



**Page 44898**

1 Wednesday, 16 September 2009

2 [Open session]

3 [The accused entered court]

4 [The accused Coric not present]

5 [The witness entered court]

6 --- Upon commencing at 9.05 a.m.

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

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

12 JUDGE ANTONETTI: [Interpretation] Thank you, Mr. Registrar.

13 This is Wednesday, September 16, 2009.

14 Registrar, I think the witness cannot hear.

15 Can you hear me witness?

16 THE WITNESS: [Interpretation] Yes, Your Honour.

17 JUDGE ANTONETTI: [Interpretation] So this is Wednesday,  
18 September 16th, and I welcome you, Professor, as well as the accused. I  
19 also welcome the Defence counsels, Mr. Scott, his associates, and  
20 everyone helping us.

21 Let me first give the floor to our Registrar. I believe he has  
22 an IC number to give us.

23 THE REGISTRAR: That's correct, Your Honour. Some parties have  
24 submitted lists of documents to be tendered through Witness  
25 Slobodan Praljak. The list submitted by 3D shall given Exhibit IC1036.

**Page 44899**

1 The list submitted by 1D shall be given Exhibit IC1037. The list  
2 submitted by 2D shall be given Exhibit IC1038. The list submitted by 4D  
3 shall be given Exhibit IC1039. The list submitted by 5D shall be given  
4 Exhibit IC1040, and the list submitted by the Prosecution shall be given  
5 Exhibit IC1041. Thank you, Your Honours.

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

7 I have a question for Mr. Kovacic as well as Ms. Alaburic. When  
8 looking at the schedule, the Trial Chamber noted that the last witness of  
9 the Praljak Defence is scheduled to be heard on Tuesday, October 20th,  
10 Witness 3DA. I believe he will have started his testimony on October  
11 15th. And the first witness of the Petkovic Defence is scheduled for  
12 Monday, November 2nd, 2009. **The Trial Chamber thus noting that there**  
13 will be an empty week, a week and a half without any witnesses. Could we  
14 have some explanations, please.

15 Ms. Alaburic, maybe.

16 MR. KOVACIC: [Interpretation] Your Honour, perhaps it would be a  
17 good idea if I were just to inform the Court before Ms. Alaburic takes  
18 the floor that as far as our 3DA, last witness, is concerned, we're still  
19 not sure whether we're going to be able to bring him in. I don't want to  
20 go into any explanations but there are two obstacles, first of all,  
21 whether we're going to have enough time to do that, in view of the fact

22 that we have calculated everything and fine-tuned everything to the  
23 minimum time. So if there are any extensions we won't have any more time  
24 for him. And secondly, he still hasn't given us the go ahead and told us  
25 that he's willing to come in. Now, since we have a signed statement from

**Page 44900**

1 him and since we've put him on our list pursuant to our Rule 92 bis, so  
2 when we come closer to the time, we're going to see whether we're going  
3 to be able to produce him or not, strike him off the 92 bis list or are  
4 we going to leave him on the list and bring him in viva voce or not.

5 MS. ALABURIC: [Interpretation] Good morning, Your Honours, to you  
6 and everybody else in the courtroom. It is quite true that between the  
7 schedule presented by the Praljak Defence to the Court and the schedule  
8 prepared by the Petkovic Defence, there is a break of exactly six working  
9 days, an intermission. Now, we did this respecting the fact that the  
10 Praljak Defence in the first half of September will be submitting a  
11 motion for leave to introduce as evidence under 92 bis witness statements  
12 which our colleagues did indeed do on the previous Monday, last Monday.

13 Now, when we received the 65 ter list from all the Defence teams,  
14 including the Praljak Defence team, we were able to see what witnesses  
15 under Rule 92 bis they intend to call, the Praljak Defence intends to  
16 call; then we thought that among those witnesses there was certainly  
17 witnesses who, for the Prosecutor and perhaps for some Defence teams,  
18 would be very interesting to be called in for cross-examination. Now, I  
19 could give you some names right now, but that's just the opinion and  
20 position taken by the Praljak Defence. We feel that those individuals

21 would be very important witnesses because they have a great deal of  
22 knowledge about the events in Herceg-Bosna at the relevant time.

23 We also thought that for these witnesses we would need at least  
24 five or six days, and being very rational we wanted to start out with our  
25 defence on the 2nd of November. If the Trial Chamber decides otherwise,

**Page 44901**

1 we are ready to go ahead earlier; and in that case, however, we have a  
2 problem, whereby the expert witness has to be handed in 60 days before  
3 the actual testimony of the said expert witness, and the expert witness  
4 Gorjanc and his report we submitted on the 2nd of September. So that  
5 those 60 days expired on the 6th -- on the 2nd of November. So if we  
6 have to start our Defence earlier, then we'd like to request of the  
7 Trial Chamber that that dead-line be reduced from the 60 days to 50 days.  
8 So those are our reasons. If there are any additional questions, I will  
9 be happy to answer them.

10 JUDGE ANTONETTI: [Interpretation] Ms. Alaburic, there are two  
11 things that strike me immediately. First, this expert witness, this  
12 Gorjanc expert witness who can only be heard as of November 2nd, on this  
13 point there is no problem. The problem is not the expert, he will come  
14 after November 2nd, maybe, or December, I don't know, it's not really a  
15 problem unless you absolutely want him to testify first, but we're not  
16 there yet. But the second problem that you raise quite surprised me when  
17 I heard you actually, the 92 bis statements or witnesses. General  
18 Praljak is suggesting more than 150 of these, so since 6.00 this morning  
19 I've been studying his motion, I've been looking into this motion.

20 Personally I sorted all witnesses. I don't know what the Trial Chamber  
21 will decide in the end because we haven't deliberated on this yet, but  
22 it's a huge amount of work for the Judges. First you have to read the  
23 150 statements, read the summaries, read all references with the  
24 indictment, see whether what they said corroborates what other witnesses  
25 might have said. So it's a huge amount of work which, in order to know

## Page 44902

1 whether there is -- will be need for cross-examination or not in the end.  
2 So that's a problem and it's going to take some time to solve. I can  
3 tell you it's not going to take -- it's not going to be solved overnight  
4 and it's certainly not going to be solved before October 15th. But even  
5 if the result is that there are 92 bis witnesses that need to be  
6 cross-examination, we run into another problem. What time is going to be  
7 used? So far we have no time allotted for these people. This has not  
8 been considered. So what period of time are we going to use? When the  
9 Trial Chamber set 55 hours for General Praljak it was 55 hours from A to  
10 Z, including the theoretical possibility that a 92 bis witness would  
11 become a 92 ter or viva voce witness.

12 And then I'm linking this with what -- follow about the Karadzic  
13 case, in -- what Judge Kwon said about the Karadzic case, he very clearly  
14 said that there would be two viva voce witnesses, some 92 ter witnesses,  
15 and some 92 bis witnesses. So the Trial Judges on this Bench have  
16 clearly gotten the message that there is a need to be a need to cut down  
17 on viva voce witnesses. In the Karadzic case, there is only going to be  
18 two of them. So among the 92 bis witnesses, are they people of such

19 importance that they're absolutely required in court? I don't know.  
20 First we have to discuss this among us and then we have to solve the time  
21 problem because so far this aspect of the problem has not been factored  
22 in. When we decided to allot time, it was just a complete amount of  
23 time, you know, including the possibility of a 92 bis witness becoming a  
24 viva voce.

25 Now, asking for these witnesses for General Praljak to come

### **Page 44903**

1 outside of any time allotment, there's a big problem here. As you see,  
2 we're running into a problem. We're going to think about it. The Judges  
3 will discuss this among themselves and we have some time to do that since  
4 our last witness is scheduled for October 14th. That's the one we're  
5 sure to have, a -- 3DA is in brackets for the moment because we're not  
6 sure of having him. What the Petkovic Defence could do, it could factor  
7 in the fact that as of October 14th they could call a witness right away,  
8 maybe not an expert or their expert, but they could call another witness  
9 as of October 14th.

10 We took due note of what you said. The Judges will now  
11 deliberate. This is not an emergency. I don't believe we have to rule  
12 on this overnight, but we'll keep you abreast of the developments.

13 MS. ALABURIC: [Interpretation] Your Honour, with your permission  
14 may I just make one further request. The Petkovic Defence, of course, is  
15 fully conscious of the fact that you are fully able to decide what the --  
16 how the trial is going to proceed and that you can make rulings and  
17 decisions with respect to the distribution of the individual witnesses,

18 but I'd like to ask you that the Petkovic Defence be placed in the same  
19 position as my colleagues before me were; that is to say, that they start  
20 their Defence when the previous Defence team has completed everything.  
21 That is to say, when they complete the examination of all the witnesses,  
22 that the Praljak Defence completes its examination of all the witnesses,  
23 that's the previous Defence team.

24 I don't think I need to explain that we have also prepared our  
25 Defence, bearing in mind what our colleagues in the previous Defence

**Page 44904**

1 teams have done and don't want to burden the Trial Chamber with the going  
2 into facts that we consider have already been proved, and we still  
3 consider that during the Praljak Defence certain facts will come to light  
4 and be proved and we want to continue our Defence based on those facts,  
5 following on from them.

6 Now, the 92 bis witnesses, among those we have people who were in  
7 the Main **Staff of the HVO and those who were high-ranking in the military**  
8 structures of Herceg-Bosna, and it would be of exceptional importance to  
9 the Petkovic Defence that these witnesses be heard before we complete the  
10 presentation of our Defence case. We do not wish to have the Praljak  
11 Defence witnesses come -- who come under 92 ter witnesses to be heard  
12 during our Defence or to be heard and examined after the Petkovic Defence  
13 has completed its -- the presentation of its Defence case. Thank you.

14 JUDGE ANTONETTI: [Interpretation] Very well.

15 Mr. Scott, would you like to respond on Ms. Alaburic's statement  
16 or remain silent? I don't know.

17 MR. SCOTT: Yes, Your Honour, good morning. Just a couple of  
18 matters in a moment or two. First of all, let me say again good morning,  
19 Mr. President, good morning to each of Your Honours, good morning to all  
20 those around the courtroom.

21 As I rise to my feet, Your Honour, the first thing I'd like to do  
22 is introduce another member of our team, Mr. Jonathan Struggles.  
23 Jonathan actually worked at the Office of the Prosecutor some years  
24 previously and then spent some time working outside of the UN. He is an  
25 English citizen but a member of the New York bar, and he has been

**Page 44905**

1 actually on our team for some time but, I think, only has been in the  
2 courtroom, I think, on one prior occasion. I expect him to be in the  
3 courtroom more frequently in the future, and I'm happy to be able to  
4 introduce him to Your Honours this morning.

5 JUDGE ANTONETTI: [Interpretation] Well, the Trial Chamber  
6 welcomes him and wishes him the best at the OTP. And we'll of course  
7 hear very carefully when he will take the floor, bringing with him all  
8 the excellent expertise he must have in common law matters. You know  
9 that the Judges on this Bench listen to the -- to the counsels -- you  
10 know that some counsels can become Judges now. We have some Judges  
11 here -- some counsels here that are now permanent Judges, so all -- you  
12 could all become Judges after all, and I wish that it will happen; 14  
13 became Judges.

14 MR. SCOTT: Thank you, Your Honour. I appreciate that and I'm  
15 sure Mr. Struggles appreciates your comments.

16           Turning to the matter at hand, Your Honour, the Prosecution would  
17     like to in this context make some preliminary remarks about the  
18     procedural situation that we seem to be arriving at. We did take note  
19     indeed that earlier this week the Praljak Defence filed a 92 bis motion,  
20     with I think exactly 155 witnesses. And I think as Ms. Alaburic has  
21     already mentioned, I think it's fair to say without saying too much more  
22     that there are certainly a number on that list which most people would  
23     probably consider relatively high-level-type witnesses whose names would  
24     be -- I won't go into names because of -- I think it's unlikely, but I  
25     suppose there might be a possibility of protective measures. But there's

**Page 44906**

1     a number of names on that list that people may recognise. It's rather  
2     high-level actors in this -- in this situation.

3           So it would be very likely - and again I'm only giving a  
4     preliminary observation - but it would be very likely the Prosecution  
5     would seek indeed to cross-examine a number of these witnesses. And even  
6     if one were to say and I'm simply -- I'm literally drawing this number  
7     out of the air as I speak, but if there are 155 witnesses and even if we  
8     were to, say, cross-examine 20, the Chamber knows that with a relatively  
9     major witness it is not at all uncommon in the -- in this case for a  
10    major witness to take a week.

11           So potentially, and I'm just -- very potentially, it could take  
12    up to some 20 weeks to cross-examine at least 20 out of the 155  
13    witnesses. That's assuming that it's 20. What if it's 50? What if it's  
14    40? So indeed, Your Honour, we do have a situation that's going to take

15 some additional work on everyone's part.

16 Certainly the Prosecution, I can anticipate the Prosecution will  
17 be asking for an expanded time to respond. We certainly cannot, I don't  
18 think, be expected, I hope, to respond to such a lengthy and voluminous  
19 motion in the normal 14 days. We just received it this week. I'm sure  
20 we'll be filing a motion asking for an extension of time. And,  
21 Mr. President, as you rightly noted, and I think was said, I don't think  
22 this is going to be resolved before the 14th of October, so it indeed  
23 does leave a potential gap in our schedule.

