community and the participation in those talks?

15 A. That's correct. General Petkovic was the Chief of the Main Staff
16 of the HVO, and he participated in the talks. I did not have any
17 functions at the time. When I took that post I appointed him to this
18 duty, since he had been conducting these negotiations, to carry on
19 negotiating on behalf of the HVO. He was authorised to participate and to
20 run the talks as he saw fit.

21 Q. We'll see documents to that effect. Now let us look at document
22 P2078, 2078. The document is an exhibit. It's a joint statement by
23 Mr. Alija Izetbegovic and Mr. Mate Boban, witnessed by Franjo Tudjman.
24 The date is the 25th of April, 1993.

25 We have seen this statement many times in this courtroom. Let us

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1 look at the end of paragraph 3 where it says that the BH Army and the HVO
2 shall promptly start implementing the provisions of the agreement about
3 the BH Army and the HVO being equally legitimate formations and that they
4 shall establish a Joint Command.

5 Please, this is a yet another piece of evidence indicating that
6 the HVO was undoubtedly a legitimate component part of the BH Army armed

7 forces?

8 A. Well, yes. Perhaps we'll find -- or we will have to tender
9 thousands of such documents. Not thousands just a dozen or so.

10 Q. Let us move on to our next topic.

11 JUDGE PRANDLER: Ms. Alaburic, you promised to us that you will
12 do your best, not to repeat what you have been doing as far as the
13 problems with the translation is concerned, but now you again and also
14 Mr. Praljak are interrupting each other. Thank you. Overlapping each
15 other, I'm sorry.

16 MS. ALABURIC: [Interpretation] I apologise. I was not aware of
17 it. I will really do my best.

18 Q. So, General, let us move on to the next document, P2091, 2091.
19 It's the Appendix 1 to the agreement or, rather, statement that we have
20 just seen, which was signed on the same day, the 25th of April, 1993, by
21 Alija Izetbegovic and Sefer Halilovic on the Muslim side and Mate Boban
22 and Milivoj Petkovic on the Croatian side.

23 In paragraph 1 we again see the same statement:

24 "The BH Army and the HVO shall keep their separate identities and
25 organisation of the command."

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1 And then in paragraph 2 it is stipulated that they shall form the
2 Joint Command.

3 General Praljak, were you aware of this military appendix to the
4 agreement that was signed in Zagreb on the 25th of April?

5 A. Yes.

6 Q. Very well. Let us look at our next document, which is 4D1611.
7 4D1611. It's an order by Alija Izetbegovic, dated the 16th of June,
8 1993, where he says:

9 "Immediate cessation of all hostilities between the units of the
10 BH Army and the HVO units is hereby ordered."

11 And in paragraph 2:

12 "Persons responsible for the implementation of this order shall
13 be Rasim Delic and Milivoj Petkovic."

14 Now, General, have you ever seen this order before or is this the
15 first time that you see it?

16 A. I have seen it before, but here I have to add something that is
17 quite unusual. At that time, the BH Army had already attacked Travnik,
18 and this order runs parallel to the 25.000 refugees, Croat refugees, who
19 had had to flee from Travnik, and that's really mind boggling. And that
20 action was ongoing, the action launched by the BH Army in Travnik. So
21 25.000 refugees are already thundering down the roads and up the
22 mountains, and these orders are issued.

23 Q. General Praljak, we will get to Central Bosnia, and we'll see
24 what was going on at the time, but for the time being, for our topic now,
25 what is important is that Alija Izetbegovic is issuing an order affecting

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1 also the HVO units, and he designates the commander, Milivoj Petkovic, as
2 the person responsible for its implementation. That's it. So did you
3 know at the time that Alija Izetbegovic was issuing orders that also
4 pertained to the Croatian component in the armed forces of

5 Bosnia-Herzegovina?

6 A. Yes.

7 Q. Our next document is 4D1586. It's a decision signed by Mr. Alija
8 Izetbegovic. The date is the 20th of July, 1993. It's a decision of the
9 Presidency of the Republic of Bosnia and Herzegovina, and in paragraph 1
10 the Presidency of Bosnia and Herzegovina calls upon the units of the BH
11 Army and the units of the Croatian Defence Council to immediately cease
12 the conflicts, the hostilities.

13 General Praljak, were you aware of the fact that the Presidency
14 of Bosnia and Herzegovina at that time issued and made such decisions
15 which affected the Croatian component of the armed forces of Bosnia and
16 Herzegovina?

17 A. Yes, but just very briefly, this followed after Bugojno, after
18 Konjic, after Fojnica, after Kakanj, and after the attack in Mostar.
19 That's what's really mind boggling here. I know what you're driving at,
20 but all those locations that I've just listed were already captured by
21 the BH Army and the population had already been expelled from those
22 places.

23 Q. We will show all that to Their Honours later. Let us look at our
24 next document. I'll just mention it.

25 JUDGE ANTONETTI: [Interpretation] Still on this document, as on

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1 the others, you have seen that third paragraph. The UNPROFOR also has to
2 play a role, and the Red Cross, in the realisation of the present
3 decision. So there are several hypotheses. There is a criminal judge,

4 and he has to speculate on the basis of different hypotheses in order to
5 find out the truth, and he doesn't -- he has to check all the hypotheses.

6 When we look at this document, the first hypothesis that comes to
7 mind is that Mr. Izetbegovic is joking. He, with his army, started a
8 large-scale operation, the HVO, and he takes this type of decision in
9 order to appear as the pacifist of the conflict. This is one hypothesis.

10 Second hypothesis: What he says in the document is true, that
11 is, there isn't a single conflict but several conflicts. You can see
12 there's the plural.

13 So if there is the plural here, and I attach importance to
14 semantics, if there is the plural it means that there are sporadic
15 conflicts here and there, and maybe as a political leader he himself does
16 not control the territory on a political and military point of view, and
17 maybe he is trying to follow his generals and maybe other units which
18 have hidden agendas. And he's trying to calm the situation down, in
19 particular, in the eyes of the international community.

20 So this was -- that was the second hypothesis. So there could be
21 other hypotheses, but these are the two main ones.

22 Now, what would be your hypothesis?

23 THE WITNESS: [Interpretation] The first one, well, that's not
24 something that I would lean towards, but Mr. Alija Izetbegovic appointed
25 Mr. Cibo in contravention of the electoral results to run the

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1 municipalities of Konjic, Rama, and Jablanica. He imposed Cibo because
2 he was his man. And in Bugojno he was the person behind the attacks

3 launched by the BH Army. And now if are talking about an isolated
4 conflict when it wouldn't then be in Kakanj, if Fojnica, in Bugojno, in
5 Mostar, and we would not have a situation with 50 or 60.000 Croats
6 displaced or expelled, whatever you want to call it, but at any rate,
7 there were -- they were no longer in their homes.

8 There was an isolated conflict in Prozor, and we managed to deal
9 with it.

10 These are not isolated conflicts. This is clear-cut and open
11 aggression.

12 MS. ALABURIC: [Interpretation] Your Honour, Judge Antonetti,
13 thank you very much for drawing my attention to the plural of the word
14 "conflicts."

15 Q. General, Praljak, now I would like to put to you the following
16 explanation why -- or hypothesis why the term if plural was used, and
17 then tell me if I'm right or correct me if I'm wrong.

18 In Bosnia-Herzegovina there was no single conflict between the BH
19 Army and the HVO, but it was the case that in some parts of Bosnia and
20 Herzegovina there were different situations so that in parts of Bosnia
21 and Herzegovina the BH Army and the HVO fought the Republika Srpska army
22 together, side by side. There were parts of Bosnia and Herzegovina where
23 the HVO, in operational terms, was subordinate to the relevant command of
24 the BH Army. We saw Sarajevo and Tuzla, examples of that.

25 In some parts of Bosnia and Herzegovina there were no conflicts

1 at all, none whatsoever, and in some parts of the territory there were

2 conflicts, but does that actually mean that there was a whole series of
3 conflicts in a narrow area, parts of Bosnia and Herzegovina? But we'll
4 go back to the actual objective and what was behind those conflicts. So
5 a series of conflicts in various parts of Bosnia and Herzegovina if we
6 look at Bosnia and Herzegovina as a whole.

7 A. Well, I would like to demystify that. There was no need for the
8 BH Army to do anything against the HVO in Bihac for as long as the HVO
9 continued to fight and defend Bihac and die there. There were few Croats
10 there. They were not a problem, because there was a predominant Muslim
11 majority. The same goes for Tuzla and for Sarajevo, which has 97 Muslims
12 living there.

13 There were conflicts where the BH Army had supremacy and a
14 sufficient number of Croats had to be expelled so that they could get the
15 territory. That's Travnik, Zenica, Kakanj, Konjic, and that's where the
16 conflicts were. They needed the territory for the refugees and for a
17 possible set-up of their future state for the Muslims. They needed to
18 create space for that.

19 Q. Very well. General Praljak, based on the transcripts of the
20 sessions of the Presidency of Bosnia-Herzegovina, we will see how they
21 planned to spread territories under the control of the BH Army, but let's
22 round this topic off first.

23 The document number is P1234, and in that document, in bullet
24 point 6, there is a reference to the military agreement of the two
25 components of the armed forces of Bosnia and Herzegovina.

1 The next document is 4D1299.

2 JUDGE TRECHSEL: Excuse me, Ms. Alaburic. I have a technical
3 question to you. This is the - I don't know how manyth time - that you
4 evoke a number of a document and then you go immediately to the next one,
5 and I wonder what the purpose is. You have mentioned this. You have
6 said something about it. The witness has not said anything about this
7 document, the recent one of the Security Council, and you just go on.
8 Isn't that a loss of time, because this is not something which then
9 allows the document to be admitted if it is not already admitted. I'd
10 just like to understand, because it seems to me that some time is being
11 lost by that procedure. I may be wrong, of course.

12 MS. ALABURIC: [Interpretation] Your Honours, I will gladly
13 explain. I am skipping documents that are already exhibits. I don't
14 want to waste my time on them. I don't want to waste my time on any
15 documents that have already been admitted. I think it's enough for me to
16 mention those documents, because I want you, your Honourable Judges, to
17 have on the record a list of all the documents that have been prepared
18 and that speak about that topic.

19 If you don't think that I should mention documents that have
20 already been admitted into evidence, I'm going to skip them without even
21 mentioning their numbers.

22 JUDGE TRECHSEL: Maybe my colleagues have another view. I see no
23 use in it, frankly. If you just jump a number or two you can say it, "I
24 jump a few numbers," and that, I think, would be quite enough, and I
25 think most of your colleagues have proceeded in that way.

1 MR. KOVACIC: [Interpretation] I would kindly ask my learned
2 friend Alaburic, unless there is an express ban on the part of the Trial
3 Chamber, to continue with her method, because at the end of the day we
4 are all going to have to prepare our -- our final briefs, and any
5 reference to an exhibit about the topic that is part of the
6 cross-examination is more than welcome, unless the Trial Chamber wants to
7 put an express ban on such a practice, but I don't see why.

8 JUDGE ANTONETTI: [Interpretation] Ms. Alaburic, we have to be
9 very cautious. Why? Well, you have a scene -- well, it wasn't my
10 personal point of view, but it was the point of view of my colleagues,
11 that is, the majority. That is why I didn't say anything against it.

12 When a counsel asks a question and explain his or her question,
13 Judges can object and say that you are testifying, but that is the result
14 of no rule [as interpreted] of the rule. In the rule it is not
15 prohibited for a counsel to ask a question and explicit the question.
16 It's practice.

17 In my own country, a legal professional asks a question, explains
18 why this question. He says what is the objective, and then the witness
19 or the accused answers to that question. But here it seems, and I stress
20 that it seems, but it is not standard practice.

21 Now, according to me, the Appeals Chamber did not examine this
22 specific question. So what is left to the counsel to explain his own
23 vision of the case. As it was said, it is the final brief, which means
24 that in the final brief you will have to develop your reasoning.

25 Now, in the whole history of this specific Tribunal, we will

1 probably be the case where most -- with the biggest numbers of documents.
2 So you will not be able to mention in the final brief the thousands of
3 documents. So you have to select the documents. By selecting the
4 documents, the Judges, in the final briefs of the Defence and of the
5 Prosecution, will examine the quoted documents. It is possible that the
6 documents are not quoted, but the Judges should see these documents. And
7 in the decision, in the judgement, it could be possible that they
8 could -- some of the documents.

9 The fact that you're not mentioning a document means that there
10 will be a risk that this document is out of sight, and during the
11 deliberations the Judges will have hundreds of thousands of pages, even
12 millions of pages to examine and thousands of documents. So this is the
13 risk, which means that when you quote a document and when you think that
14 there are other documents that can support the first document, and you
15 believe that it's important, it's better for you to say that there is
16 this document and I don't talk about it because it was already admitted,
17 but it is linked to the document which is about to be submitted or shown
18 to the witness. If you do not specify this, if you do not say this, and
19 if you think that the Judges will automatically bear in mind this
20 document, I warn you, we have a huge number of documents, and we could
21 forget. We're trying to be very vigilant, but if you forget this
22 specific document in your final brief and in your closing remarks, you --
23 of course you cannot take into account all the documents, otherwise your
24 closing remarks will take days, and it's not possible.

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1 try not to forget any documents that could support your reasoning.

2 MS. ALABURIC: [Interpretation] Your Honours, I thank you for your
3 instruction. I take them into consideration, and I will follow that. I
4 would like to draw attention to the fact that the documents that I've
5 prepared for my cross-examination are just my selection from a vast
6 number of documents. And if you look at the dates, you will see that
7 I've tried to cover every of the relevant periods, every month, for
8 example. I try to cover each month by using at least one document,
9 because it is my desire to show you that the HVO was an integral
10 component of the armed forces from the very beginning from the moment
11 when tensions started growing among the Croats and Muslims in Bosnia and
12 Herzegovina until the moment the Washington Agreement was signed. That's
13 why I have so many document -- documents.

14 Q. General, I would like to show you another document 4D1299. It is
15 not an exhibit. This is an agreement which was signed on the 12th of
16 March, 1994 -- or, rather, 12 March, 1994, and it was signed by Delic and
17 Ante Roso. Let's look at the second bullet point where there is a
18 reference to the establishment of federal army.

19 Bullet point 1. In the English text it's on page 2, about the
20 middle of the page, and I quote:

21 "The federal army will be establish, it will be organised
22 according to the principle of joining -- of the joining of the BH Army
23 and the HVO, and it will report to the federal command, the president of

24 the federation via the minister of defence."

25 Tell us, General Praljak, is this an agreement that is just one

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1 of the agreements that were signed together with the main Washington
2 Agreement?

3 A. Yes. This was signed in Split as far as I can remember, and it
4 is a part of the principal agreement on the federation and confederation.

5 Q. General Praljak, please tell me whether there were any dilemmas
6 surrounding this agreement to the effect that the federal Army of Bosnia
7 and Herzegovina would be composed of two components, the BH Army and the
8 HVO?

9 MR. STRINGER: Objection, Mr. President. The general held no
10 official position at the time the Washington Agreement was reached in the
11 spring of 1994, nor did he take part in the negotiations that led to the
12 agreement at that time-frame, so he's not qualified to talk about whether
13 there were ambiguities or the nature of the negotiations that led to the
14 agreement.

15 JUDGE ANTONETTI: [Interpretation] General Praljak, I think that
16 when I asked you questions, I'm actually sure about it. I showed you a
17 presidential transcript in which you, with Mr. Tudjman and other senior
18 political and military leaders, where you talked about your strategic and
19 political matters.

20 General Praljak, in 1994, when apparently you had re-entered the
21 first cycle. President Tudjman. Did you contribute to what was done by
22 the Republic of Croatia leading to the Washington Agreement, because the

23 Prosecution says you had no competencies.

24 THE WITNESS: [Interpretation] I believe that at the time I was
25 President Tudjman's military advisor.

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1 JUDGE ANTONETTI: [Interpretation] And as the military counsel of
2 President Tudjman, military advisor, you probably were heard when you
3 said anything about the consequences of the Washington Agreement; is that
4 correct?

5 THE WITNESS: [Interpretation] Well, yes. I travelled to Sarajevo
6 together with President Tudjman and the delegation. I was well-informed,
7 and I took an active part in all that.

8 JUDGE ANTONETTI: [Interpretation] So you participated in Sarajevo
9 with the Croatian delegation to the meetings and to the negotiations.

10 THE WITNESS: [Interpretation] Yesterday you saw a document
11 showing that I was present during the negotiations.

12 MS. ALABURIC: [Interpretation] Your Honours, I just wanted to
13 draw your attention to that document that we saw yesterday. The number
14 is 4D1454, 1454, a meeting in Sarajevo on the 16th of June, 1994, dealing
15 with the joint activities of the -- of the armed forces of BiH and the
16 Croatian army, and General Praljak attended the meeting.

17 Q. General Praljak, let's go back for a moment to the previous
18 document which was signed by Delic and Roso. This is the framework
19 agreement, dated 12 March 1994.

20 At the very end of that agreement it says that the agreement was
21 reached on the 12th of March, 1994 in Split. According to what you know,

22 General Praljak, was the Ministry of Defence involved in the organisation
23 of that meeting in Split?

24 A. Yes.

25 Q. Were you abreast of the organisation of this meeting and the

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1 establishment of the joint army of the Federation of Bosnia and
2 Herzegovina?

3 A. I was abreast. I spoke with everybody about that and I supported
4 that whole-heartedly.

5 Q. Let's move on to the following document which is 4D1300. Again
6 Delic and Roso, this time in Sarajevo on the 26th of March, 1994, and
7 here a reference is made to the joint staff, the establishment of a joint
8 staff and its task.

9 It arises from the text that this joint staff would be composed
10 of the representatives of the BiH army and the HVO. Are you familiar --
11 or, rather, were you familiar with this agreement between Roso and Delic,
12 General Praljak?

13 A. Yes, I was familiar with that. This deals with the organisation
14 of the Federation Army, and this continued for a number of years later
15 until the moment the Serbian component joined that and it all ended
16 differently.

17 Q. Let's now see what the -- what did the parliament of
18 Bosnia-Herzegovina have to say about the Croatian component of the armed
19 forces. The document number is 4D826. It is already an exhibit but, we
20 will still dwell upon it a little.

21 Article 37. General Praljak says as follows:

22 "The army of the federation consists of the units of the BH Army
23 and the Croatian Defence Council, inclusive of the corps level and the --
24 and it is composed of wartime and peacetime corps."

25 General, do you know that the parliament of Bosnia-Herzegovina

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1 confirmed that the HVO and the BH Army were equal component of the
2 Federation of Bosnia-Herzegovina?