24 Those are our observations for the moment, Your Honour. Of  
25 course there'll be further developments and submissions, I'm sure.

**Page 44907**

1 JUDGE ANTONETTI: [Interpretation] Well, thank you. The Judges  
2 will carefully read what you said and we will discuss this among  
3 ourselves. I think that we see the problem. My fellow Judge has a  
4 question, I believe.

5 JUDGE TRECHSEL: Just to make sure I understand you correctly.  
6 We are in expectation of a motion filed by you in which you ask for  
7 additional time to react?

8 MR. SCOTT: Yes, Your Honour.

9 JUDGE TRECHSEL: Is that correct?

10 MR. SCOTT: I know that we were -- some of us on the Prosecution  
11 side were talking about it yesterday, and, Mr. Stringer, as you know,  
12 when one of us is in the courtroom the other one is engaged in other  
13 matters, and Mr. Stringer and others are looking at this now. I would

14 anticipate filing a motion either the end of this week or early next week  
15 for a schedule to deal with this voluminous filing.

16 JUDGE ANTONETTI: [Interpretation] Thank you, Mr. Scott. I have a  
17 couple things to say to this witness before we resume --

18 THE INTERPRETER: Before I give you the floor, interpreter's  
19 correction.

20 MR. KOVACIC: [Interpretation] Your Honour, perhaps to make the  
21 situation easier a little bit because this has to do with planning.  
22 First of all, as regards the proposal of my colleague for the extension  
23 of the dead-line, of course I'm not opposed. We have faced similar  
24 situations. As the Prosecution case drew to a close, Prosecution filed a  
25 92 bis motion and we sought and got additional time because that's,

**Page 44908**

1 indeed, what you need. And the second thing I wanted to say as regards  
2 the planning, by the end of the week or perhaps the first day after the  
3 weekend -- but by the end of the week we will file our motion for  
4 witnesses to be called under 92 quater. There are three or four of  
5 them -- well, yesterday we received information that one of our witnesses  
6 from 92 bis list actually passed away, so the 92 quater list might be  
7 increased by one more name. But we will file that by the end of the week  
8 anyway.

9 JUDGE ANTONETTI: [Interpretation] Thank you.

10 Witness, I have a few things to tell you before I give the floor  
11 to Mr. Scott. In order to better appreciate the credibility of your  
12 answers, I would like to know whether before you came here you followed

13 the testimony of General Praljak. Now, he was sitting in your place for  
14 several months. Did you follow this closely, yes or no?

15 THE WITNESS: [Interpretation] No, I did not. I had other things  
16 to do and I may have logged on to the internet just a couple of times to  
17 follow what was going on.

18 JUDGE ANTONETTI: [Interpretation] So you just followed on the  
19 internet a couple times. Fine. Did you follow the entire transcript or  
20 did you just catch a few glimpses of the hearing and nothing more?

21 THE WITNESS: [Interpretation] Just some excerpts because I had  
22 other things to do. I teach. I do research. I do my job, and in order  
23 to be able to follow the trial you have to devote most of your workday to  
24 that.

25 JUDGE TRECHSEL: Mr. Jurcevic, when you came here did you have a

**Page 44909**

1 chance to look at parts of the transcript during the proofing session in  
2 The Hague?

3 THE WITNESS: [Interpretation] No, because on Friday and on  
4 Saturday, Sunday, and Monday morning, I spent those days with the Defence  
5 counsel.

6 JUDGE TRECHSEL: And the Defence counsel didn't show you parts of  
7 the transcript of the testimony of Mr. Praljak?

8 THE WITNESS: [Interpretation] No, not a single fragment, but just  
9 the documents that, for instance, Mr. Karnavas showed here. So they  
10 didn't show me any part of the testimony.

11 JUDGE TRECHSEL: Thank you.

12 JUDGE ANTONETTI: [Interpretation] Professor, to make sure that  
13 this hearing runs smoothly, the Prosecutor still has about two hours and  
14 30 minutes for questions. His time is precious. He told you so. He had  
15 asked for six hours. The Trial Chamber only gave him three hours, so  
16 he's on a tight rope. He has many questions. He's got three binders of  
17 documents to show you, so he is in control, okay, he's in control of this  
18 cross-examination. So when he puts a question to you, you must answer  
19 either by: Yes, no, I don't know, I don't understand the question. And  
20 if the Prosecutor wants some more details, if you say just no, he might  
21 ask you why, explain yourself, and then you can elaborate.

22 As you know, this is a common-law procedure. You studied the  
23 law, so you know that this is a very surprising procedure for anyone  
24 coming from the civil law system. As far as I can tell you that the  
25 first time I was absolutely flabbergasted to find out that there were

### **Page 44910**

1 leading questions, that those were allowed. And Mr. Ibrisimovic, who was  
2 in the other trial at the time, can testify that I actually put the  
3 questions, you know, because I was so surprised at these questions. I  
4 was so -- but it's practice, that's the way it is. It's not in the  
5 rules but it's practice. The lawyers who are putting questions to you  
6 are usually either American or British -- we have a new one here,  
7 actually. So that's the way they do their job. They can put leading  
8 questions to you. And your answer should be: I agree, I don't agree, I  
9 do not know, and that's it. And if he wants you to elaborate, he can ask  
10 you to do so. He has his own strategy. He must have spent weeks to

11 prepare his strategy, so, you know, there's a logic to his questions and  
12 to his line of questions. So if you go astray, you know, he's going to  
13 be handicapped and he's going to want to put you back on track. Do you  
14 understand this?

15 And also when Judges put questions to you, they put different  
16 questions in a different way. But the procedure is such that the  
17 Prosecutor does his job by putting questions to you by controlling the  
18 time of the cross-examination, by asking you to get back on track and  
19 answer the question. You can regret that, but that's the way it is here  
20 at this Tribunal. And I hope everything will run smoothly.

21 Mr. Scott, you have the floor.

22 Professor.

23 THE WITNESS: [Interpretation] Your Honour, I have taken onboard  
24 everything that you've just said and I've given it some thought, and in  
25 light of what happened in the last half-hour of my testimony here

### **Page 44911**

1 yesterday, I am fully aware of the oath that I took to tell the truth,  
2 the whole truth, and nothing but the truth. And I do have a  
3 responsibility. I am also liable for criminal prosecution if I don't do  
4 so. I was instructed by the Victims and Witness Unit to that effect. I  
5 am an educated person and I prepared a statement. I signed it. And I  
6 would like to ask for your permission to present it here so that we could  
7 deal with what is about to follow and what you have just warned me about  
8 could go as smoothly as possible, and so that we could show respect to  
9 the Prosecution, its task, and the limited task it has. I have six

10 copies and the interpreters can be given a copy so that we can proceed  
11 more quickly.

12 JUDGE ANTONETTI: [Interpretation] One moment. Your statement is  
13 not part of the procedure. Witnesses do not need to make a written  
14 statement. I don't know what it contains. I shall turn to the members  
15 of the Bench to understand what their position is on this, and we will  
16 let you know whether we agree with this or not.

17 THE WITNESS: [Interpretation] Your Honour, perhaps I may  
18 assist ...

19 [Trial Chamber confers]

20 JUDGE ANTONETTI: [Interpretation] Professor, the Trial Chamber  
21 has just deliberated in front of you. Let me remind you that we are now  
22 in the cross-examination phase. The witness has a sole duty to answer  
23 the questions put by the Prosecution. The witness cannot interfere in  
24 any way, either by stating something or by providing something in  
25 writing. This is how things stand and we cannot accept your statement,

**Page 44912**

1 Professor.

2 THE WITNESS: [Interpretation] Your Honour, the first statement --  
3 sentence in my statement reads:

4 "Since under the Rules of this Tribunal I must not communicate  
5 about my testimony before it ends with anyone outside of the courtroom."

6 I only have you to address because of some major doubts that  
7 arose on Tuesday, the 15th of September, in the last half-hour of my  
8 testimony. And I would like to ask you -- well, you don't have to take

9 my statement into account at all, but I think that it is within the  
10 limitations that you've just delineated. It's about some events that  
11 were left unclear in the course of the cross-examination by the  
12 Prosecution, and Mr. President, in fact, ended the session, the hearing  
13 yesterday, by saying that it is not clear what the Prosecutor used the 24  
14 minutes of his precious time in the cross-examination. And I do not  
15 challenge the right of the Prosecution to conduct the cross-examination  
16 in any way they see fit, but I was really caught by surprise myself. And  
17 in my hotel room I thought for a long time about that, and especially  
18 about some doubts that were --

19 JUDGE ANTONETTI: [Interpretation] Professor, we were not familiar  
20 with your statement, and when I spoke to you a while ago the answer was  
21 contained, answer to your question. The Prosecutor puts a question to  
22 you, and the question he puts relates to his strategy, his case. So  
23 please, listen to the question. If you agree with the Prosecutor because  
24 the question is leading, then you can say that you agree; and then the  
25 Prosecutor continues with his questions. If you disagree with the

**Page 44913**

1 questions, then say so, say that you disagree or not; and then the  
2 Prosecutor will decide whether he will continue along those lines or  
3 whether he changes his tack. But it's for him to decide. He is  
4 conducting his cross-examination and no one else, and you simply answer  
5 the questions. If he changes his tack, the Judges will see that he has  
6 put a question and you answered by saying "no." The Prosecutor did not  
7 belabour the point and the Judges will understand how to assess all of

8 this. If, however, you cannot answer one of the Prosecutor's question  
9 you must say so and say that you cannot answer, and then you will see how  
10 he reacts.

11 The Defence counsel should have told you this. When you testify,  
12 there are two important things. There is a Prosecutor during his  
13 cross-examination that will test your credibility, because the Prosecutor  
14 knows that you are a Defence witness and therefore tries to attack your  
15 credibility. This is how the procedure works. The Prosecutor will thus  
16 try to make the Trial Chamber understand what you are saying might need  
17 to be scanned somewhat. Then, as far as the merits are concerned, these  
18 are questions of substance. This relates to your report. The Prosecutor  
19 may agree or disagree with parts of your report and this is what the  
20 Prosecutor is going to highlight. At the end of the hearing, the Defence  
21 will then ask for your report to be admitted into evidence. The  
22 Prosecutor can oppose this and the Trial Chamber will say whether your  
23 report is admitted in its entirety or only partly admitted.

24 If the Trial Chamber feels that your report should not be  
25 admitted, in that case it will remain on the transcript and on the

### **Page 44914**

1 transcript there will be the questions and answers. This is how this  
2 procedure works. You're not the first person to be taken by surprise by  
3 this -- these proceedings. Well-known lawyers were surprised in the same  
4 way as you are. A lot of people find this unusual.

5 The same thing happened when the Prosecutor called his or her own  
6 witnesses. The Defence put questions to the witness, attacked the

7 credibility of the witness, and attacked the witness on the merits of the  
8 case. This is -- you are now in a situation where you're being  
9 questioned by the Prosecution and you are a Defence witness.

10 Have you understood this well?

11 Mr. Kovacic.

12 MR. KOVACIC: [Interpretation] Your Honour, I see that you're  
13 really making an effort to explain the procedural issues to the witness.  
14 It might be a good idea, because I cannot address him, to tell him that  
15 the Defence can always deal with some issues in the re-direct, in  
16 re-examination.

17 JUDGE ANTONETTI: [Interpretation] Mr. Kovacic is an excellent  
18 lawyer. Perhaps he could even be a Judge one day, is reminding the  
19 Chamber that he is also entitled after the questions put by the  
20 Prosecutor to put additional questions to you. Since he is a person who  
21 has called you, if he feels that through your answers his case is being  
22 challenged, he will put questions to you afterwards. This operates like  
23 a watch-dog, if you like, and this is a balance system. You have the  
24 feeling that you are being pushed around a little bit, but this is how  
25 things work here. So please listen carefully to the questions put by the

**Page 44915**

1 Prosecutor and answer his questions.

2 Mr. Scott, I shall give you back the floor again.

3 MR. SCOTT: Thank you, Mr. President. Good morning again and  
4 thank you for the Chamber's directions -- assistance to the witness.

5 WITNESS: JOSIP JURCEVIC [Resumed]

6 [Witness answered through interpreter]

7 Examination by Mr. Scott: [Continued]

8 Q. Good morning, sir.

9 A. Good morning, sir.

10 Q. I want to turn right away to something that's come up both, I  
11 think, in response to a question by the President and also by  
12 Ms. Alaburic, that is some questions about this World War II camp called  
13 Jasenovac, and the fact that you have dealt with that on a number of  
14 occasions and wrote a book on it called something to the effect of the  
15 The Jasenovac Myth. And, sir, I'm going to put to you that in coming to  
16 the courtroom in the last two days and the comments you have made on that  
17 topic in particular, you have soft-pedalled your position on that. In  
18 fact, you have spent a large part of your career defending and minimising  
19 and denying what happened at the Jasenovac camp; isn't that true?