3 JUDGE PRANDLER: I'm sorry, Ms. Alaburic, for interrupting you,
4 but really I feel that -- I feel a bit uncomfortable now and taking into
5 account previous remarks, also by our President, by Mr. Stringer. I
6 really feel that it's a bit -- it is -- we are going too far if now all
7 the documents which are now being introduced, if they really have
8 anything to do with Mr. Praljak as a witness, like, for example, this one
9 which you have introduced, 4D00826, of August, 26th of August, 1996.

10 I really believe that it is rather far-fetched to think that
11 Mr. Praljak, at one time he was of course he was a military advisor to
12 President Tudjman, has to know or had to know about everything. So I
13 believe that somehow the basis should be established if he participated
14 in the deliberation of those documents or if he was there and it was
15 adopted and whatever, but now to introduce a great number of documents
16 without any proof of personal attention and personal participation, I
17 really feel that it is far-fetched. Thank you.

18 MS. ALABURIC: [Interpretation] Your Honour Judge Prandler, I
19 would like to thank you --

20 JUDGE ANTONETTI: [Interpretation] Just a minute. I believe that
21 Judge Prandler really raised a problem that the Defence must absolutely
22 take into account.

23 As far as I'm concern, it's absolutely obvious that the military
24 advisor to a head of state is automatically aware of everything
25 happening, militarily at least, and politically and militarily, otherwise

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1 he would not be in that position as military advisor. For those who know
2 what this position entails I'm sure they know exactly what it means. Not
3 all Judges necessarily know how the military works.

4 So, Ms. Alaburic, please try and listen to Judge Prandler. Try
5 to lay the foundations first so that we know that Mr. Praljak knew about
6 the meetings, attended the meetings, and so forth and so on. Lay the
7 foundation. Otherwise, everything that you're doing might just be set
8 aside. We could just say, well, we have no evidence that he actually was
9 a military advisor and that he attended all these meetings. So please
10 lay the foundation.

11 MS. ALABURIC: [Interpretation] Your Honour, as to my questions to
12 General Praljak, I'm not posing them intending to admit -- have these
13 documents admitted into evidence through General Praljak because the
14 documents already have the status of exhibits. What I do want to show
15 the Trial Chamber is the following: That the parliament of the
16 federation of Bosnia-Herzegovina stated that the army of the Federation
17 was composed of two components, the first being the BH Army and the
18 second being the HVO. As I said, the second being the HVO.

19 If the BH Army parliament viewed the Croatian component of the
20 armed forces in the laws of Bosnia-Herzegovina in this way and qualified
21 them in this way, then I consider that during these proceedings this is
22 an exceedingly important fact. What we can hear from General Praljak
23 which -- who hails from Bosnia-Herzegovina and who, after the war ended,
24 travelled to Bosnia-Herzegovina and who would probably be there
25 frequently today, too, my only question to him is did he know that the

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1 parliament of the Federation of Bosnia-Herzegovina defined the HVO as
2 being an equal component of the BH armed forces and that's all. I
3 consider that this is a very important topic which will certainly be one
4 of the supporting points, and we will have a talk about it during the
5 Petkovic case, and I think that this is quite sufficient reason for me to
6 continue questioning General Praljak and introducing the documents
7 through him.

8 Q. But, General, let us now take a look at three laws. Document
9 2D1183 is the first document, which is the law on special rights for
10 those who receive wartime commendation and recognition. And in Article 1
11 we see defined the -- that these special rights are enjoyed by the
12 Croatian Defence Council. Isn't that right, Mr. Praljak? If you can
13 just confirm that and we won't belabour the point.

14 A. That's correct, and I know that the lads whom I commanded took
15 over functions within the federation and thereby issues of status were
16 resolved such as pensions and so on, and dozens of young lads who went to
17 the Joint Command of the federation, well, I knew about that. It was

18 part of their destiny and financial security later on and so on. So
19 that's how it was.

20 Q. Let's conclude -- let's round off this topic now,
21 General Praljak, and to the best of your knowledge, is it now certain
22 that the authorities of Bosnia-Herzegovina in question defined the HVO as
23 a legitimate and legal component of the armed forces of the Federation of
24 Bosnia-Herzegovina?

25 A. Yes.

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1 MR. STRINGER: Excuse me. Could we just clarify the time-frame
2 that counsel's now talking about? The previous document was from August
3 1996. The current document has on the top the date of 15th December,
4 2005. So I think that as we get farther from early 1994 at the latest,
5 this testimony in these documents really have very limited relevance if
6 any whatsoever. So what's the time-frame that the general is talking
7 about now?

8 MS. ALABURIC: [Interpretation] Yes, I'll happily answer that,
9 Mr. Stringer. The whole time up to the present day, throughout, and
10 that's what we wish to demonstrate, that from the first agreement in June
11 1992, right up to the provisions relating to this subject which are
12 adopted to the present day by the parliament of BH, it is not contended
13 that the HVO was a legitimate and legal component of the armed forces of
14 the BH Federation. And in each specific law, you will be able to see
15 when it was passed and so on.

16 THE WITNESS: [Interpretation] Ms. Alaburic, from the 18th of

17 September, 1991, the HVO was recognised as being legal, because it is as
18 of that date that the wartime military service is recognised for all HVO
19 members, and that's when the war began as far as the legal BH Army is
20 concerned. And those who took part in that war received various benefits
21 according to rank, the years of service during the war, invalidity,
22 pensions and the decorations they received.

23 MS. ALABURIC: [Interpretation]

24 Q. That is true, General Praljak, but let's be very precise on this
25 point. In September 1991, in formal terms this was still not the HVO,

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1 because we saw that it was established in April 1992, but there were other
2 units there or other armed groups of individuals.

3 Now we'll move on to a more dynamic topic, the topic of effective
4 control.

5 General Praljak, let's lay down some premises for this topic.
6 Tell us first, please, whether in Bosnia-Herzegovina, at the beginning of
7 the conflict with the Army of Republika Srpska, there existed some kind
8 of peacetime army, let me say of the Muslim and Croatian people?

9 A. No, it did not exist.

10 Q. Does that mean that the armies, both of the HVO and the BH Army,
11 were created under wartime conditions?

12 A. Yes.

13 Q. I'd like to remind you now of an opinion expressed by a military
14 expert called by the Prosecution in this courtroom before this Trial
15 Chamber, and that was recorded in the transcript on page 24246. It was

16 Mr. Pringle, and he said that it was necessary for a few years to go by
17 to build up a fully functioning army and rights of a fully functioning
18 army.

19 Now, General, would you agree with that assessment made by
20 Mr. Pringle?

21 A. I don't know when he says a few years how long that is. I don't
22 think it can be two or three years.

23 Q. Well, tell us what you think.

24 A. The Croatian army that was built up, well, they needed seven or
25 eight years of intensive work for it to adapt and become a NATO alliance

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1 army. So if you have two or three years without a war to collect people
2 together, you can't really make an army, because an army is a large
3 apparatus, and you can't make a positive selection in the space of just
4 two or three years. You can't train the cadres for it. You can't find
5 the psychologists and logistics. You can't even have the uniforms made
6 up. You can't test the weapons. It's a long and lengthy business.

7 Q. General Praljak, although you said you have not read the
8 indictment, but I do think that you read more of it than you owned up
9 to --

10 A. No, I have not.

11 Q. Anyway, do you know that a military commander can be sentenced by
12 this court for certain acts or omissions on the assumption that he had
13 exercised effective control over his subordinates? Are you aware of
14 that? Do you know about that?

15 A. Well, yes, but the concept of effective control --

16 Q. We'll come to that.

17 A. And if I say I have not read it, then don't think that I have.

18 Q. Very well, General. Now, the way you presented your defence
19 case, I would say that you are well-versed with the contents of the
20 indictment, but of course that doesn't mean you have read it, but never
21 mind, let's leave that to one side now. I'm going to enumerate questions
22 that are important for deciding on effective control, and I'd like to
23 inform the Judges that I'm going to ask you questions about elements
24 which are not challenged and which are considered important for
25 establishing effective control, and this will be made up of 15 elements.

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1 The first of those elements as is follows: You told us, General,
2 that HVO brigades existed which quite simply did not want to respect
3 orders to launch a -- a military action outside the territory of their
4 municipality and that you had to explain this to the soldiers to try and
5 convince them to follow orders and so on. Was that really what the
6 situation was like?

7 A. Yes.

8 Q. Now, my second example, the example of soldiers asking for
9 explanations, and for that let's look at the document in the next set of
10 documents. It is 4D1463.

11 A. Is that in the new binder? Is that another binder?

12 Q. No, it's still in the old binder. Topic 4, under the title of
13 "Effective Control."

14 A. I see. I've found it. What document did you say?

15 Q. 1463. This is from the period of time when you had no post or
16 function in the HVO, but I'm interested in the pattern of behaviour.
17 This is information which the chief of SIS, Ivica Lucic, is sending to
18 Mr. Biskic, the assistant minister for security. And here Mr. Lucic is
19 announcing a peaceful protest by the soldiers of the 4th Battalion of the
20 3rd Brigade, and he says that the soldiers are going to call for the --

21 JUDGE PRANDLER: It is again only a technical question. You said
22 or it was written here that it is document 1463, but actually I'm sure
23 that you are talking about 4D1464. Isn't it so? That is, the work plan
24 issued by Perica Jukic to the HVO Main Staff, et cetera, forwarded by
25 Marijan Biskic. Isn't it so? Because I -- at least I didn't try the

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1 previous one.