20 A. No, that is not true.

21 Q. Jasenovac was a notorious concentration camp run by the Ustasha  
22 government of the independent state of Croatia; correct?

23 A. Yes, I confirmed that when I was asked by the Defence and this is  
24 in all my public appearances on that topic.

25 Q. And indeed I think looking at my notes again, in 1998 you

**Page 44916**

1 authored or published a book titled "The Creation of the Jasenovac Myth,"  
2 in which, sir, you have tried to greatly reduce the scope and magnitude  
3 of the crimes committed at that camp, and you've done that over the last  
4 10 or 15 years, haven't you? It's been one of your professional -- main

5 professional endeavours?

6 A. No. It is entirely untrue. I would like to say that yes -- I  
7 said yesterday that "The Creation of the Jasenovac Myth" is my MA thesis  
8 that I defended at the Faculty of Philosophy in Zagreb. Not a single  
9 letter was changed and it deals with the methodology and the concept used  
10 by the communist regime to -- the way that they used the victims to their  
11 own purposes and I got the highest marks for my thesis.

12 Q. And in fact, sir, you -- your book was one of the things that was  
13 actually celebrated or there was, if you will, a promotional event at the  
14 institute in connection with your book about the Jasenovac myth; correct?

15 A. My book was promoted in a number of places, and because of the  
16 book and the views that I presented there in scholarly terms I had some  
17 problems with the Croatian authorities. Before the book was published, I  
18 was told that I should change two sentences in the book that had to do  
19 with Franjo Tudjman's research into the matter, and an offer was made to  
20 me that I would be the head historian in Croatia if I agreed to change  
21 the two sentences, and I refused to do so.

22 Q. Was this someone who approached you on behalf of the Croatian  
23 government, to censor your book?

24 A. I was not approached by anyone from the Croatian government, but  
25 by a person who had a relatively high position in the HDZ, a colleague of

**Page 44917**

1 mine, from my studies in history. That's Zlatko Stubic, I can say even  
2 his name.

3 Q. Sir, we don't have time for the reasons that Mr. President -- the

4 President has indicated, to go through these documents in detail,  
5 unfortunately, but just so you -- the Judges and so you can know a bit  
6 about what I'm talking about more, I will refer you to -- refer the  
7 courtroom to Exhibits P11005 and P11007, which can be found in the  
8 third -- in the third binder, but again I indicate to the courtroom I  
9 don't intend to go through the documents.

10 But, sir, you've continued to publish articles and have  
11 counter-responses and people coming back at you rejecting your position,  
12 saying it's a terrible position, how can these crimes be minimised.  
13 That's continued on, isn't it, there's been an ongoing dialogue, if you  
14 want to call it that, in the press, in the media, in publications, about  
15 your controversial work; isn't that correct?

16 A. Yes, there was debate about that, but it was not done in expert  
17 terms, and the exhibit that you presented here is my response to  
18 Mrs. Zorica Stipetic, who is a radical member of the communist structure,  
19 who was a member of the central committee of the League of Communists and  
20 she was in the ideological and political commission, as it was called,  
21 and in the Croatian public she was well-known as a person who radically  
22 dealt with all the opponents of the communist regime.

23 And in that debate I advocated the basic truths that I defended  
24 as part of my master's thesis. And this master's thesis had to go  
25 through all the complicated process of scholarly review in Croatia, in

**Page 44918**

1 the scientific community of Croatia, and it was defended before a  
2 scholarly commission.

3 Q. In fact, sir, one of the first questions that the President asked  
4 you on Monday was if you had testified before and you mentioned one case,  
5 but I believe you forgot to mention that you actually testified as a  
6 Defence witness, as a Defence expert, in a case involving the Jasenovac  
7 camp; isn't that correct? You testified on behalf of one of the camp  
8 commanders, Mr. Dinko Sakic?

9 A. His Honour the Judge asked me quite clearly at the beginning of  
10 my testimony whether I had faced a similar situation regarding topic, the  
11 topic of the Croatian homeland war, and I answered a very specific  
12 question. This thing that you say here, it is correct, I did testify at  
13 that trial, the one that you mentioned, as an expert. And this was all  
14 recorded. At the beginning of the trial and when I was called --

15 Q. Let me ask you, sir, to look at -- excuse me. I thank you, sir,  
16 and I apologise for cutting you off, but, again, you know the time  
17 limitations that we're both under. Sir, if you would look at  
18 Exhibit P10987 which should be again the third binder, you should be able  
19 to find -- thank you, sir. 10987, this is an article from HINA, which is  
20 the Croatian national news service. It talks about, sir, while you're  
21 looking for that and to save time, it talks about your testimony in that  
22 case, and again you're presenting in that case for the Defence the  
23 "Jasenovac myth." And in the third paragraph -- fourth paragraph on  
24 that -- in the English it will be -- the fourth paragraph in either  
25 version I suppose.

**Page 44919**

1 Now, and at the end of that paragraph you say -- or the article

2 says -- excuse me, but it's referring to your testimony:

3 "The first one to point to the fact that Jasenovac was a myth  
4 was Franjo Tujman,' Jurcevic said."

5 Was that your testimony at the Sakic trial that it was, in fact,  
6 indeed, Mr. Franjo Tujman who first said that Jasenovac was a myth?

7 A. No, that is not correct. He is one of the persons who explored  
8 the topic and spoke to that effect. The word "myth" actually meant that  
9 the communist regime would not allow any objective, scientific research  
10 into the victims of the Second World War including the Jasenovac camp.

11 Q. Sir, with respect, you're speaking code. When you talk about  
12 "objective data" what you want to say is that it wasn't nearly as bad as  
13 is widely believed. The victims and numbers of victims were grossly  
14 smaller. You said only a few bodies were actually found, only a few  
15 skeletons were actually found, it's in your testimony in that case.  
16 You'd want to tell the world - and you want to defend the Croatian  
17 government's actions at the time - that Jasenovac wasn't "so bad."  
18 That's your position, isn't it?

19 A. No. This is completely untrue, and if you look at a part of this  
20 document that you have just shown where I say that as regards the  
21 Jasenovac myth one of the first people to speak out was  
22 Vlaso Bogdanov [phoen] a member of the Serbian academy, it's at the  
23 penultimate paragraph here. So a member of the Serbian Academy,  
24 Vlaso Bogdanov, who stated that all the research about the Second World  
25 War and Jasenovac are ill-intentioned, slanderous, chauvinist, and

1       reactionary generalisation to the effect that all Croats are Ustashas.

2           Q.    In fact, sir, in fact you have generally followed in President  
3       Tudjman's footsteps, haven't you.  For example, following his book from  
4       the 1980s that he published titled "The Wastelands of Historical  
5       Reality," where President Tudjman devoted a book to minimising Croatia'S  
6       World War II crimes against Serbs, against Jews, against gypsies, and  
7       that's correct, isn't it?  And you've just followed in  
8       President Tudjman's footsteps in your career in terms of defending  
9       Croatian crimes?

10          A.    It is completely untrue, and I've said -- I've told you what  
11       problems I had during the rule of Franjo Tudjman for publishing the book,  
12       and I was told -- I was offered to change two sentences about  
13       Franjo Tudjman, his research and his approach in the book, and I refused  
14       to change those sentences.  The book was a publication of my master's  
15       thesis which I had defended down to the last comma.

16          Q.    In fact, sir, you knew that President Tudjman in fact  
17       supported -- his views were supportive of the regime of the national --  
18       excuse me, independent state of Croatia; **correct?**

19                MS. ALABURIC: [Interpretation] Your Honour, objection to this  
20       question.  Really, there should be a factual foundation for this  
21       question.  I don't want to now go into what we from the former Yugoslavia  
22       know about the books and positions of President Tudjman.

23                MR. KARNAVAS:  And there's also a matter of relevance.  Unless  
24       now there's some thematic trend, that is, Tudjman was a fascist, Tudjman

25 was a racist, it was part of his DNA, as it were, and there is this

**Page 44921**

1 trend -- and now that he becomes president, now he is actually putting in  
2 place his thoughts, his feelings, whatever is in his DNA. I think this  
3 is ridiculous. Look at the indictment. Let's stick to the facts of the  
4 indictment. The Prosecution wanted additional time. He's wasting his  
5 time by going into areas which have nothing to do with the indictment.  
6 Now if he can answer why is this relevant and then we can get a ruling,  
7 but I'm objecting to the grounds of relevance.

8 JUDGE ANTONETTI: [Interpretation] Witness, the Prosecutor is  
9 addressing the issue of credibility right now. He is telling you, first  
10 of all, that President Tudjman wrote a book on the Jasenovac camp. I  
11 believe this was in 1980. The Prosecutor tells you that you yourself  
12 wrote this and you agree?

13 THE WITNESS: [Interpretation] [Previous translation continues]...

14 JUDGE ANTONETTI: [Interpretation] This is in 1989, right. You  
15 yourself wrote about the subject since this is the subject of your Ph.D.  
16 on this topic. The Prosecutor then asks you to confirm whether your  
17 point of view is the same as President Tudjman's. You answered by saying  
18 no in certain instances. The Prosecutor then continues his demonstration  
19 and tells you that President Tudjman was or followed the same trend as  
20 the state that had established this camp, and he asks you then what your  
21 view is on this, and you can say to him: You are making a mistake, I  
22 agree, or disagree. The Defence counsel then seized this opportunity to  
23 make objections. This issue of Jasenovac seems very clear to me,

24 Witness. There are two issues at stake here: A, were there any victims,  
25 maybe you can tell us whether there were any; and B, what are the

**Page 44922**

1 figures? Everything rests on this, the Serbs say. And this is in your  
2 document 1.400.000 victims. You say certainly less victims were  
3 manipulated. Could you tell us, please, in your view how many victims  
4 there were and then everything becomes crystal clear but you have not  
5 answered the question. You haven't given us a figure. This is why the  
6 Prosecutor is still put being this question to you and submitting his  
7 arguments. He is asking you whether you could associate Mr. Tudjman with  
8 a state which had established this camp. This is what I have understood.

9 Perhaps Mr. Karnavas has understood something differently since  
10 he is on his feet.

11 MR. KARNAVAS: Yes, two points, Your Honour. When you say that I  
12 seized the opportunity, it gives the impression that somehow there are  
13 some evil motives on behalf of the Defence counsel for making the  
14 objection, that's number one. But number two and most importantly,  
15 Mr. Scott is making assertions about what President Tudjman believed and  
16 so on and so forth. Those are mere assertions. Those are not proven  
17 facts. Now when you put it together it's as if accepted his thesis of  
18 what Tudjman believed and now that is the predicate for the question, and  
19 it's a fact that hasn't been established and if it is in the Court's mind  
20 that Tudjman was a fascist, was fascist in such a sense that he  
21 identified with, believed in, and accepted all of whatever another  
22 government did in a previous historical time, then I think we are in a

23 dangerous situation here.

24 First of all, I have not heard any testimony on behalf of the  
25 Prosecution where they've tied in these facts that Tadjman was this or

**Page 44923**

1 that or the other. And now they're saying what his -- they're  
2 characterising his book, his writings, and his thoughts. These are facts  
3 that are not supported -- that haven't been proven in this court. And to  
4 suggest now that it's an easy question, just answer it, presupposes that  
5 we all accept that these are proven facts. That's my fundamental  
6 objection.

7 Now, if Mr. Scott wishes to turn it around and say,  
8 hypothetically speaking, If what President Tadjman wrote or if President  
9 did indeed, whatever, but then that question becomes meaningless. But I  
10 raised an objection based on relevance. What is the relevance of this  
11 line of questioning to this indictment. And I believe that even under  
12 this institution I'm entitled to a ruling. I'm entitled to a ruling.  
13 I'm not entitled to a speech.

14 JUDGE ANTONETTI: [Interpretation] You will get your ruling.

15 [Trial Chamber confers]

16 MR. SCOTT: Excuse me, Your Honour. Excuse me.

17 JUDGE ANTONETTI: [Interpretation] Mr. Scott, you will -- would  
18 you like to respond to what Mr. Karnavas has said?

19 MR. SCOTT: Yes, Your Honour, ever so briefly.

20 Your Honour, it's plainly proper and relevant on at least two  
21 grounds, and probably more. One, it does go directly to the credibility

22 of this witness and the various writings that he's spent a great deal of  
23 his career talking about, that's in his CV that the Chamber asked  
24 questions about previously. It goes directly to his credibility.

25 Second, it's been a long trial, there's been a lot of evidence,

### Page 44924

1 but there indeed has been evidence on Franjo Tadjman's political views  
2 and vision. It goes back to Dr. Donia at the beginning of the

3 **Prosecution case, et cetera, et cetera.** His views about Muslims and

4 Croats, the relationships between Muslims and Croats, whether Muslims are  
5 really Croats of Islamic faith, all sorts of things that have plainly  
6 been at issue in this case, and indeed as the Chamber, and as,

7 Mr. President, you in particular, have mentioned a number of times, in  
8 the indictment, the indictment that Mr. Karnavas refers to,

9 Franjo Tadjman is listed and clearly one of the -- in the Prosecution  
10 case, one of the leaders of the joint criminal enterprise, and his views  
11 are, indeed, quite relevant to the case and it goes back again to the  
12 credibility of this witness.

13 MS. ALABURIC: [Interpretation] Your Honour, if I might just be  
14 allowed to say one sentence. I think that this whole problem could be  
15 solved in the following way, that Mr. Scott should place the factual  
16 grounds for his question and to summarise, in a word, what  
17 Franjo Tadjman's position was on Jasenovac. That position can be  
18 summarised in one sentence and that. So I'm sure Mr. Scott has read the  
19 book, so let's hear the sentence so we know what the position was, and I  
20 think that we'll find it simple to discuss matters after that.

21 JUDGE ANTONETTI: [Interpretation] The Trial Chamber will rule on  
22 this objection. The Trial Chamber is rejecting the objection on the  
23 following grounds. The Prosecutor is challenging the credibility of the  
24 witness and is putting questions to the witness in order to test his  
25 credibility. So that's the ruling.

**Page 44925**

1 Professor, you're raising your hand.

2 THE WITNESS: [Interpretation] Your Honour, I agree with what  
3 you've just said. It is clear to me that what we're dealing with here is  
4 my credibility, and if I were really to advocate something as an expert  
5 on any subject and especially such an important topic as Jasenovac is and  
6 the victims of World War II, if I were to advocate some political,  
7 ideological, and other interests and not scientific truth, then I would  
8 agree that I would not be credible for this case. But with every respect  
9 for these proceedings, and I'm sure we'll proceed in the right direction  
10 and that we're wasting a lot of time, I wanted to prevent the loss of  
11 time. So I agree that we can discuss my professional and personal life  
12 in detail for the Court to gain a full picture of my credibility. So I'm  
13 ready to sit here and answer as many questions as possibility so that  
14 that credibility from the Trial Chamber's aspects can be assessed, and  
15 I'm willing to present the facts so that the Trial Chamber can assess  
16 what my scientific credibility is on all topics, on everything that I've  
17 written about, so I'm here at your service and I would like to ask the  
18 Defence teams not to defend me because I am ready to defend my  
19 professional dignity and credibility. So if something that I have

20 researched, both World War II and all the rest of it and if I have  
21 written about world history and other aspects of history, then --

22 JUDGE ANTONETTI: [Interpretation] We took due note of this  
23 concern of yours and I give the floor to Mr. Scott.

24 Mr. Scott, you may resume.

25 MR. SCOTT: Thank you, Mr. President. We've lost it on the

**Page 44926**

1 page -- well, some minutes ago.

2 Q. But I think my last pending question to you, sir, was something  
3 along the lines that in fact consistent, in my view, and I'm putting my  
4 case to you, sir, in fact consistent with I put to you was Mr. --  
5 Franjo Tudjman's views on these subjects and what things that he wrote  
6 about, and we'll come back to that, and, indeed, we'll get there in just  
7 a moment, in fact Franjo Tudjman was supportive of the independent state  
8 of Croatia **and the people who led that state. And he actually praised**  
9 and supported them at times, didn't he?

10 THE ACCUSED PRALJAK: [Interpretation] No, no, I'm going out. I'm  
11 ill. Your Honours, I am ill, and because I am ill and because I feel  
12 sick at this point in time, would you allow me to leave the courtroom  
13 before this is over?

14 JUDGE ANTONETTI: [Interpretation] Mr. Praljak, if you feel, you  
15 may go and rest.

16 THE ACCUSED PRALJAK: [Interpretation] Thank you.

17 JUDGE ANTONETTI: [Interpretation] Very well --

18 THE ACCUSED PRALJAK: [Interpretation] And --

19 JUDGE ANTONETTI: [Interpretation] Get some rest and come back  
20 when you feel well later.

21 THE ACCUSED PRALJAK: [Interpretation] Let it be added to the  
22 indictment that I am being accused -- stand accused of fascism --

23 JUDGE ANTONETTI: [No interpretation]

24 MR. SCOTT: Sir, if I can direct your attention and the  
25 courtroom's attention, please, to Exhibit P07695, P07695.

**Page 44927**

1 Q. It's in the second binder, sir.

2 THE ACCUSED PRILIC: I think --

3 JUDGE ANTONETTI: [Interpretation] Mr. Prlic.

4 THE ACCUSED PRILIC: I think that witness didn't answer. A  
5 question was put to him and Praljak stood up. I think that witness  
6 should answer on this question.

7 JUDGE ANTONETTI: [Interpretation] You're right. I had noticed.

8 Professor, Mr. Scott has put his case to you and General Praljak  
9 stood up as he felt ill. He's get some rest and I'm sure he'll be back  
10 soon, but could you please answer the question put to you by Mr. Scott?  
11 If you forgot the question, I'm sure he can re-put the question to you.

12 THE WITNESS: [Interpretation] Well, for the Trial Chamber and for  
13 me, could he ask the question again.

14 JUDGE ANTONETTI: [Interpretation] Mr. Scott.

15 MR. SCOTT: I'm looking at the transcript, Your Honour.

16 Q. In fact, sir, Franjo Tudjman was supportive of the independent  
17 state of Croatia and the people who'd led that state, and he actually

18 praised and supported them at times, didn't he?

19 A. I appreciate that this examination, as the President of the  
20 Trial Chamber says, is a cross-examination where everybody has the right  
21 to present his views, and I'm going to present my views or a view which  
22 is indubitable in the physical sense. Everything else is interpretation.  
23 Franjo Tudjman from 1941 to 1945, during the Second World War, when the  
24 Independent State of Croatia was in existence, was a member of the  
25 Communist Partisan movement with a rifle, so therefore he fought armed

**Page 44928**

1 against the independent state of Croatia and that is a fact.

2 Q. If we can turn now, as I indicated a few moments ago, to P07695,  
3 P07695, sir, in the second binder. This is a record of a meeting  
4 involving President Tudjman on the 27th of January, 1994. It will  
5 assist, sir, if you can move more quickly. I've asked you, please, to  
6 turn to the binder. You're not putting the binder on your desk, if you  
7 can please turn to binder number 2, P07695.

8 MR. SCOTT: Perhaps the usher can assist us.

9 Q. Sir, this is a record of a meeting in the office of  
10 President Tudjman on the 27th of January, 1994, with various persons.  
11 And I'm going to direct your attention particularly to page 7, the first  
12 paragraph beginning on page 7 in both the English and the Croatian  
13 language. And in that paragraph President Tudjman is speaking and he  
14 says:

15 "We must not forget that the majority of Croatians were in favour  
16 of the independent state of Croatia in World War II, and not the Ustashas

17 but the NDH. We must not forget that without those radical Croats we  
18 would not have won the war with the Serbs and our war with the Muslims  
19 today."

20 Today. That's what President Tudjman said; correct?

21 A. That's what it says here. Whether he actually said that, I don't  
22 know.

23 Q. And in fact, sure, Mr. Sakic was the witness or the accused that  
24 you were a Defence witness for concerning the Jasenovac camp. Mr. Sakic  
25 was convicted of many crimes, murder, starvation, physical and mental

### Page 44929

1 abuse of prisoners, torture, execution of sick prisoners. He was  
2 convicted and sentenced to 20 years, wasn't he?

3 A. He was sentenced. I don't remember to how many years.

4 Q. Sir, has there ever been a Croat indicted for war crime or a  
5 Croat convicted of war crimes that you are not sympathetic to or  
6 supportive of?

7 A. I was never opposed to any trials for any war crimes, and as a  
8 citizen of the Republic of Croatia **which is -- who is humanistically**  
9 oriented, it is in the interests of everyone that all crimes be punished  
10 so that no damage and detriment should be done to the Croatian society.  
11 That's my opinion as a citizen and as a professional, and I would never  
12 take part in any act that would oppose that. And as proof of that I  
13 think the Prosecution called me up I think a year or two ago, the  
14 Prosecutor from this Tribunal, asked me to be a witness and help the  
15 Prosecutor to establish certain facts linked to the Gotovina trial, and I

16 willingly accepted to do that. Bringing in my texts, which could have  
17 been of assistance to them, a text which they didn't know about and  
18 didn't ask for, articles; so your observation is incorrect.

19 Q. I want to refer you to a man that you knew named Tihomir  
20 Oreskovic. You left a public appearance to go and see him off after he  
21 had been sentenced to serve 15 years for crimes committed in Gospic, and  
22 you left because you wanted to go -- a public appearance that you were  
23 involved in because you wanted to go and see Mr. Oreskovic off to prison;  
24 isn't that correct?

25 And while I'm thinking in time, sir, and you can answer this

### **Page 44930**

1 question, too: Mr. Branimir Glavas, who's -- a former member of the  
2 Croatian parliament was recently convicted on the 8th of May, this year,  
3 2009, sentenced to ten years' imprisonment for war crimes against Serbs,  
4 and you went -- you publicly defended Mr. Glavas. And, in fact, you said  
5 that if Mr. Glavas happened to kill himself with a hunger strike while in  
6 prison, it would be the prime minister of Croatia's fault for prosecuting  
7 the man. That was your position, wasn't it?

8 A. Not like that. Dr. Slobodan Lang, a Croatian humanist, launched  
9 an action, a drive, according to international standards for the  
10 protection of prisoners and hunger-strikers, and since Branimir Glavas, a  
11 detainee, was on the very edge of physical life and a large number of  
12 physicians -- many physicians who know what humanitarian rights means  
13 asked me to join and to have this drive for humanitarian rights respected  
14 for the hunger strike -- people going on a hunger strike and I took part

15 on that.

16 Q. Sir, you say on your own web site, you said that the trial of  
17 Mr. Glavas was "undoubtedly a political trial which harkened back to the  
18 time of the second communist Yugoslavia"; correct?

19 A. Correct, because the trial itself was held for political motives  
20 and that's what I said, and in that way any judgement that is passed in  
21 the Glavas case cannot be treated as being objective because in the rift  
22 in the HDZ, the ruling party, only when Glavas left the party were these  
23 proceedings initiated; before that everybody kept quiet. So I was  
24 referring to the motives, which were political, and which render the  
25 judgement itself not credible. And as is common knowledge all

**Page 44931**

1 international institutions in assessing Croatia and in evaluating  
2 Croatia, and I agree with that fully, I completely agree without the  
3 Croatian state -- today's Croatian state, the Croatian state of today is  
4 one of the most --

5 THE INTERPRETER: Could the witness repeat the word he used --

6 THE WITNESS: [Interpretation] -- in the world and in Europe, and  
7 this particularly refers to the Croatian judiciary, and this is the main  
8 problem which prevents Croatia from entering into the European Union,  
9 with all those international assessments I completely agree.

10 MS. ALABURIC: [Interpretation] Your Honour, just one  
11 intervention. The interpreters did not hear a word uttered by the  
12 witness. The witness used the word "the most corrupt," "the most corrupt

13 state," the word was "most corrupt" which did not go down in the record.

14 MR. SCOTT: Thank you, counsel.

15 Q. And, sir, you said this was a political trial and that's your  
16 view of this Tribunal too, isn't it? You believe that this Tribunal is a  
17 political institution that's gross -- in fact, grossly incompetent and  
18 below the lowest levels of human experience. That's what you've said  
19 about this Hague Tribunal; correct?

20 A. It was a question posed by the Trial Chamber from the very first  
21 day linked to the article which is publicly accessible and posted on my  
22 web site, where I speak -- spoke about the historical and political  
23 aspects of The Hague Tribunal, and I state the fact that unfortunately  
24 the Tribunal was established - and that's the only trial [as interpreted]  
25 that was set up by the Security Council and not the UN General Assembly.

**Page 44932**

1 And that it has been given a very narrow remit --

2 Q. Well, let's go directly to your words, let's go to Exhibit  
3 P11009, in the third binder, P11009, sir. Page 6 of the English. It's  
4 your article, sir, hopefully you'll be able to find it. It's the bottom  
5 of page 6 in the English version --

6 JUDGE PRANDLER: Mr. Scott.

7 MR. SCOTT: Yes, sir.

8 JUDGE PRANDLER: I'm sorry to interrupt you, but you have to give  
9 us some time to find the documents first. So it is in the third binder?

10 MR. SCOTT: Yes, Your Honour.

11 JUDGE PRANDLER: And the number is 11009, isn't it?

12 MR. SCOTT: Yes, Your Honour. My apologies if I rushed the  
13 Court.

14 JUDGE PRANDLER: Okay. Thank you.

15 MR. SCOTT: Third binder, P11009, and if I could direct the  
16 courtroom's attention, please, to --

17 THE WITNESS: [Interpretation] Could you give us the Croatian  
18 number, please.

19 MR. SCOTT:

20 Q. It's at the same exhibit number, sir. In your article it is the  
21 paragraph that starts:

22 "Everything stated is clearly reflected in ..."

23 I'll read it out loud to you and I'm sure you that -- please  
24 listen to the interpretation.

25 "Everything stated is clearly reflected in, among other things,

**Page 44933**

1 the creation of The Hague Tribunal and its past activities, which are a  
2 good deal below the level of the international legal standards, reached a  
3 long time ago, and below the level of the worst experiences in the  
4 international relations so far."