2 Thank you, that's fine.

3 MS. ALABURIC: [Interpretation] Thank you, Judge Trechsel.

4 Q. Now, let's take a look at the document. I'm recounting its
5 contents.

6 The soldiers' demands are going to be investigating irregular
7 payment of salaries, the difference in pay between certain soldiers, to
8 look at the number of soldiers on the salary list of those who are at the
9 front line, and that an explanation be given about the status of the town
10 of Mostar after an investigation.

11 Now, from this information, General Praljak, I would conclude
12 that this is, if I can put it that way, a self-management principle for

13 the functioning of the army; that is to say, when people are asking about
14 explanations as to salaries and other issues just like workers in the
15 socialist self-management system as was.

16 Can you comment on this? Was that the general practice when you
17 were commander of the HVO?

18 A. Yes. In many cases I had meetings of this type, and so did
19 Mr. Stojic, and there were protests and so on. But let me tell you,
20 Ms. Alaburic, you want to have a soldier who -- well, a young lad of 22
21 who is going to lay down his life for what? Why would a young man of 22
22 be killed or go to be killed? Thousands of young men of 20 or 22 have to
23 go to their death. So death becomes the purpose for life. Death, I ask
24 you. And why? Because you've called him a soldier. And what is it that
25 that soldier is fighting for? What is the purpose of his dying? What is

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1 the metaphysical sense and meaning of his death? They change his state,
2 they change their politics, everybody manages him in one way or another,
3 they have unequal pay, they freeze and are cold for years on end. They
4 never signed a professional contract with an existing state. He, the
5 soldier, is the person who is creating that state, and everybody around
6 him, meetings in Geneva, they are all convened and still exist precisely
7 because this young man is dying.

8 Q. Yes. I agree that soldiers have the right to explanations on
9 various subjects, but I have to ask you pragmatic questions, and look at
10 page 2 for that, please, where we see a stamp. It is the Ministry of
11 Defence stamp, and you have a lot of experience with archive documents

12 from the Ministry of Defence. Does this stamp confirm that the document
13 came from the Ministry of Defence archives?

14 A. Yes. That should be the case. That should be right.

15 Q. Thank you. Now, the third element that I wanted us to discuss is
16 this --

17 JUDGE ANTONETTI: [Interpretation] General Praljak, this document
18 creates a real problem as to the very nature of the HVO Army.

19 As far as you know, in the 1970s and in the 1980s during
20 Marsal Tito, if this kind of protest had existed within the JNA, wouldn't
21 the soldiers be court-martialed, court-martialed and actually shot at
22 dawn?

23 THE WITNESS: [Interpretation] Correct, Judge Antonetti. At that
24 time those soldiers would have been sanctioned severely. They would be
25 sent to prison for many years. It was quite inconceivable that anybody

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1 should enter it into their heads to do something like that.

2 JUDGE ANTONETTI: [Interpretation] Well, if in January 1994 this
3 was possible, what's the reason for it being possible, according to you.

4 THE WITNESS: [Interpretation] the reason for this and cause of
5 this lies in justice, is to be found in the realm of justice. They want
6 to know what the status of the town of Mostar is, among other things. So
7 will somebody who is powerful and mighty and unjust, by a stroke of the
8 pen say, "That is not yours and all your deaths were in vein. It no
9 longer belongs to you"? "We're going to, for example, give that to the
10 Republika Srpska, 49 per cent, in fact, because we're powerful and

11 mighty." And they say, "All right. We're not going to fight any more.
12 Explain why our salaries are different and so on." And that was not only
13 the situation in 1994, it was already the situation in 1993 and so on.

14 And they needed an answer. Somebody needed to tell them what
15 kind of state they were fighting for, what the sense and purpose was of
16 all these deaths. That's it, Your Honours. And what was the sense of my
17 death, my dying, because I fought a lot. What for? What was I fighting
18 for? I thought that all that I wanted was a very simple thing, the right
19 of the nation to which I belonged to have the same rights that the other
20 two nations or ethnicities enjoy, but we were withheld that right because
21 some strong and mighty right, backed up by power and might, came into
22 being.

23 JUDGE ANTONETTI: [Interpretation] General Praljak, I'm trying to
24 get to the crux of the matter so we waste no time.

25 In this document, which is quite extraordinary, we see that the

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1 soldiers themselves are asking legal questions as to the status of
2 Mostar. They noted, obviously, that there are contradictory information
3 broadcast in the media.

4 What was this contradictory information that existed at the time
5 in January 1994 as far as this is concerned?

6 THE WITNESS: [Interpretation] Well, to put it simply, the future
7 status of the town was unknown, whether it would be given into the hands
8 of the Muslims, whether a majority would be -- majority rule would be set
9 up there. A law was passed, and it is still in force, and this is what

10 it says: Regardless of the election results in Mostar, Croats and
11 Muslims have to have parity in government. And there are election
12 results, yet this is the law that is in force in the town of Mostar. You
13 can check, but I'm saying that it exists. Only in Mostar. It's not in
14 force for any other town in Bosnia and Herzegovina.

15 MS. ALABURIC: [Interpretation]

16 Q. General Praljak, please tell me whether in January 1994 the --
17 whether there were ideas that Mostar should be administered by the EU or
18 EC?

19 A. Yes.

20 Q. Is it possible that the soldiers are seeking explanation about
21 the status of most in light of that issue?

22 A. Yes, probably.

23 Q. Let me move on to my third element of effective control, and
24 that's influence that bypasses the regular chain of command.

25 Could you please look at document 4D1328, 4D1328. It's a letter

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1 of resignation from December 1993, sent by Colonel Saskor to
2 General Roso. What I'm interested in at this point are the reasons. Let
3 us look at paragraph 2 where it says: "My sacred duty to defend the
4 Croatian people and homeland, I cannot carry this duty out because of the
5 opposition on the part of the local authorities and an informal group of
6 powerful people who have stricken root there and behind the backs of the
7 brigade command, I commanded up until this resignation. To those people
8 and this group of powerful men, everything is more important, war

9 profiteering and local rivalries, than the defence of the homeland."

10 You spoke about the influence of those local powerful people on
11 the local military units, so could you please in that context comment on
12 this document briefly.

13 A. I know Colonel Ante Saskor personally. I begged him to come and
14 take over this post. He was killed in the effort to liberate Bosnia and
15 Herzegovina. I know him from before. He was an extremely valorous and
16 honourable man, and this is how it was to a greater or lesser extent to
17 each and every municipality. It was only a question of degree, not of
18 kind. There was always a lot of it going on. There was just a question
19 of how much, but it was always a lot. And, Ms. Alaburic, from the end of
20 1992 and even before 1992, this war turned into an oasis for war
21 profiteering and smuggling because this was what the situation was like
22 with weapons, food, alcohol, cigarettes. It was a bonanza for smugglers
23 in all structures, or many structures, many structures in the rear.

24 Q. We'll go back to this topic later, but please now look at our
25 next document. We'll spend some more time on it. It's P3642. P3642.

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1 It's a report, B, annual report covering six months sent by
2 General Petkovic to the head of the Defence Department.

3 Look at item 4, the problems that are listed in item 4. In item
4 4.2 it is stated that there are no professional and rapid reaction forces
5 which would be able to carry out assaults and special operations.

6 In this respect I would like to ask you, General Praljak, whether
7 this statement corresponds to what you have been telling us, that the

8 municipal brigades were in fact set up to defend the territory of those
9 municipalities where they existed and that there were about 1.000
10 soldiers and professional units which were a rapid reaction force. So is
11 that in effect one and the same statement?

12 A. Well, less than 1.000. About 880. But I subscribe to everything
13 that is contained in Petkovic's report, every single letter, to cut a
14 long story short.

15 Q. No, I don't want to cut a long story short. I think that it is
16 chalked full of important things, and it is important for our Judges to
17 get a good overview to actual capability to exert effective control in
18 the field. Let us look at 4.4 where it says that the chain of command
19 has been disrupted and so has the coordination, so cooperation between
20 operational zones, units within operational zones, and -- operational
21 zones and cooperating with the Main Staff.

22 Based on your experience, you can say that there were situations
23 in which the chain of command and the system of coordination were
24 disrupted.

25 A. Well, this is what happened regularly. This is what I'm talking

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1 about. When France or Swiss or Croatia go to war -- every soldier in
2 Croatia, regardless of the unit they belonged to, knew where the borders
3 of Croatia were, and 98 per cent of the people were intimately deep down
4 inside ready to go and fight to reach those borders. It was a clear
5 goal, a state which has those borders, but here you don't know where the
6 borders are. Every municipality -- well, those units are not set up to

7 defend this municipality. They were set up in that municipality. They
8 managed to defend their municipality, and now the question is why should
9 we go and get ourselves killed in Mostar if somebody is going to declare
10 Mostar to be a part of the territory of Republika Srpska or of a Muslim
11 republic of sorts? So what is the purpose of me dying then?

12 Q. I fully understand you.

13 A. In Vakuf or wherever.

14 Q. Now let us look at what is stated in item 4.6. It's very
15 important, and your clarification is going to be of immense value to us.
16 It says here that: "The expectations that the HVO troops will solve
17 everything militarily on the battle-field. This is to be expected and
18 this is the task of the military. We do not have such an army organised
19 in a modern way, technically well equipped and with a well-designed chain
20 of command, yet. The authorities, the government has to do much more on
21 all levels to create such an army and this should be its fundamental
22 task."

23 And by way of conclusion let me quote:

24 "Practice has showed us that the army is being privatised. Each
25 municipality, each town, indeed each village have 'their own army.' It

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1 is impossible to get the 'municipal army' to move outside of the borders
2 of its municipality, and thereby the use of larger forces to carry out
3 major task is impossible."

4 General Praljak, is this precisely what you have been trying to
5 explain to us in the long hours of your testimony, that these were the

6 main problems in the functioning of the HVO.

7 A. That's correct. Furthermore, Ms. Alaburic, in the many civilian
8 structures very soon after the HVO came into existence, the military, so
9 from Stojic, Petkovic, myself, well, people tended to look at us saying,
10 "Well, we have an army here," and suddenly people just went crazy.
11 That's what I call it. They went crazy. The army, it's no longer the
12 people. It's -- it's just cannon fodder. They should get killed. The
13 army. A general said that in World War I, when he was told, "A lot of
14 your people are getting killed at Verdun and at Somme," he said, "No, no,
15 it's not the people getting killed. It's soldiers getting killed."

16 That's what was the prevailing opinion among the structures which
17 were not of course not serving in the army. People there were not
18 serving in the army. They were outside of it waiting for the war to end.
19 They profited from the war and expected that they would profit from
20 peace. Once people put on uniforms, they were no longer people but just
21 soldiers, and now nobody knows what the soldiers are supposed to be, some
22 kind of robots I guess who can killed. You write an order, they can get
23 killed, and they can change political options every three minutes in
24 London or in Geneva and, well, people will get killed in accordance with
25 their decisions. I'm really sorry. This is this pain that I have deep

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1 down inside me and sometimes it just gushes out. It's my intimate
2 deep -- the pain that I have deep inside me.

3 JUDGE PRANDLER: Ms. Alaburic, I would like to ask a question
4 concerning this report which is a kind of -- it calls itself a condensed

5 report for six months, and from Mr. Petkovic, and it is indeed very
6 important and should be studied further.

7 I would like to ask one question about one of the sentences on
8 pages -- on page 2 of the report. If I'm not mistaken, it is the third
9 paragraph, and I quote:

10 "We are currently supplying the combat needs of HVO units in the
11 given places, partly through a third party, 'XY,' which we consider a
12 very great risk."

13 My question is that if Mr. Praljak could answer to this and to
14 tell us what was that third party, XY? It is number one question. And
15 number two: Why should it be -- why was it then considered a very great
16 risk?

17 Thank you.

18 THE WITNESS: [Interpretation] Your Honour Judge Prandler, XY,
19 that would be the Republika Srpska army, in answer to your first
20 question. So some HVO units in Zepce remained surrounded, in an
21 encirclement, attacked by the BH Army, and the only way to supply
22 ammunition to them was through the mediation of the Republika Srpska
23 army. And as General Petkovic says, they were very expensive. They were
24 really bleeding us dry. It cost us an arm and a leg. And secondly, it
25 was a politically very dodgy issue, because we were friends with the BH

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1 Army throughout this time, all agreements are signed, and on the other
2 hand, the BH Army, the same army, is attacking us, and we have to make
3 use of what is officially our enemy lest our people and our troops in

4 that area get killed. So that's the explanation.

5 JUDGE PRANDLER: Thank you, Mr. Praljak. And so I thought --
6 actually, we have already met the problem of the XY, but sometimes we
7 have not received an answer to it when Bench was -- if they were asking
8 some other questions, so thank you.

9 JUDGE ANTONETTI: [Interpretation] General Praljak, my fellow
10 Judge is right. It is important, and it's probably one of the most
11 important documents amidst the thousands of documents that we were shown.
12 Why is that? This document dates back to the 22nd of July, 19 --

13 THE INTERPRETER: The interpreter didn't hear.

14 JUDGE ANTONETTI: [Interpretation] -- and the person who actually
15 wrote this document didn't think that once he would be accused. He's
16 actually reporting to the minister of defence, and as is stated in the
17 document, it is a condensed report for six months. As you can see,
18 the -- it starts in January.

19 When we examine this document, as the Judges already did, the
20 first thing that we read in the document is that there are sporadic
21 conflicts, and this notion of sporadic conflicts are found in documents
22 by Izetbegovic and by the HVO. So there's not one conflict but many
23 conflicts. So this is what we can draw from the document.

24 Secondly, when we examine in document - and this is linked to the
25 theory of the JCE - so what we can see is that the -- there's an

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1 intervention by the BH Army. Why is that? Well, in order to conquer
2 territories. And the consequence is ethnic cleansing of the Croatian

3 population. So this is the second element that we can draw from this
4 document.

5 Thirdly, General Praljak, this is what we can read here, and
6 you'll tell us later on what you think about it - contrary to what you
7 said the report, 1:10, on the forces, here the report seems to say 1:20.
8 The ratio. It was a question on the ratio.

9 Four, it seems that concerning corruption and reality there are
10 problems because the general explains that we can buy ammunitions from
11 Chetniks, and he doesn't exclude the fact that UNPROFOR are humanitarian
12 organisations. Some services could also be supplied when paying. So
13 this has been said.

14 And the report also states, as my fellow Judge said -- mentions,
15 actually, doesn't say, mentions XY.

16 And finally, right at the end, and this is actually a question
17 that I asked myself a very long time ago: What is the nature of this
18 army? General Petkovic says that this privatised army says that -- that
19 every municipality, every town and village have their own army, and we
20 have already seen documents on that, on the fact that soldiers were paid
21 by the municipalities and that the counsel of Mr. Petkovic introduces
22 this document on the theory of the control. And the legal scope of that
23 has been already determined by the Appeals Chamber.

24 So this document, does it reflect the situation that you, and I
25 remind that you took over your post two days earlier, you took over your

2 General Petkovic and the situation that you encountered when you took
3 over your post and the situation that you knew when you were at your post
4 for several months, are they the same situations?

5 Now, you have already answered several questions, but this is a
6 synthesis document which is very important from my point of view, so
7 please be brief in your answer too. Thank you.

8 THE WITNESS: [Interpretation] There a nutshell Your Honour
9 Judge Antonetti, this document was drafted before I arrived there, so it
10 has nothing whatsoever to do with me, and I didn't know of it and I
11 would --

12 JUDGE ANTONETTI: [Interpretation] I cannot hear you. I cannot
13 hear the translation any more. Please start again.

14 THE WITNESS: [Interpretation] The document was drafted before I
15 arrived there. I didn't know of it. It was drafted by General Petkovic
16 however --

17 JUDGE ANTONETTI: [Interpretation] I'm sorry, I cannot hear you.

18 THE WITNESS: [Interpretation] Good afternoon. Can you hear me
19 now? C'est la vie?

20 JUDGE ANTONETTI: [Interpretation] I understood c'est la vie, but
21 what I would like to understand is what you're saying in your own mother
22 tongue.

23 JUDGE MINDUA: [Interpretation] I think there's a problem with the
24 President's headphones.

25 JUDGE ANTONETTI: [Interpretation] Please go ahead.

1 THE WITNESS: [Interpretation] General Petkovic drafted this
2 before I arrived there. This is his document. And I signed this
3 document --

4 JUDGE ANTONETTI: [Interpretation] That doesn't work. I cannot
5 hear the English, and I cannot hear the French. I cannot hear anything.

6 JUDGE MINDUA: [Interpretation] There's a technical problem,
7 because I can hear for my part the translation in French.

8 JUDGE ANTONETTI: [Interpretation] We'll take a break. The
9 registrar will check everything. We'll make a 20-minute break.

10 --- Recess taken at 5.33 p.m.

11 --- On resuming at 6.02 p.m.

12 JUDGE ANTONETTI: [Interpretation] The headset seems to be working
13 now. Ms. Alaburic, you have the floor.

14 MS. ALABURIC: [Interpretation]

15 Q. General Praljak, with respect to what Judge Prandler asked you,
16 I'd like to say that that portion of this report, which refers to page
17 XY, wasn't mentioned, XY side, was not something that I was dealing with,
18 but let's deal with XY side.

19 Is it true that the HVO started to cooperate with the Army of
20 Republika Srpska and the authorities of Republika Srpska at the time when
21 in Central Bosnia, because of the offensives launched by the BH Army,
22 Croatian enclaves were created which you couldn't reach otherwise but
23 going across Serb territory?

24 A. Yes, that's what I said, but refugees from Travnik had to pass
25 across Republika Srpska, Vlasica, and so on. In other words -- and the

1 same applied to Bugojno. So thousands of people couldn't flee in one
2 direction, and they took the direction that they could cross. So there
3 were no joint operations. We had to pay dearly for them to treat the
4 wounded, and we paid in the form of fuel in order to purchase weapons for
5 those enclaves to defend themselves. But I haven't answered
6 Judge Antonetti's question yet, so I'll do so now.

7 This report was written before my arrival. General Petkovic
8 informed me of that. There was nothing that he could tell me that I
9 didn't know already.

10 And, Ms. Alaburic and Judge Antonetti and Your Honours, the
11 situation was worse than ever, worse than General Petkovic describes
12 here, on a psychological level, and there was a lot of smuggling and
13 division and so on. So the situation was far worse than it says here.

14 So this report which went to the government, together with other
15 reports which Bruno Stojic had to send to the government to keep them
16 informed. So that would be it.

17 Q. Thank you, General. And I'd like to thank Judge Antonetti for
18 asking that question. Let's move on now.

19 JUDGE ANTONETTI: [Interpretation] General, my eye has been drawn
20 to paragraph 4.3. You followed General Petkovic tactically and
21 operational. It seems that the situation is exceptionally unfavourable,
22 especially in Central Bosnia and in parts of Northern Herzegovina,
23 because it seems that your units are either semi-encircled or completely
24 encircled. So at paragraph 4.3, it looks like you're very -- in a
25 defensive position and that you're almost unable to combat.