5 That's your view of this Tribunal; correct?

6 MS. PINTER: [Interpretation] I apologise to my learned friend,  
7 Mr. Scott, but it is P11009, that's the document number. The number of  
8 the document was not translated into Croatian and the witness asked you  
9 to repeat the document number. I didn't want to interrupt you while you  
10 were quoting.

11 MR. SCOTT: Thank you, counsel. I didn't hear the translation  
12 and I see on the transcript it's correct so I wasn't aware of it.

13 Q. Indeed, P11009.

14 A. The document's on the monitor, on the screen. So could you  
15 please tell me what paragraph you're referring to so I can follow the  
16 Croatian text, the source.

17 MR. SCOTT: If we can have e-court's assistance, please, by  
18 showing the -- in parallel, it's on the bottom of page 6 of the English  
19 version, if you can go down in the -- I would say go down two or three  
20 pages.

21 THE WITNESS: [Interpretation] And could the usher help me to find  
22 the integral document in this very large binder.

23 JUDGE TRECHSEL: I believe it's page 6 and then the last  
24 paragraph before the next title. "Sve navedeno se najjasnije" and so  
25 forth.

### **Page 44934**

1 MR. SCOTT:

2 Q. That's what you said about the Tribunal, correct, sir?

3 A. You read out just one sentence taken out of the whole text. It's  
4 a scholarly, integral text, and in order to objectively present my  
5 opinion of the Tribunal in The Hague **you have to read the rest of the**  
6 text and the elaboration that contain in the text --

7 Q. Indeed, sir. Let's go to page -- let's go to page 9 of the  
8 English version --

9 JUDGE PRANDLER: Excuse me, excuse me, Mr. Scott. On page 7

10 first if we are taking up this article, then I would like to ask the  
11 witness about the following.

12 On page 7 of the English text with the heading "the importance of  
13 The Hague Tribunal's activity," we find paragraph number 1, and then what  
14 you also refer to before, I mean, Mr. Scott refers to it, that the  
15 witness said, and I quote:

16 "After all, it was not founded by the General Assembly but by the  
17 Security Council, which in terms of concept is an outdated institution,  
18 using all means to maintain and replicate the many centuries long  
19 unjustified 'legality' of inequality of the international entities, in  
20 other words, the big and the rich discriminate against the small and the  
21 poor."

22 And here -- end of quotation.

23 Now my question is to the witness that if you know about the  
24 relevant competencies according to the Charter of the United Nations of  
25 the General Assembly and the Security Council, would you be able to tell

### **Page 44935**

1 us why in your view has the Tribunal been established by the Security  
2 Council and not by the General Assembly? I would like to hear your view  
3 on that. Thank you.

4 THE WITNESS: [Interpretation] Thank you, Your Honour. And I'm  
5 happy that you've given me an opportunity to give you an explanation  
6 because this is not a criticism that's levied just by me. It is quite  
7 clear that in the Security Council we have the permanent members and  
8 temporary members, and the Security Council does not have the kind of

9 global authority that's wielded by the General Assembly. And I am  
10 sure -- or rather, I believe and I hope that had the decision been taken  
11 by the UN General Assembly, the powers of the Tribunal would have been  
12 much greater, at least up to the level of the Nuremberg trials. And  
13 that's what I'm elaborating in this article.

14 I compared the powers of the Nuremberg trials to try some  
15 individuals and organisations. I analysed the principles on which the  
16 Nuremberg Tribunals were based, and I said, as I said at the first day,  
17 that international judiciary should have much greater powers than it  
18 actually has. Many of the problems of this Tribunal in The Hague stem  
19 from the fact that its powers are extremely, extremely reduced. And I'm  
20 really sad that it does not have the power to try persons for crimes  
21 against peace and aggression and that it cannot actually try collective  
22 entities such as states.

23 JUDGE PRANDLER: Mr. Jurcevic, I would like you to stop. As a  
24 matter of fact, the -- your answer has not given a kind of answer to me.  
25 The point is then -- and you should know -- you should have known if you

### **Page 44936**

1 write about these matters that the General Assembly is not entitled to  
2 establish such judicial organs like the ICTY. And I'm frankly a bit  
3 surprised that you take the liberty to write about subject matter about  
4 which you do not know. Thank you.

5 JUDGE TRECHSEL: I would like to stay with this text, Mr. Praljak  
6 [sic] has drawn attention to. In number 4 you criticise the fact that  
7 there is no compensation in case of an accused finally acquitted. I

8 agree that this is not satisfactory, but this is not what we think but  
9 you purport that it is scientifically justified. Now, do you know about  
10 international human rights standards? Are you -- are you familiar with  
11 international right -- of human rights?

12 THE WITNESS: [Interpretation] Yes, I am familiar with it, and I  
13 approached this problem not from the legal standpoint but as you can see  
14 from the title from a political and historical point of view. And I'm  
15 expounding my opinion, which I think is a legitimate one, and I don't  
16 want to impose it on anyone.

17 JUDGE TRECHSEL: The question of a right to compensation is  
18 clearly a legal question. "Right" refers to law. Do you know that  
19 neither the European Convention of Human Rights nor the International  
20 Covenant on Civil and Political Rights nor any other binding legal  
21 instrument grants right for compensation for someone who has been  
22 detained on reprimand and then is acquitted. Did you know that?

23 THE WITNESS: [Interpretation] I do not think -- well, I agree  
24 that there is a legal aspect of this problem. However, I think that the  
25 ethical and social aspects are much more important. And law should

**Page 44937**

1 regulate those aspects -- on the basis of those aspects. And I still  
2 maintain as a humanist that anyone who was remanded in custody for any  
3 reason has reason -- has the right to compensation, moral or material.  
4 And there is such a provision in many jurisdictions. And I think that  
5 this is justified. Now, whether there are laws to that effect, I don't  
6 know, but I think humanist and ethical standards and the idea of justice

7 that is at the basis of law really justify it.

8 JUDGE TRECHSEL: Thank you.

9 JUDGE ANTONETTI: [Interpretation] Professor, all Judges took the  
10 floor on this paper you wrote, paper P11009. And you gave us your  
11 opinion. You're an eminent personality in Croatia. You told us that  
12 you'll be running for the presidential election. So theoretically you  
13 could one day be a head of state, which is why what you're saying is  
14 extremely important. What I believe is absolutely essential is that you  
15 have Judges putting questions to you, Judges who are fully independent,  
16 fully unbiased. You must be absolutely certain that these Judges are  
17 not political Judges. If you feel at any time that the questions are  
18 biased, please tell so -- say so; however, if you don't think so, you  
19 must recognise that the Judges on the bench are just doing their job as  
20 Judges, as if they were Judges in Zagreb or Belgrade or elsewhere.

21 THE WITNESS: [Interpretation] Thank you very much, Your Honour.

22 In discussions - and I think those discussions are legitimate in  
23 accordance with your Rules - with the Victims and Witnesses Unit, when I  
24 was asked yesterday how I was, I said that I felt much better and much  
25 more comfortable than I had felt when I testified before Croatian courts.

### **Page 44938**

1 And as a person that has some experience and education, it would never  
2 occur to me to see your questions or my testimony here in court in light  
3 of the -- those matters that are matters of principle that I expounded on  
4 in this paper, in this article.

5 I was motivated, as I indicated in the part of my text, by my

6 desire to study the setting up of the international justice in light of  
7 the global developments, at least up to the level that exists in national  
8 systems so that this system should be independent and efficient, which is  
9 in the interest of every citizen of the world including myself. I  
10 believe that those powers do not depend on persons, including the present  
11 Trial Chamber, persons who do their jobs, but it cannot go beyond the  
12 powers of jurisdiction that it has been granted. I am convinced that  
13 this is a major problem that hampers the efficiency of this Tribunal,  
14 which goes below the levels achieved by the Nuremberg Tribunals which was  
15 able to rule very quickly. And it says somewhere in the documents of  
16 this Tribunal that its mission is to send a public message that crime  
17 doesn't pay. And I advocate that too.

18           The problem is that if trials are not expeditious, then the very  
19 slowness of the trials sends the message that crime does pay. The Tokyo  
20 and Nuremberg **trials sent a very clear message, within one year or two,**  
21 that crime really doesn't pay, and I think that this is a basic  
22 civilisational heritage that every court, including the international  
23 court, must leave behind. Unfortunately, this does not depend on the  
24 Judges because they have limited powers, and this is what I still  
25 maintain.

### **Page 44939**

1           So this was the level of the discourse in my paper but if you  
2 read the integral text of this paper or any other of my writings that  
3 have been translated into English, and you can see them on my list of  
4 papers when I speak about human rights and the experience of the camp

5 inmates, comparing the tragic fact - this is something that I state quite  
6 explicitly - that unfortunately the rules of international law, including  
7 human rights and humanitarian law, protect the human rights at a very  
8 fundamental level, including the rights of the camp inmates. But  
9 unfortunately because of the lack of efficiency on the part of the  
10 courts, the experience of the inmates are growing worse and worse, and  
11 this is something that the UN commission also found in its tragic report  
12 from the former Yugoslavia **indicating that over 500 camps were set up by**  
13 all the warring factions and they operated between 1991 and 1995. And  
14 unfortunately, many tragic stories - and I'm quite familiar with  
15 them - did not end up with the kind of satisfaction that they deserved.

16 JUDGE ANTONETTI: [Interpretation] It is time to have a break now.  
17 We shall have a 20-minute break.

18 --- Recess taken at 10.34 a.m.

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

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

21 Mr. Scott, you have the floor.

22 MR. SCOTT: Thank you, Your Honour.

23 Before continuing, it's probably been corrected by now, but for  
24 the transcript some minutes before the break in one of Judge Trechsel's  
25 questions he made reference to a point that had been raised by

### **Page 44940**

1 Mr. Praljak, and I believe he was referring to Judge Prandler. It was a  
2 reference to -- just for clarification's sake.

3 Q. Sir, we've only spent the last few days together, but I'm seeing

4 a pattern here. You say a number of things outside court, including  
5 about Jasenovac and about this Tribunal, and then when you come and  
6 you're sitting here in court in front of these Judges you try to  
7 soft-pedal it, somehow appear more reasonable, more moderate. In fact,  
8 you said before the break as an example of this, you said to the effect  
9 you would never suggest that this Trial Chamber or these Judges would be  
10 political and play games, but indeed, sir, that's exactly what you've  
11 said previously, isn't it?

12 A. No. What you've just said, sir, Mr. Prosecutor, is not correct,  
13 especially that first observation of yours. Well, I'm well-known in  
14 Croatia, in public circles, for being consistent, for consistently  
15 supporting positions of principle and that I can articulate them very  
16 well. And also, that I am capable of articulating my political, world  
17 views, scientific views, and so on, and I can differentiate between them.  
18 So when it comes to this Trial Chamber, I quoted the example and I think  
19 that is on the record. I haven't verified it but I think that the tape  
20 records exactly what I said, especially following the Presiding Judge's  
21 questions. I was given an opportunity to elaborate on my basic positions  
22 which is contained in the text that you're using.

23 So may we have the whole text read out in full, where it is  
24 clearly articulated why I am writing about those issues and what my  
25 motives are, and that my motive was to strengthen the international

**Page 44941**

1 justice system because it is highly necessary and I say that explicitly

2 in --

3 Q. You said just now, and let me be just very transparent, picking  
4 up on something you just said, that you were able to differentiate  
5 between your scientific views and your political world views. Let me say  
6 this about your report. Sir, I put it to you that the first 50 pages of  
7 your report are rather historian like, the early history, the history of  
8 Yugoslavia, the way it's footnoted, the way it's approached, so the first  
9 50 pages or so of your report I would suggest it to you and I put it to  
10 you are relatively well-written. The problem, sir, is that the balance  
11 of your report you change from being a historian to a political activist.  
12 You're here to espouse a particular political view in defence of Croatia  
13 and in defence of these men; correct?

14 A. That is not correct. I respect your right to have an opinion of  
15 your own about my scientific and historical works; however, since you're  
16 a lawyer it's not a professional opinion. And I think that a scientific  
17 analysis of my work including an expert analysis can be open to  
18 scientific elaboration and criticism and that's how it was done and I can  
19 accept it, but I don't agree that there are differences in the  
20 methodological approach or any other different one throughout my expert  
21 report. It is an integral comprehensive work, as it says in the  
22 introduction, nobody influenced me in writing it nor did anybody set any  
23 requests, requirements, asking me to write in one way or another --

24 Q. If time allows, and my time is limited, but if time allows we're  
25 going to turn to your report in more detail. You say -- you keep saying

1 let's go back to your article, so indeed let's go back to your article,

2 page 9 of the English version, page 8 of the Croatian language version.

3 It helps us in that this particular paragraph is numbered 8, page 9 of  
4 the English, paragraph numbered 8; and page 8 of the Croatian, sir. You  
5 say:

6 "The Hague Tribunal, which is an ad hoc court, has twisted its  
7 original purpose also by the amount of time it has been in operation,  
8 because, even after 13 years since its establishment it has failed to  
9 name the main perpetrators, let alone sentence them, nor is it likely to  
10 do it by the end of its mandate. Consequently, the Tribunal has not  
11 carried out its legal duty ..."

12 And you go on to say at the end of the sentence that in fact the  
13 Tribunal actually encourages the further perpetration of war crimes.

14 That is what you said; correct?

15 A. What you've just read out, that first sentence, you read it out  
16 correctly, but would you read out the second sentence too, the one you're  
17 referring to, because it's also short because you interpreted it wrongly.

18 Q. If we go to page 10 of the English version of your article,  
19 Croatian page 9, it starts with the "speaking of the Republic of  
20 Croatia," and I'm not going to read it exactly in quotes, sir, because we  
21 don't, unfortunately, have time. But you have the text in front of you  
22 and everyone has the text, and I have no doubt if I mis-characterise  
23 something I'm sure I will be quickly corrected.

24 Sir, what you say in this paragraph essentially is that one of  
25 the problems with The Hague's work, I will refer to the part of the first

1 sentence.

2 "The systematic repetition of The Hague concepts has already  
3 achieved the psychological and social effects which firstly point to a  
4 disbelief and apathy ..."

5 You go on to say:

6 "That if this -- if The Hague's truth were to be put in Croatian  
7 textbooks, it would have a huge detrimental effect on Croatian --  
8 including the disintegration of Croatian society ..."

9 Now, sir, are you telling us that the Republic of Croatia **and the**  
10 many good people who are citizens of that country if, in fact, some  
11 people are prosecuted and convicted of war crimes, that's going to lead  
12 to the downfall of the republic; the Croatian republic can't deal with  
13 that? Is that your position, sir?

14 A. Sir, I'm happy that you've reached this excerpt, however  
15 unfortunately for the purpose of objectivity you would have to read the  
16 passage before. You of course used your right to try to discredit me by  
17 using fragments, but before this particular fragment for it to be  
18 understood -- before that I speak about the work of the institution you  
19 work in, the Tribunal and the OTP. And among other things, I mention  
20 things that are unacceptable from the social and civilisational  
21 standpoints. And I said that it doesn't worry anybody in charge of The  
22 Hague Tribunal when the main Prosecutor of The Hague Tribunal, the woman,  
23 holds lectures at respected places where it's emphasized that it is the  
24 object to write new historical truths with respect to the Balkans she  
25 says. And the problem is that those historical truths are in opposition

1 to objective facts, and that problem is resolved by acting from the  
2 standpoints of the power that the media has in Croatia. So the Hague  
3 Tribunal very often - and I wrote this earlier on - the OTP of The Hague  
4 Tribunal, in fact, in political life represents itself as being a court  
5 and presented its views and positions as being --

6 THE INTERPRETER: Could the speaker kindly be asked to slow down.

7 MS. TOMANOVIC: [Interpretation] I apologise. In this whole last  
8 speech -- or rather, response by the professor on page 43 and 44 from  
9 lines 21 to page 45, line 12, the professor throughout is speaking about  
10 the OTP, the Prosecution of the Hague Tribunal, not the Tribunal as an  
11 institution per se. I think that that should be corrected in the  
12 transcript and the professor can say whether I'm right or not.

13 THE WITNESS: [Interpretation] Well, I'm not following the  
14 interpretation and I'm not able to assess it, but there is a tape of what  
15 I'm saying and I'm talking about the Prosecution, the OTP, yes, the OTP  
16 as an institution, which in public held forth from political and other  
17 standpoints representing one -- itself as being the whole Tribunal,  
18 although the Prosecution or OTP is a party in the proceedings. And some  
19 institutions, for example, which I hold is not a good thing -- so even  
20 some international institutions ask to have the OTP's opinion with  
21 respect to certain political issues. And I hold, it is my opinion, that  
22 that topples the credibility and does not add to the acceptability of  
23 international justice in the broader sense of the word. And it is from  
24 that standpoint that I analyse the effects that ...

**Page 44945**

1 Q. Sir, in terms of the characterisation of what the various parts  
2 of the Tribunal you're referring to in this 13-page article which you  
3 keep saying -- I'm sure the Judges when they read the entire article can  
4 draw their own conclusions about the full scope of your comments. But in  
5 the next paragraph after the one that I mentioned before -- in fact, then  
6 you endorse Mr. Praljak, don't you, and praise him for essentially  
7 picking up the mantle and doing battle with The Hague Tribunal on these  
8 very issues; correct?

9 A. I very clearly wrote, not only in this particular article but in  
10 others too, that the system -- state system and archive system was in a  
11 catastrophic state and that one of the problems for the functioning of  
12 the legal system, the justice system, including The Hague, one is the  
13 lack of documents. And the Prosecutor is criticising Croatia for that.  
14 Now, the Prosecutor, who is well-versed in how archives are set up - and  
15 I gave a detailed report to The Hague Tribunal about that - so as a  
16 member -- you forgot to ask me this, from 2004 to 2009 was I a member of  
17 the government council for --

18 Q. [Previous translation continued] Unfortunately, I'm going to cut  
19 you off, that's not the question I asked you. That's not the question I  
20 asked you. And I think if --

21 MR. SCOTT: If I can finish my comment, Your Honour --

22 JUDGE ANTONETTI: [Interpretation] I apologise, Mr. Scott.

23 Professor, I have just read something on the transcript. You

24 said it. From 2004 to 2009 you were a member of the government council  
25 in charge of the archives. Do you confirm this?

**Page 44946**

1 THE WITNESS: [Interpretation] During that period and since its  
2 inception, which is how long the institution lasted, and it was called  
3 the government council -- the council of the Government of the Republic  
4 of Croatia **for preparing friends of the court to appear before**  
5 international tribunals and courts, primarily including this tribunal,  
6 the Hague Tribunal. So I was asked to take part as a professional there,  
7 as a historian, as an expert and other lawyers were asked to attend too.  
8 And perhaps it's important for the Trial Chamber to hear another fact.  
9 At the founding meetings a question was raised, and this was recorded,  
10 that what should be done was to defend Croatia. That was written down.  
11 And as an expert and as an individual, as I emphasised there, I refused  
12 to take part in that if that was what I was asked to do, and I said that  
13 I would agree to work there, participate there, if my criterion were  
14 scientific objective truth and that was all I would work on. And in that  
15 context I commended, and said in this article, commended General Praljak  
16 who was the only institution in Croatia, **unfortunately, who in a systemic**  
17 way amasses and collects the vast material. Everything else in Croatia  
18 is not accessible, and in that sense, in certain aspects, I have --

19 JUDGE PRANDLER: Actually, Dr. Jurcevic, let me ask you again  
20 that please slow down.

21 I would also like actually to ask Mr. Scott, sometimes he should  
22 also speak more slowly and to have the respective pauses between the

23 questions and answers. Thank you.

24 JUDGE ANTONETTI: [Interpretation] I'd like to thank my colleague  
25 for having said this. There are gaps sometimes in what you say. Please

**Page 44947**

1 try to slow down.

2 What you have just said seemed interesting, but in this  
3 particular light a few weeks or a few months ago the Praljak Defence  
4 highlighted the fact that there were some documents which, in their view,  
5 were fake or forged documents. I wanted to know what the motive behind  
6 this was, i.e., the people that had forged these documents, to adduce  
7 forged documents to the Court. You have some understanding of the  
8 archives and how these documents are filed. Do you believe that some  
9 people who wish to deceive the Tribunal introduced some forged documents  
10 in the evidence? Have you ever heard about something of this kind or  
11 never?

12 THE WITNESS: [Interpretation] I don't have any concrete - in the  
13 full sense of the word - concrete evidence and proof of what you have  
14 just said. But by deduction and using some other methods as well, I am  
15 convinced that a lot of things went on on the territory of the Republic  
16 of Croatia, which was accessible to me, and I'm sure the situation was  
17 similar in other parts of the former Yugoslavia. And to bear out your  
18 thesis, we have the fact that the former chief Prosecutor, the last day  
19 before she forfeited that right asked that the Tihomir Blaskic trial be  
20 re-opened. And one of the reasons, on the basis of the knowledge I had,  
21 was that certain political groups in Croatia, using their political

22 power, falsified, having political goals in mind, certain facts,  
23 endeavouring to lead astray the Hague Tribunal. And I've spoken about  
24 this many times publicly over the media in Croatia.

25 JUDGE ANTONETTI: [Interpretation] Who are these groups exactly?

**Page 44948**

1 THE WITNESS: [Interpretation] Unfortunately in Croatia,  
2 politicologically speaking we have groups of interest ruling which are  
3 organised into the leading parties and behave partyocratically and their  
4 interests, in any sense, in institutions of power and authority and  
5 others where they wield power, so the interests of those groups are a  
6 priority. And all the rest, everything else, the whole world, the rest  
7 of the world, Europe, **the state of Croatia, the Croatian nation, and the**  
8 **Croatian society** are just a tool by which to realise those interests.  
9 And I say this publicly. It is a corrupt and irresponsible method of  
10 management and administration. And one of the consequences of that is  
11 what we've already said. So both historical truth and current affairs  
12 and reality and projects for the future have been put on the agenda as  
13 being asocial -- in an asocial way.

14 MR. KOVACIC: If I may correct the transcript on page 49, line  
15 10, the witness said - and I'm quite sure on Croatian language I followed  
16 closely - leading parties and behave partyocratically and their  
17 interests, so the interests of those groups are a party. He said so the  
18 interests of those groups are --

19 THE WITNESS: [No interpretation]

20 MR. KOVACIC: He said -- that those interests has priority, not a

21 party. So their interests, the interests of the group were their  
22 priority. That was the sentence. But maybe the witness could confirm.

23 JUDGE ANTONETTI: [Interpretation] Professor, do you agree with  
24 the correction that has just been made?

25 THE WITNESS: [Interpretation] Yes, yes, I agree. I said that for

**Page 44949**

1 those groups, the interests of those group or party, are the first and  
2 foremost. So this is the partyocratical model. I have written  
3 extensively about it and spoken about, and this has to do with the text  
4 that we're analysing about now.

5 JUDGE ANTONETTI: [Interpretation] Mr. Scott.

6 JUDGE TRECHSEL: I'm sorry, Witness, could you name groups? Can  
7 you identify some groups? This was very vague. I mean, I'm not saying  
8 it's not true, but could you identify one or several groups that,  
9 according to your opinion, mixed forged documents into the material that  
10 finally landed before this Chamber?

11 THE WITNESS: [Interpretation] Well, since I don't have, as I've  
12 said, specific palpable physical evidence of that but deduction and many  
13 events in the Croatian public life, and it seems to me this motion to  
14 re-open the case were based on the fact that at the level of the police  
15 top and intelligence services in Croatia, including elements of the  
16 defence system, this case occurred. And this is not the only case. My  
17 scientific viewpoint or hypothesis, which of course it is very difficult  
18 to prove in full today, but a lot of things, analogy, deduction, speak to  
19 that --

20 JUDGE TRECHSEL: Thank you.

21 THE WITNESS: [Interpretation] -- speak to the fact that from the  
22 standpoint of those interests --

23 JUDGE ANTONETTI: [Interpretation] Mr. Scott.

24 MR. SCOTT:

25 Q. In fact, sir, you believe that one of the principal problems in

**Page 44950**

1 connection with the work of the Tribunal is not just the Tribunal, but  
2 the fact that at least some Croatian governments have cooperated with the  
3 Tribunal, and your view is that that's kind of where things got off the  
4 rails, that the Croatian government should never have cooperated with  
5 this Tribunal in the first place. That's your view, isn't it? I refer  
6 the courtroom to page 12 of the English version and to the Croatian  
7 language version pages 11 carrying over to 12.

8 You say there as part of that passage, sir, the origin of the  
9 problem was ... the Croatian government's cooperation with the Tribunal;  
10 correct?

11 A. No, that is not correct. My key motive and interest that I  
12 systematically and consistently advocated in all my appearances and  
13 publications is that one needs to reconstruct the Croatian judiciary in  
14 depth and the Croatian state in general, all of its institutions, in  
15 order for it to be able to face and deal with the crimes that happened in  
16 the Republic of Croatia. **And it is a shameful fact for me as a citizen**  
17 **of Croatia and for the Croatian society as a whole that our institutions**

18 in Croatia in effect are sending out the message that they are unable to  
19 govern. Because if you have a state that is sovereign, an  
20 internationally recognised state, yet it is unable to do one of its key  
21 tasks which is to try its criminals and deal with the crime in its  
22 territory. This is my basic argument and everything else is just taken  
23 out of the context. I know what I'm doing. I know that I have been  
24 consistent. I know the hierarchy of my thoughts. What the basic tenets  
25 are, what the arguments are, and what one can or cannot do in public

### Page 44951

1 appearances in the media and elsewhere. But I never questioned this  
2 basic tenet and I always made it quite clear in those terms.

3 Q. Well, as you say, sir, the Judges have your complete article.

4 Dario Kordic, what does Mr. Dario Kordic symbolise to you in  
5 terms of his involvement in Bosnia and Herzegovina in the 1992/1993  
6 period?