1 Is that the situation as it was at the time?

2 THE WITNESS: [Interpretation] Yes. You have understood that very
3 well.

4 Your Honours, at that moment in time we were suspended on a very
5 thin thread. And let me add in passing that the fighters who knew
6 everything, everybody knew everything, but they weren't clear on why all
7 this peaceful policy on the part of the HDZ and Franjo Tudjman and the
8 arming and Bosnia and Herzegovina and so on when they were being killed
9 with those weapons. I cannot describe to you the difficult situation
10 that we were facing. It was just terrible to allow weapons to go
11 through, and they knew about this. You couldn't hide anything. It was
12 all small, a small place. And then after supplying weapons for a year
13 and a half, these people were expelled and killed.

14 Now, you stand in front of them and let me see what you would
15 tell them. It's a terribly difficult situation to be in.

16 JUDGE TRECHSEL: Yes. We are really exploiting this document, as
17 you can see, Ms. Alaburic. I'm sure you're happy about it.

18 Mr. Praljak, in point 4.5, Mr. Praljak says -- Mr. Petkovic
19 writes that there is a lot of lack of professionalism, and he says that --
20 "Let us be honest," I quote, "on the level of the zone - HVO staff."

21 Now, two questions first. Is he even exercising some sort of
22 self criticism? And second question, when you joined the staff did you
23 also find that the General Staff was lacking professionalism, and were
24 there any measures that you'd take in order to repair the situation in

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1 THE WITNESS: [Interpretation] I did know about all these
2 problems, and I'd especially like to mention that the army is based on
3 the lowest unit, on sergeants, the sergeant level that we do not have.
4 However, Your Honours, you can't do anything if you haven't got the men
5 to do it with. We had 30 men in the Main Staff, for example, for
6 everything, and they were of the kind of men they were. So it's not a
7 question of will. It's a question of having half a loaf of bread. And
8 if there are ten people to feed, then you have to divide it up among ten
9 people. You haven't got a whole loaf of bread.

10 So this is just an observation. It's not any criticism. Well,
11 education, training, that lasts for two months. We sent them to schools.
12 We did what we could, but there was just not enough manpower, and you
13 couldn't create an officer out of somebody who just wasn't officer
14 material. If you sent them to school, that would take six months. So we
15 were lacking in cadres at all levels, in the government, Ministry of Defence,
16 whatever it is called, in the HVO and in everything else. Too few people,
17 too few professional and well-trained people.

18 JUDGE TRECHSEL: Thank you.

19 MS. ALABURIC: [Interpretation]

20 Q. General Praljak, let's move on to the next document, which I am
21 trying to the fourth element of effective control, and that is the
22 question of whether the chain of command was constant and uninterrupted
23 or whether there were situations when the commanders were not in control

24 of the situation on the ground. And the document I'd like to us to look
25 at is P3314, to illustrate that. 3314 is the document number. It's an

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1 exhibit, but let's analyse it nonetheless. Let's look at what the
2 situation was.

3 In this report by the military police, it is noted that in Rama
4 soldiers and civilians are arriving from Kostajnica. And that's the
5 beginning of July, 1993.

6 You, General Praljak, as far as I know, are well-versed with the
7 situation in Kostajnica and that general area of the Rama municipality,
8 and here we have people moving from Kostajnica into Rama. Am I right?

9 A. Yes, I was at Boksevica, and they crossed over Boksevica to
10 leave. I took those people in, and as I said told you I carried two
11 children, two little twins, girls, they were eight days old, two babies.

12 Q. Now let's look at the next excerpt. And it says here:
13 "Unfortunately, we did not succeed because some individuals went further
14 on foot." And now the essential point of this. It says: "And the
15 soldiers refused to listen to anybody's orders. And the commanders from
16 Kostajnica do not have any control over the -- over the soldiers." And
17 now we come to the final sentence: The operative zone cannot deal with
18 this problem either and resolve it, that is to say Zeljko Siljeg.

19 Now, tell us, General Praljak, is it possible that the situation
20 was really like that, that the military commander simply with the best
21 will in the world could not control the situation on the ground as it is
22 described here in this document?

23 A. Ms. Alaburic, at Boksevica, for example, after they were there
24 for I don't know how long, I was up at Boksevica. Now, the soldiers were
25 no longer functioning properly. You couldn't even call them soldiers or

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1 human beings. At one point in time one ceases to function. You're not a
2 human being any more. You're not functioning like a human being, let
3 alone a soldier, and they said we're going to leave Boksevica.

4 You cannot issue an order because they're not going to listen to
5 you. They're not going to obey you. And on that occasion I said, "Okay.
6 You go and I'll stay. I am not going to leave." And then they decided
7 to stay rather than leave me alone. So that was the situation up at
8 Boksevica to allow for enough time for these people to be pulled out.

9 Secondly, these 500 individuals and the people who came in, well,
10 Ms. Alaburic, they were erased people. Just points of singularity. They
11 were expelled, killed.

12 It's a matter of psychology. It's not a matter of the army, of
13 the military. And I mentioned the French army at Arden when they were
14 withdrawing and saying that nobody was obeying orders. It's no longer an
15 army. You're referring to an army and you say people are soldiers if
16 they're wearing uniforms, but these weren't real soldiers. They were people
17 who needed psychiatric treatment, and there were lots of them like that.

18 Q. Very well, General. Let's move on to the next document?

19 JUDGE ANTONETTI: [Interpretation] General, this document also is
20 interesting. It dates back July 1993, and it's here there is an urgent
21 response that is required from -- in this document, but when reading this

22 document, we find out the soldiers who are fleeing or mixed up with the
23 civilians, and the person who wrote the report says there is a solution.
24 The solution is to resort to force. But he says but among all these
25 soldiers there are women and children, so it's impossible to resort to

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1 force. At least it seems to be what Mr. Franjic is saying. He says that
2 there's about 500 since and 500 soldiers, so a thousand people
3 altogether, and there's only 60 military policemen in front of them.

4 As I was reading this, I remembered, you know, the withdrawal of
5 the Southern Vietnamese when they were being attacked by the North
6 Vietnamese and the way they withdrew, and in that withdrawal soldiers
7 were mixed up with the civilians and it was a complete mess. Normally --
8 notably during the Tet Offensive. So obviously the situation was
9 impossible to control.

10 This is something that was written in July 1993. Did you know
11 about all this?

12 THE WITNESS: [Interpretation] Yes. I took them in, Your Honour.
13 I greeted them at Boksevica. There was no solution. The only solution
14 was that they be taken away somewhere, put up somewhere, that
15 psychiatrists be brought in.

16 What do you mean shooting? You could kill him, kill them. They
17 didn't mind. They -- they didn't care any more whether you're going to
18 shoot at him or he's going to shoot at you. They just couldn't care
19 about anything any more. And you had to let these people go to Croatia,
20 or to Posusje. Of course there was no accommodation for them there. If we

21 had that then you would have to take care of them for several months and
22 perhaps you would succeed in having 300 of them return, but the other 200
23 never would.

24 JUDGE ANTONETTI: [Interpretation] Just a minute.

25 General Praljak, given -- given the situation, did you contact

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1 the UNPROFOR to ask for assistance, or did they just say, "It's not our
2 problem. It's not our business. Just manage the situation yourself"?

3 THE WITNESS: [Interpretation] Your Honour, Mr. Petkovic went to
4 that place, Kostajnica, with UNPROFOR three or four times. They did not
5 wish to solve the problem. And I was up at Boksevica with some 30 lads
6 for some ten days, left without any food or water, up on some hill. I
7 stood guard round the clock, just like any other soldier because there
8 were too few of us, and the Muslims were not 30 metres off. They shot
9 at my... my... Well, those are details. I don't have to tell you about
10 them, but believe me when I say that it was a situation that just
11 could not be solved. It was impossible to solve a situation like
12 that unless you resort to psychology, military psychology, social
13 psychology, human psychology or whatever. Because those people had
14 just lost it. You know the expression "lost it"? They broke down.
15 Their morale had broken down and they needed treatment, all of
16 them.

17 MS. ALABURIC: [Interpretation]

18 Q. General Praljak, let's now talk about the fifth element of the
19 effective control, and we're talking about units which were not under the

20 control of the Main Staff of the HVO.

21 Given the contents of the indictment, I'm going to focus on the
22 Convicts Battalion. Let's look at P7419, P7419.

23 A. Where's that?

24 Q. That's the next topic within the topic that we're just
25 discussing?

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1 A. Yes, yes, I can see it.

2 Q. Look at the first page of the document. What I'm interested in
3 is in the -- is the following statement:

4 "All professional units have been abolished if they were not
5 tied to the Main Staff of the HVO in organisational terms."

6 This is an official report issued by the Ministry of Defence.
7 General Praljak, I can conclude based on this statement that there were
8 indeed professional units which were not under the control of the Main
9 Staff. Was that indeed the case?

10 A. I know one unit which was not under my control, at least
11 one.

12 Q. Which one was that?

13 A. That was the unit under the command of Mladen Naletilic Tuta.

14 Q. Let's look at the following document which is 2D925.

15 Mr. Naletilic wrote this document in February 1994 and sent this to Mate
16 Boban, and at the end he greets him as his own personal advisor.

17 I suppose that you will remember this document, because the Bruno
18 Stojic Defence team has already shown it to you in this document -- in

19 this courtroom?