7 A. Well, my knowledge, or rather, it must be said here that the  
8 first time that I saw Mr. Dario Kordic physically, it was a couple of  
9 months ago when I visited him in the place where he's serving his  
10 sentence. It's in Graz, in an Austrian prison. Before that --

11 Q. I'm going to give you a chance, but let's just set the scene here  
12 because we have to try to manage our time a bit. If I can direct your  
13 attention, please, to P11050. It should in the third -- toward the end  
14 of the third binder. P11050. And while you're looking for that and  
15 while the courtroom is looking for that, you just mentioned visiting  
16 Mr. Kordic and you did indeed visit Mr. Kordic in prison just a few weeks

17 ago on the 3rd of August, 2009, is that correct, sometime around then?

18 Correct, sir?

19 A. Yes, something like that.

20 Q. And you said that -- toward the -- it's the third -- the end of  
21 the third paragraph from the very end. So if you go to the end of either  
22 the English or the Croatian version, go up to the end of the -- skip two  
23 paragraphs up, the end of that paragraph, the question I just put to you.

24 You say:

25 "'Due to Dario Kordic's symbolic importance, especially as a

**Page 44952**

1 representative of the Croatian people in BiH, I was glad to have visited  
2 him,' says Jurcevic."

3 So when you talk about his symbolic importance, sir, which was a  
4 question I put to you a few moments ago, what is his -- what is  
5 Dario Kordic's -- what is the symbolic importance of this man who this  
6 Tribunal at both the trial level and again in the Appeals Chamber  
7 convicted and affirmed a 25-year sentence for war crimes? What's the  
8 symbolic importance of this man to you?

9 A. Well, you can find your answer in the previous paragraph, in  
10 answer to the previous question, where it says in this text the ruling  
11 structures in Croatia **are the key creator of the political, legal, and**  
12 public forgery, indicating that the institutions and persons who played a  
13 key part in Croatia **are actually the greatest war criminals. And I claim**  
14 that Dario Kordic in the case in which he was convicted -- well, I cannot  
15 say that for a fact, but I have spoken to a number of people who know

16 him, that in light of the game that was being played in -- because it's  
17 being played in Croatia **he was the scapegoat in that case. I did not do**  
18 any research into Kordic as a person or individual or in any other way  
19 and I cannot say that in some other cases --

20 Q. Excuse me, sir, you've now said several times in the last few  
21 minutes, Well, I can't really prove something. The President  
22 Judge Antonetti, asked you about some of your allegations and you said,  
23 Well, I can't really prove it, blah, blah, blah. And you've just said  
24 the same thing, sir. I can't really prove that there was anything wrong  
25 in the conviction of Dario Kordic, but by gosh in my public statements

### Page 44953

1 I'm going to say so anyway. You can't prove any of this, can you?

2 A. Well, I don't know what the interpretation was, but that's not  
3 what I said. I said very clearly that I cannot prove that in full. When  
4 I say "in full," it is clear to me because I have enough education to  
5 know what it means. So I cannot - this is what I said before - show you  
6 specific, concrete evidence that would remove any doubt as to this --

7 Q. Sir, in your statement here, in your statement here, in the  
8 paragraph we were reading before, as you say, above that there is the  
9 sentence:

10 "Kordic was convicted in a political trial based on fabricated  
11 evidence and false statements which were mainly prepared by the  
12 leadership structures in Croatia."

13 And I just -- to put this in context, sir, I'll remind you  
14 Mr. Kordic stood trial before three Judges similar to those here, he took

15 an appeal before a whole other set of Judges. His convictions, in large  
16 measure, were affirmed. His sentence to 25 years were affirmed. Are you  
17 saying that those three Trial Judges and Appeals Chamber Judges were all  
18 misled and conducted a political trial?

19 A. Sir, I know that you are a lawyer with a great deal of expertise  
20 which I lack, but I am aware of the fact that a Trial Chamber bases its  
21 decision on the evidence which is not called by the Trial Chamber but by  
22 the Defence and the Prosecution. And in this sense what you've just said  
23 does not hold water. It is very clear to me how a Trial Chamber reaches  
24 its decision. So I did state what you've just read out, that it is false  
25 evidence which had for the most part been prepared by the ruling

#### **Page 44954**

1 structures in the Republic of Croatia -- and you failed to read the  
2 sentence which follows which clears it up, as evidenced by the fact that  
3 Carla del Ponte filed a motion to re-open the case against Blaskic for  
4 that reason, but the Trial Chamber, probably because of lack of time and  
5 capacity, rejected the motion.

6 Q. Let's go, sir, your view is -- and that motion is a matter of  
7 public record, and I'm sure if anyone wants to read the motion -- or I  
8 assume it is at least. You indeed report it publicly. If it was sealed  
9 I guess it isn't anymore. But in any event, sir, if anyone wants to  
10 review it, I'm sure they can.

11 But let's go back to your basic position here. You think, sir,  
12 that as the people like Dario Kordic and, indeed, the three generals on  
13 trial in the Gotovina case, and, indeed, with great respect to the six

14 individuals on trial in this case, your view is that the Croatian  
15 authorities all owe all these men a debt of gratitude, don't you?

16 A. No. I have never said that. I did say on some occasions at  
17 sessions of the council with a great deal of elaboration, I'm talking  
18 about the council of the Government of the Republic of Croatia, **and I**  
19 reiterated that in my public appearances, that unfortunately in the  
20 political games in Croatia **it is not in anyone's interest to determine**  
21 who was responsible for the crimes that had been committed, but to play  
22 the game and to -- to sacrifice people in accordance with the  
23 political -- demands of the political game. When it comes to the three  
24 people, and I know that they're being tried because of their position in  
25 the chain of command --

### Page 44955

1 Q. Excuse me, excuse me, sir. I'll come back to Gotovina in just a  
2 moment. Just in line with what you just said, let's go to the paragraph  
3 just above the one we were last looking at. Above the heading there is a  
4 sub-heading that says "False Statements." And in that paragraph here's  
5 what you say, and I asked you about whether they -- in fact, the  
6 government of Croatia **should be grateful to these men.**

7 "The Croatian leadership structures are the main creator of the  
8 political, legal, and public forgery which turned meritorious Croatian  
9 institutions and persons into alleged war criminals. This never happened  
10 before anywhere except in the Croatian national entity. In principle,  
11 equal victims of the callousness and ungratefulness of the so-called

12 Croatian authorities are all Croats who were put on trial ..."

13 Correct?

14 A. Well, the interpretation that I hear in my headphones differs and  
15 could be interpreted differently from what is written in the original  
16 text that I wrote. I'm talking about the callousness and ingratitude of  
17 the so-called Croatian authorities, because I think that those  
18 authorities cannot bear that epithet. And on the basis of what I wrote,  
19 it follows that the Croats from Croatia, Bosnia and Herzegovina, and from  
20 the e migres community that have been tried, are the victims of this  
21 callousness. They were selected to be tried, including the trials in  
22 Croatia where some commanders are on trial, they're second or third in  
23 the chain of command, and those who were the commanders, supreme  
24 commanders in those situations are not tried. And they are tried because  
25 of their position in the chain of command, and the case of the three

**Page 44956**

1 people tried here before this Tribunal is the same case. So we're not  
2 trying the person who is at the top of the chain of command, but the  
3 commander of a sector.

4 But people who were superior to him had been interviewed but were  
5 let go for ideological and also political reasons.

6 Q. Well, let's -- you've mentioned the Gotovina trial a couple of  
7 times. Let's go to Exhibit P11049 which also mentions this trial.  
8 P11049 should be the exact -- the previous -- exactly the previous  
9 exhibit, sir, before the one you're looking at now or have been looking  
10 at.

11 Sir, you made this statement just 13 days ago, this is the 3rd of  
12 September, 2009, less than two weeks ago. And you once again affirmed:

13 "The Hague Tribunal is primarily a political tribunal, where  
14 various geopolitical and other interests are being achieved ... contrary  
15 to historical truth ..."

16 That's what you said on the 3rd of September, 2009; correct?

17 A. This is an interview, a short interview, it was limited in terms  
18 of number of words for my answers to each and every question, and I  
19 provided my answers in line with those restrictions. And this is in line  
20 with the explanations that we have already seen, and I stand by all this  
21 with the explanation that I've provided when I was asked questions about  
22 Their Honours and I provided arguments in the article that we saw a  
23 little while ago about the Tribunal in The Hague, explaining that the  
24 geopolitical and other interests that are counter to historical truth are  
25 at play here. And I wrote a number of other extensive texts that -- from

**Page 44957**

1 the point of view of historiography and political thought actually  
2 provide arguments. So in this brief interview for the media there was no  
3 space for me to elaborate, but in principle I stand by what I wrote, but  
4 in the interests of having the whole truth as I said in my oath you have  
5 to take into account everything else that I said on this matter.

6 Q. All right. Well, in principle, sir, you say you stand by what's  
7 here so let's go to the next paragraph below the one we were just  
8 referring to.

9 "Therefore, through attentive following of the hearings and all

10 games happening at the Hague Tribunal, unfortunately, guilty verdict and  
11 a rather harsh sentencing can, with great certainty, be expected for Ante  
12 Gotovina and the other two generals, and also for six Croats from BiH."

13 That is the six men on trial in this case; correct, sir? As far  
14 as you're concerned, this political Tribunal is already determined to  
15 convict all six of them?

16 A. No.

17 Q. Is that what it says here?

18 A. I was speaking not about this honourable Chamber -- and if that  
19 is what I thought I would say it here because in far more difficult  
20 situations in Croatia **when lives were at stake I always stated by views**  
21 were clearly. I was very well articulated, and I answered the question  
22 put to me by the President of this Trial Chamber --

23 Q. Excuse me, there's only one trial at this Tribunal involving  
24 these six. You said following the hearings, there's only one set of  
25 hearings, and that's these, the one we're sitting in today. Following

### **Page 44958**

1 these hearings you express your view with "great certainty" that the six  
2 Croats from BiH can expect to be convicted; correct?

3 A. That's one assessment because of the games played, and I said  
4 where -- and around the Hague Tribunal and including everything that I've  
5 said so far.

6 Q. Very well.

7 A. And that's my evaluation. As a citizen to a question put by a  
8 journalist, I answered the way I have. Now, if you want an

9 interpretation, then I am capable of giving that explanation and if you  
10 ask me then I have the right to answer and expound.

11 Q. Well, about the Gotovina case and just to mix this in with some  
12 of the other things you've said -- you've told the Judges today so far --

13 JUDGE TRECHSEL: Sorry.

14 MR. SCOTT: Yes, sir.

15 JUDGE TRECHSEL: I would like to ask a question with regard to  
16 this very document. Today in the beginning of the hearing, Mr. Jurcevic,  
17 you have affirmed that you have hardly followed the hearing of witness  
18 Praljak here and that you lost one and then -- but you have put this as  
19 very low-key.

20 Here you have written:

21 " ... through attentive following the hearings ..."

22 Now, I cannot help but noticing a discrepancy. Which is true and  
23 which is not true?

24 THE WITNESS: [Interpretation] This here is a very short text --

25 JUDGE TRECHSEL: Sorry, I -- please --

### Page 44959

1 THE WITNESS: [Interpretation] I followed the trial --

2 JUDGE TRECHSEL: It's not a question of the length or not the  
3 length. Here you say you followed "attentively," which is definitely not  
4 the same that you said when questioned this morning. It's not possible  
5 to pretend it's the same. Which was true, this or what you told us this  
6 morning?

7 THE WITNESS: [Interpretation] I have understood, Your Honour, and

8 I will answer very specifically. Without a doubt, and I stand by that,  
9 that the Praljak case at this Tribunal after handing in my expert report  
10 I followed in the manner in which I stated this morning. When I had  
11 time, I preferred to follow the Gotovina trial, because it is far more  
12 important for the Croatian society and far more things hang on it. And  
13 as you can see even in this short sentence I speak about the completeness  
14 of the trials in The Hague **and in Croatia because there are many trials**  
15 going on in Croatia **linked to The Hague Tribunal. So I'm looking at it**  
16 in an all-embracing fashion so that both statements are true. You asked  
17 me very specifically this morning and I answered quite honestly, and I  
18 have no reason -- well, even if I followed the proceedings, that is  
19 legitimate because it's a public trial. But I always preferred to follow  
20 the Gotovina trial where far more -- far bigger games are being played.  
21 And as far as this interview is concerned and this exhibit that you have  
22 before you and from the questions raised in Gotovina, you see that that  
23 case in the journalist's opinion is far more important, whereas about the  
24 six there is silence in Croatia. **There is silence in Croatia** when it  
25 comes to these six on trial.

**Page 44960**

1 JUDGE TRECHSEL: I want -- just want to make clear that of course  
2 anyone has every right to watch any trial or other things that he wants  
3 this -- I want to avoid any misunderstanding in that respect.

4 Mr. Scott, I'm sorry for the interruption.

5 MR. SCOTT: Not at all.

6 THE WITNESS: [Interpretation] I apologise, sir, but could I be  
7 just allowed to add something. This morning's question was very precise:  
8 How much - and you can check the transcript and there is a tape, too, but  
9 I remember it very well - the question was a strict one: How far did I  
10 follow the trial of General Praljak and what he said here, and the truth  
11 is that I did follow it to that extent. And since I was doing my expert  
12 report and used General Praljak's material, then of course I was clear on  
13 what was happening in that case and I don't think that anything can take  
14 me by surprise, and I don't think that Mr. Praljak could say anything  
15 essential which I don't already know or I'm not already aware of.