20 A. Yes.

21 Q. General Praljak, an important question may be raised here, and
22 that question is whether Mr. Naletilic had any power in the Croatian
23 Community of Herceg-Bosna and later on in the Croatian Republic of
24 Herceg-Bosna?

25 A. Yes.

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1 Q. Could you please explain, what was the source of that power
2 according to you?

3 A. I really wouldn't know what his ties with Mate Boban were and
4 where that power -- how far it reached, and so on and so forth, but I've
5 already explained the event that took place between the two of us, that
6 involved the two of us, that is, and simply after that there was no way
7 anybody could issue him with any orders. I did not consider him to be a
8 member of the HVO. Neither I nor Petkovic could remove him from that
9 position, and that would be that.

10 Q. General Praljak, the Convicts Battalion was, nevertheless, part
11 of the system of the armed forces of Herceg-Bosna, and that's why I'm
12 going to ask you the following: This particular military unit, was it
13 under the direct command of the Supreme Commander, Mr. Mate Boban?

14 A. Listen, this unit, the Convicts Battalion, there was something
15 very unusual about that battalion. A unit of that type, and I don't know
16 exactly what its name was, whether its name was the Convicts Battalion or
17 anti-sabotage unit, that was a unit that was initially under the command

18 of Andabak whose nickname was Lija . That particular unit, those lads
19 were okay. However, in addition to those people who were okay, there was
20 a grey group, as it were, that did not participate in combat, and that
21 group had a certain power. I don't know what kind of power it was. It
22 was not very clear as one would like to purport. Those lads that
23 included Mico Lasic and others had their dignity, their morale, their
24 valor and courage, but there were also some groups that did not
25 participate in combat that were in the grey area, as it were, and beyond

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1 the reach of the Main Staff.

2 (redacted)

3 (redacted)

4 (redacted)

5 (redacted)

6 (redacted)

7 (redacted)

8 (redacted)

9 (redacted)

10 (redacted)

11 A. Yes. Could you please ask the Trial Chamber to move into private
12 session if you want to pursue this line of questioning.

13 JUDGE ANTONETTI: [Interpretation] Move to private session.

14 THE WITNESS: [Interpretation] And could this -- could your last
15 words also be redacted?

16 [Private session]

17 (redacted)

18 (redacted)

19 (redacted)

20 (redacted)

21 (redacted)

22 (redacted)

23 (redacted)

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11 Page 42385 redacted. Private session.

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1 (redacted)

2 (redacted)

3 (redacted)

4 (redacted)

5 [Open session]

6 MS. ALABURIC: [Interpretation]

7 Q. And now moving to bullet point 6 --

8 THE REGISTRAR: [Previous translation continues] ...

9 MS. ALABURIC: [Interpretation]

10 Q. -- in -- in this part dealing with the effective control, and
11 the second -- or the sixth part. The first is the practice according to
12 which in --

13 JUDGE ANTONETTI: [Interpretation] Just a minute. Before

14 Ms. Alaburic deals with the other aspects involved in effective control,

15 let me go back to May 9th. There are a number of assumptions around all
16 this, you know, and I've -- I put a number of questions to you, but I
17 believe it's time to put new questions to you.

18 If we follow your case, I'm saying if we follow your case, which
19 is that Mr. Naletilic was a rogue element, totally out of control, and
20 the document we have, 4D805 might be very important in this respect,
21 obviously without abiding by the chain of command he writes directly to
22 Mr. Boban to report on the situation of two captains.

23 So if there seems to be an alternate -- alternative chain of
24 command in which you're not, and neither is Mr. Petkovic, then how can we
25 analyse the operation that was carried out on May 9? Do you think it

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1 could have been a operation that could have been directly ordered by
2 Mr. Boban so that Mr. Boban would have ordered Mr. Naletilic to carry out
3 an all-out military operation with his units, i.e., arresting hundreds or
4 thousands of people in order to send them to the Heliodrom?

5 Up until now all the evidence we've had, all the witnesses we've
6 seen seem to say that Mr. Prlic wasn't there, you weren't there either,
7 neither was Mr. Petkovic, and so forth.

8 This struck me, because when you have an all-out military
9 operation of such magnitude, you know, the leaders should be on the
10 field, on the ground, and here surprisingly there's no one. Notably,
11 since there was a strong logistical support that had been required for
12 this operation, for example, all the buses had to be available and so
13 forth.

14 So if this is what happened, you know, this -- we have a direct
15 connection between Naletilic and Boban, what was their goal, and why
16 didn't they involve you all?

17 THE WITNESS: [Interpretation] Your Honour Judge Antonetti, I
18 can't answer your question. I only know from reliable sources on the
19 11th, if he was asked to go there, we can only assume that that was how
20 he wanted to put everybody in a position which was a dead end and that
21 left no options. However, this fell through. On the 9th of May, the
22 army attacked and that fact was used for the things that ensued that you
23 know all about, and I don't know because I arrived later. But you know,
24 when sometimes a forcible move can put you between a rock and a hard
25 place. When the shooting starts on the line, somebody can say, "They

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1 attacked us," and somebody else says, "We attacked them." Whoever was
2 the first to open fire, you have to respond, but those are such
3 situations that can put you between a rock and a hard place.

4 I opposed him. Nothing came out of it, although I repeat all the
5 information that I had gathered and that I had put at your disposal on
6 the 9th of May, as you will see in the document, it was the BH Army that
7 launched the first attack. How this was used, it's up to you to see who
8 participated, how things developed after that. I wouldn't know anything
9 about that.

10 MS. ALABURIC: [Interpretation]

11 Q. General Praljak, and let's now move on to part 6, which I entitle
12 "Skipping the Links."

13 JUDGE TRECHSEL: Thank you, and please excuse me.

14 General Praljak, perhaps you do, perhaps you do not know about
15 this: Naletilic was operating with his convict units. He certainly
16 needed logistics of all -- of many kinds, MTS and so forth. Where did he
17 get this? Did he get it through the normal HVO channels, and if so, was
18 that not the possibility to control him?

19 THE WITNESS: [Interpretation] No, Your Honour Judge Trechsel.
20 The channels were anything but usual. He had his own channels. I'm sure
21 that he didn't go through the Main Staff of the HVO.

22 JUDGE TRECHSEL: You say you are sure. That means that you
23 believe it is like this. You have no exact knowledge of where he got his
24 material.

25 THE WITNESS: [Interpretation] Correct, Your Honour

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1 Judge Trechsel. I know that he did not go through the Main Staff. How
2 he did it, I wouldn't know.

3 JUDGE TRECHSEL: Thank you.

4 MS. ALABURIC: [Interpretation]

5 Q. General Praljak, in the Main Staff there was no logistical base
6 as such, and not all units of the HVO were supplied through the Main
7 Staff. Would that be correct?

8 A. Yes.

9 Q. Okay. Okay. Let's now move on to part 6 of the effective
10 control, and my title of that part is "Skipping the Links in the Chain of
11 Command." Skipping the links in the chain of command which may be

12 considered as an element that aggravates the effective control.

13 General Praljak, so far we have seen a number of documents in
14 which, for example, Mate Boban communicates directly with Ivica Rajic,
15 which means that he skipped a level -- or the level of the Main Staff and
16 level of the operation zone Central Bosnia as well.

17 We've also seen that Boban communicated directly with Tihomir
18 Blaskic, who was the commander of an operation zone, which means that he
19 bypassed the Main Staff in doing that.

20 And we have also seen some of your documents, and Honourable
21 Judges have asked you a lot of questions about them, because as the HVO
22 commander, you directly communicated with the brigade commanders.
23 Honourable Judge Trechsel had a lot of questions about that for you, and
24 I also have a few questions of my own with this regard.

25 How frequent and common was the practice of communicating by

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1 skipping or bypassing a level or two in the chain of command, as far as
2 you know?

3 A. As far as I'm concerned, this was done when no other options were
4 available. Sometimes it was due to the speed, sometimes it was
5 impossible to establish communications, and whenever that was the case, I
6 was known to skip one or two levels of the -- in the chain of command,
7 especially when I was in the field. I was there among them.

8 Q. Very well. You're saying that that practice didn't exist.
9 However, one could say that this was not a rule, but this was also not
10 uncommon. Would that be a good conclusion?

11 A. Ms. Alaburic, in an army conducting operations it's not a rare
12 occurrence. Well, I don't want to go on to expand on that, give you
13 examples, but yeah.

14 Q. Very well. Let us move on to the seventh element about -- in
15 this topic of effective control, and that's whether there were some
16 situations in which some of the commanders did not report their superiors
17 about some major events.

18 Were there such situations or could you say as the commander of
19 the Main Staff? You had absolutely all information about all the
20 relevant developments in the field?

21 A. That was not the case, not at all. A huge amount of information
22 was either wrongly filtered or misrepresented or the information itself
23 was incorrect. I gave you a mind-boggling example. The lines in Vakuf
24 fell between 2.00 a.m., and I was touring the lines at that time, between
25 2.00 and 6.00 a.m., and I was in Rama, 15 kilometres away. They all

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1 fell. All the lines fell. Nobody informed me. Nobody informed the duty
2 officer, so nobody -- so it's simply mind boggling. One cannot simply
3 understand it, but it's possible.

4 Q. Let us move on to the eighth topic, the question whether there
5 was any power struggle and any personal conflicts in the chain of command
6 that might have resulted in the disruptions in the ability to exercise
7 effective command.

8 Let us look at 4D805. It's a document from the Ljubuski Brigade
9 commander, Jure Rupcic, and he's sending it to the commander of the

10 Mostar military district, Miljenko Lasic, so that's his superior. And he
11 says the following, I'll read this report in its entirety because it's
12 very short.

13 "With regard to your order of the --" well, I can't say, is it
14 the 3rd or the 5th?

15 A. The 5th.

16 Q. "-- of the 5th of December, 1993, I hereby inform you as follows:
17 Where do you get the nerve and guts to issue any orders in order to be
18 able to communicate with you?"

19 Let me repeat:

20 "With regard to your order of the 5th of December, I hereby
21 inform you as follows: Where do you get the nerve and guts to issue any
22 orders? In order to be able to communicate with you in writing, I would
23 have to stoop intellectually, immorally, to your level, you moron, and I
24 definitely don't want to do that."

25 General Praljak, have you seen this document before?

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1 A. Yes.

2 Q. Well, all the Defence teams are quite familiar with it. Could
3 you please comment on this document in the context of this topic about
4 the communication within the chain of command that we're discussing now?

5 A. Yes. In an army of this kind, it was much more important to
6 identify commanders or find commanders who are not in any conflict with
7 each other, conflict dating from an earlier period, because they brought
8 with them all the baggage of their problems from before, the village, the

9 family and so on, and they simply moved it together with them to the
10 army. They didn't say, "I'm a professional. This is what I am, and I'm
11 going to set aside everything else." They brought all this baggage with
12 them. There are dozens and dozens of such cases where one commander
13 tells another, "Well, you idiot. How dare you issue any orders to me?
14 You used to be a waiter," or something of that kind.

15 Unfortunately, this is what spilled over from their real life to
16 their life in the army, or, "I was here before you," or "You were a
17 member of the League of Communists. I'm not taking any orders from you."
18 So whatever. All kinds of things. So this whole complicated life spilt
19 over in an area where there should be an order of a completely different
20 kind.

21 Q. General Praljak, tell us whether these situations that you
22 described to us, did they have an influence over the effective control
23 that a superior had over his subordinates to your knowledge?

24 A. Yes, how can you have effective control if this man will say,
25 "Well, this is a guy from my village. We don't want him." You could see

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1 from the Pavlovic unit, where he said, "Those from Rumboci don't want me,
2 these are against me, these think they are right...", and so on and so forth.

3 Q. Could you please look at the next document, which is related to
4 item 9 --

5 JUDGE ANTONETTI: [Interpretation] General Praljak, I discover
6 this document right now, and such a document is -- is striking for all of
7 us.

8 What was this situation? Who was Mr. Lasic.

9 THE WITNESS: [Interpretation] I don't know what his education
10 was, Your Honours. I don't know his educational background. I was one
11 of those who proposed him as the zone commander because he was very
12 honest. He had military flare. He was very courageous. But I also
13 asked for the chief of his staff to be a military career man. As a
14 commander he fought really well in Vrđi. He always went into combat
15 first before his troops, which is very important. And his Chief of Staff
16 was very well-versed in military matters. He was a former officer of the
17 JNA, Puljic. And it was a brilliant combination, a very good
18 combination.

19 On the one side there was a good and honest fighter. I know, I
20 know that he had been a capable businessman. I don't know what his
21 educational background was, but -- but that would be that. I know
22 everything about him. The only thing I don't know is what his
23 educational background was.

24 JUDGE ANTONETTI: [Interpretation] In December you were not in
25 that post, but in such a situation a military commander -- shouldn't a

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1 military commander conduct an operation to command Rupčić, to arrest
2 Rupčić because he destroys the whole chain of command by such documents?
3 So wouldn't -- he should be arrested?

4 THE WITNESS: [Interpretation] Yes. He should have been punished,
5 but, Your Honours, you know, if you were to remove him or if you sent him
6 to prison, he doesn't see it as a punishment. He sees it as a reward.

7 If you remove him from office, it's also a reward. He just picks up all
8 his stuff and leaves. The whole thing is upside down. In a well-ordered
9 society if you punish somebody it's punishment, that's what it is, and
10 here punishment was a reward. This guy sits in prison and he doesn't
11 have to go to the front line. If you remove him from office, he says
12 "Well, thank you very much." All of them wanted to be removed from
13 office. You saw Saskor and the guy in Ramo, Pavlovic, and even Mico
14 Iasic wanted to be removed from office. And he really didn't want to
15 accept this post at all. He had to be talked into it.

16 Well, I would have dealt with this in a different way if I had
17 been there. I would do a show of force, and then I would pound this man
18 to the ground, and I would show him that he is -- that he was a total
19 moron, the father of all morons, but that's just a question of style.

20 JUDGE ANTONETTI: [Interpretation] Ms. Alaburic.

21 MS. ALABURIC: [Interpretation]

22 Q. General Praljak, let us move on to our ninth topic in this set
23 that deals with effective control. The prevailing opinion is that if
24 something's wrong in the chain of command if there's a need for an order
25 to be repeated but from a level higher up, and in this context I would

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1 like us to look together at document P468. It's an order from the head
2 of the Defence Department. The date is the 12th of September, 1992, and
3 it is issued because this same order from the Chief of the Main Staff of
4 the HVO had not been complied with.

5 This is a warning to the soldiers that they should not carry

6 firearms during their time off, that they should not be in uniforms. And
7 the commanders of the units are told to control this kind of behaviour on
8 the part of their soldiers.

9 General Praljak, to your knowledge the orders that a military
10 commander issued, were they obeyed without any problems or was it really
11 necessary for orders to be re-issued -- well, I don't want to go into too
12 much detail here, in that soldiers should be talked into doing something
13 and that all kinds of things had to be done in order to achieve the
14 desired result, i.e., the appropriate behaviour on the part of the
15 soldiers?

16 A. The orders were, unfortunately, repeated and repeated, and then
17 one had to ask for Stojic to sign them. I personally tried hard not to
18 repeat my orders. If I could, I would deal with it by physical force.
19 So I would try -- no, I don't mean by that --

20 Q. When you say "physically," you mean in direct contact with that
21 person?

22 A. Yes, that's right. And then some people would say that and would
23 see that, and then -- I can give you an example. For instance, there's a
24 lad who discharges his firearm in Citluk. He's just come back from the
25 front line. He's shell-shocked and there's police there. And it was

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1 considered to be a normal kind of behaviour. And then I approached him.
2 I would say, "Why are you shooting?" And then I would shout at them or
3 at him. I would grab his rifle.

4 Well, the system broke down in every places and writing orders

5 was in vain. Well, we can all write. I can write a hundred orders every
6 day in proper style, proper format.

7 Q. So in some situations one had to act in direct contact and to
8 show in a convincing manner what these people were supposed to do.

9 A. Yes.

10 Q. The tenth element in our effective control topic has to do with
11 the necessity to obtain some assistance from outside to solve a problem.
12 The document that I'm going to show you is directly related to you.
13 Let's comment on it. It's 4D1671. It's a letter that the head of the
14 Defence Department --

15 JUDGE ANTONETTI: [Interpretation] Well, if it's a new topic,
16 maybe we should start it tomorrow, because we only have a few minutes
17 left.

18 MS. ALABURIC: [Interpretation] Your Honour, it's not a new topic.
19 I have six more items within this topic effective control, so if I can
20 just complete this one and then we'll move on to the next five elements.

21 JUDGE ANTONETTI: [Interpretation] Well, do -- do finish. We only
22 have four minutes and ten seconds left.

23 MS. ALABURIC: [Interpretation]

24 Q. So this is a document, the head of the Defence Department in late
25 October 1992 writes to the office of the president of the Republic of

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1 Croatia. Let's look at last paragraph of this letter. He asks that you
2 come to Herceg-Bosna, and then he explains why, and let me quote:

3 "Because of the general situation in the Croatian Community of

4 Herceg-Bosna and the respect that he enjoys among the commanders and
5 soldiers, it would be good for this pre-emptive operation to be conducted
6 by General Praljak; we are convinced that the action would be a success
7 and that we could face a more peaceful or quieter winter."

8 In your examination in chief you told us, General Praljak, that
9 you did not come to Herceg-Bosna as an individual invited by anyone, that
10 you were not invited by anyone, so I would like you to explain whether
11 you knew about the situation that -- that people from Herceg-Bosna ask
12 the Republic of Croatia to make it possible for you to come down there to
13 Herceg-Bosna to deal with the situation.

14 A. Yes. I was aware of it, and I said that I never ever, from the
15 end of the war until the beginning of this trial, I never did say
16 anything positive about me. I never bragged about what I did or what my
17 importance was, but here I say that they asked for me to come again in
18 Central Bosnia, in Rama and here, because in their opinion I was
19 passionate, courageous. I was a good organiser, and I didn't give in to
20 anyone, and I can say that before this court as an accused that I did
21 that job with the greatest possible commitment and honesty, strictly on
22 personal merit, and fiercely, sometimes very fiercely.

23 Q. Thank you, General Praljak.

24 MS. ALABURIC: [Interpretation] So now this might end our hearing
25 today.

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1 JUDGE ANTONETTI: [Interpretation] Thank you, Ms. Alaburic. You
2 have finished the last point you wanted to examine.

3 As you know, we're sitting tomorrow at 9.00 a.m. We will have
4 four hours to finish with all the questions posed by Ms. Alaburic. So
5 good evening to all, and see you all tomorrow morning.

6 --- Whereupon the hearing adjourned at 6.59 p.m.,
7 to be reconvened on Thursday, the 2nd day
8 of July, 2009, at 9.00 a.m.

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