16 JUDGE TRECHSEL: That was a rather a waste of time. You didn't  
17 say anything new.

18 Please, Mr. Scott.

19 MR. SCOTT:

20 Q. Sir, just since you've spent some time talking about the Gotovina  
21 case, let's just go down on the page a little bit what you say there.  
22 You apparently claim that there are three causes -- at least three causes  
23 for what you allege to be happening in that case. You say, one, the  
24 power structures in Croatia **inherited from communist** Yugoslavia,  
25 second -- "second" is my comment. Second, some international circles and

**Page 44961**

1 it is time to say this publicly, number three, the key elements of the  
2 so-called Ante Gotovina Defence team.

3 Now, again, are these the sorts of allegations you think you can  
4 prove, or are these the same things of what you've told us before that,

5 Well, I can't really prove it but I'll say it anyway.

6 A. I emphasize that I differentiate between a short public speech,  
7 but by method of deduction and everything that was happening with the  
8 Gotovina Defence, one could conclude from certain moves made and from  
9 what I followed as a public personage, one can conclude or could conclude  
10 that what is correct is that which refers to the key parts of the  
11 so-called Ante Gotovina Defence, including the fact that the state is  
12 participating in that because the Ante Gotovina Defence team is made up  
13 of many parts of both state, intelligence friendly to him, and so on and  
14 so forth people. And in view of the symbolic importance of Ante Gotovina  
15 in Croatia, there are indeed big games afoot there and being played. And  
16 that's what I think.

17 Q. Well, let's -- before we finish with this article and move on,  
18 and let's kind of tie some things back this morning. Also in the next  
19 page and again we are assisted by again numbers. In item number 4 --  
20 question number 4 was put to you, which again was only, I remind  
21 everyone, 13 days ago on the 3rd of September.

22 "What is your position on Jasenovac and Bleiburg?"

23 Answer:

24 "Jasenovac and Bleiburg are the symbols of grave war and post-war  
25 victimisation related to the Second World War ..."

### **Page 44962**

1 And I don't think anyone will disagree about that.

2 "However, those who are ruling Croatia even today are still  
3 preventing Croatian society from confronting objective information on

4 those tragic experiences."

5 And, sir, I put to you earlier today when you talk about  
6 objective information, what you're real -- that is code, isn't it, sir,  
7 for saying we should drastically reduce the number of the victims. It  
8 really wasn't that bad. Correct?

9 A. Well, here we have an example -- of course I respect the right of  
10 the Prosecutor to extract things from their context, but this is an  
11 opportunity to show just how that solipsistic method leads to unobjective  
12 conclusions, solipsism. Now, I was very often asked in Croatia to say  
13 how many victims there were in Jasenovac. I never gave an answer because  
14 I knew where the trap was, and I always answered what was objective, that  
15 unfortunately it is not allowed to establish the number of Jasenovac  
16 victims, but regardless of how high -- how great that number is it is a  
17 crime locality, the location of a crime, where the worst kinds of crimes  
18 were -- had been committed that can be imagined according to  
19 civilisational standards and according to international law. So I never  
20 said, nor did I opt for a figure, a number, but on the basis of my  
21 research - and I insist upon this and it was defended before a competent  
22 Trial Chamber - I was never able to say as an expert what the number was.  
23 Because what it says here, it is true, objective knowledge is made  
24 impossible and it is -- the Croatian society cannot face the subject as  
25 is written here.

**Page 44963**

1 MR. SCOTT: Unless the Chamber has questions about that  
2 particular document or that series of questions, I'll move on to another

3 topic.

4 Q. Sir, I'd like to turn now to the preparation of your report.

5 Have you and Mr. Praljak ever collaborated on any work of any sort,

6 co-authored, worked together in preparing or producing a document, apart

7 from the book about the old bridge. You've already told us that you

8 wrote the preface to his book about the destruction of the old bridge.

9 So we know about that one. Any others that you've collaborated with

10 Mr. Praljak on?

11 A. Well, as far as I -- well, I've already said that Praljak,

12 Mr. Praljak, I met physically for the first time then, in 1992, in the

13 Ministry of Defence of the Republic of Croatia. **And after that we were**

14 not on any close or any other terms and perhaps --

15 Q. Sir, I think this is a question -- excuse me, I think this is one

16 that you really can answer yes or no. Have you collaborated, co-authored

17 any works, worked on any publications, books, materials, together with

18 Mr. Praljak other than the book about the destruction of the old bridge.

19 I think that's truly a "yes" or "no."

20 A. Well, here you are. Well, I'm saying that I spent very little

21 time with him and I didn't see him for 10, 12, 14 years afterwards, and I

22 don't think that I wrote anything with him. So the answer is negative.

23 I didn't except for the old bridge do anything together with Mr. Praljak.

24 For precision purposes I gave thought to this answer, to my answer, to

25 see whether from the time that I was interested in the archive base of

1 Mr. Praljak, I helped him about that database to make it as public as

2 possible and accessible as possible and clear as possible. But except  
3 for the book that you mentioned, I did not sign anything or do anything  
4 with Mr. Praljak.

5 Q. Wait a minute, what do you mean you assisted him to make the  
6 database? What database?

7 A. Well, I didn't help him personally. There was a team,  
8 General Praljak's team, made up of informatics experts and people of  
9 different profiles whom I helped because they knew I was one of the  
10 experts for archive, material, databases, and for the famous council, the  
11 Republic of Croatia, which was interested in how a database should look  
12 like. And this is important for your questions. Some colleagues  
13 professionally from the council, I took them to see what  
14 General Praljak's database looked like, and I proposed that that kind of  
15 information base and even better quality should be furnished at the level  
16 of the state and be made accessible to everyone; the courts, the public,  
17 the media, science, scholars, so that objective research could be  
18 conducted in any sense on any subject, and there are minutes about the  
19 meeting there with Mr. Krabac [phoen] and another person when we were  
20 there.

21 Q. Sir, are you aware that probably I suspect a huge percentage of  
22 the material that Mr. Praljak has that you talk about, that was all  
23 provided to him by the Office of the Prosecutor?

24 MS. PINTER: [Interpretation] Your Honour, I have to react to this  
25 because that assertion, that claim, on the part of the Prosecutor is not

1 founded in argument. General Praljak -- General Praljak amassed a far  
2 larger number of documents than the ones provided to us by the  
3 Prosecution, and the ones that were provided by the OTP we already had in  
4 our possession except for some additional matter about Jablanica and  
5 areas that they did not respond to.

6 THE WITNESS: [Interpretation] May I be allowed to answer? My  
7 principal interest was not to learn the ways in which General Praljak  
8 arrived at the information and data he had. I was interested in seeing  
9 that those data should be professionally archived and grouped properly  
10 for the purpose of easier research and the interests shown by different  
11 researchers and scholars. So I wasn't interested in it -- well, it  
12 wasn't a priority, that is to say, how those documents reached  
13 General Praljak in the first place. So I don't know that. It's  
14 something I'm not aware.

15 MR. SCOTT:

16 Q. Sir, we've all -- well, I'm not sure how it would be -- what  
17 might be -- how this might be described in the Croatian language, but  
18 in -- at least in English we've heard of the concept of someone being a  
19 ghost writer. Someone publishes a book, usually it's someone of some  
20 profile, and writes a book and puts their name on it, but we all know and  
21 in fact it's an open secret that in fact the book was actually written by  
22 somebody else. Sometimes we call those people a ghost writer. Have you  
23 ever ghost written anything for Mr. Praljak?

24 A. Not only for Mr. Praljak -- well, I know about this custom that  
25 you're referring to and it's done a lot in Croatia and even scientific

1 titles are gained on that basis, and I have a series of witnesses to bear  
2 out that I categorically refuse to sign anything that I haven't written  
3 myself. And also I consider my work to be the work of myself as an  
4 author and I am very proud of it, and I would not agree to write as a  
5 ghost writer for someone else and have that other person sign it as being  
6 their own.

7 Now, when it comes to the book about the old bridge, it's a book  
8 of documents and that is indubitable.

9 Q. Sir, the report that the Judges have in front of them and it's  
10 been provided to all of us, it's your testimony under oath that you wrote  
11 every word of that yourself; is that right?

12 A. Here you have it, as I said, at the beginning of today's  
13 proceedings I assumed which line this would take. So in the statement  
14 that I wrote I say there in one of the points --

15 Q. Sir, just answer my question.

16 A. Well, that's a response --

17 Q. It's either yes or no, and I'm not trying to be -- cut you off.  
18 If you say "yes" we'll go one way, and if you say "no," maybe we'll go  
19 another direction. But let's first start with the answer to the  
20 question.

21 A. All right.

22 Q. Did anyone -- just -- everything in this report was in your  
23 words, you did the research, this is completely your product and nobody  
24 else's, yes or no?

25 A. Five seconds. I wrote the expert report as an author

**Page 44967**

1 independently, according to objective, scientific, and scholarly  
2 standards with the best human intentions within the frameworks of my  
3 possibilities. Now, in writing the expert report and in preparing for  
4 expert testimony, I did not consult the Defence teams or enter into any  
5 unlawful or dishonourable acts, nor was I offered to do that. I've  
6 written other things, so as I've written this text perhaps I could leave  
7 it with the Trial Chamber and the Court. With the Court's permission  
8 perhaps I can hand this piece of paper over to you signed by me which  
9 resolves certain problems.

10 JUDGE ANTONETTI: [Interpretation] Let's not mix things up. The  
11 Prosecutor is asking you whether you authored this report in full,  
12 whether you actually wrote everything, even the footnotes. You are  
13 answering yes. And then you start to talking about this other document  
14 that we don't have. Maybe you say the same thing in that document, but  
15 you said -- you told Mr. Scott: I authored the report. That is enough  
16 of an answer. If I understood you correctly, you did not ask some kind  
17 of -- any student of yours to write the report for you. You authored it  
18 yourself, you wrote it yourself.

19 THE WITNESS: [Interpretation] Precisely so and I never did any of  
20 that ever in my life. Everything I wrote, I wrote myself.

21 JUDGE ANTONETTI: [Interpretation] My question will establish a  
22 connection which is what I said a while ago. You told us that you saw  
23 Mr. Kordic August. When you went to see Mr. Kordic in the month of

24 August, did you know that you needed to come here to testify?

25 THE WITNESS: [Interpretation] That was clear when I accepted to

**Page 44968**

1 write the expert report, and it was customary -- I knew it was customary  
2 to come in here. Only some extraordinary circumstances could have  
3 prevented me from possibly not coming.

4 JUDGE ANTONETTI: [Interpretation] When you went to see Mr. Kordic  
5 in Austria, had you advised Mr. Praljak's Defence and warned them that  
6 you were going to go and see Mr. Kordic?

7 THE WITNESS: [Interpretation] No. The first time I saw  
8 Mr. Kordic was, in fact, there in prison. My wife and a girl -- a friend  
9 of Kordic's were also -- were also there. We did not talk about the  
10 trials before this Tribunal. We talked about general issues which are of  
11 no interest to the --

12 JUDGE ANTONETTI: [Interpretation] [Previous translation  
13 continues]... answering my question. Maybe it was mistranslated. When  
14 you go and see Mr. Kordic in the month of August, you went to visit him  
15 in jail. Before going there or after having gone to see him, did you say  
16 to Mr. Kovacic, I would like to advise you of the fact that I'm going to  
17 go and see Mr. Kordic, or I would like to advise you of the fact that I  
18 have seen him?

19 THE WITNESS: [Interpretation] No.

20 JUDGE ANTONETTI: [Interpretation] Why didn't you do this?

21 THE WITNESS: [Interpretation] I thought that this was immaterial  
22 and that it was up to me whether I would visit Mr. Kordic or not and that

23 it had nothing to do with this trial, and I didn't even give it any  
24 thought. Let me tell you quite frankly.

25 JUDGE ANTONETTI: [Interpretation] Did you know that Mr. Kovacic

**Page 44969**

1 had defended Cerkez?

2 THE WITNESS: [Interpretation] I knew that Mr. Kovacic had been  
3 practicing law before this Tribunal before some ten years, but we never  
4 discussed that during our meetings. I didn't know that.

5 JUDGE ANTONETTI: [Interpretation] Fine.

6 Mr. Scott.

7 MR. SCOTT:

8 Q. Sir, in your report -- in reviewing it very carefully, there are  
9 two persons in particular that you cite for support far more than any  
10 other, and I put it to you, sir, that the two people that you base much  
11 of your report -- in fact, some sections almost entirely if not entirely,  
12 the sources that you rely on most extensively are Mr. Praljak himself and  
13 Miroslav Tudjman, the son of former President Franjo Tudjman. That's  
14 correct, isn't it?

15 A. No, that's not correct. I refer to documents that are available  
16 in General Praljak's database, and I also refer to documents that have  
17 been published in a variety of places, including a book of documents  
18 published by Miroslav Tudjman. It's a book of documents about Bosnia and  
19 Herzegovina. And so it's of a compilation of documents.

20 Q. So, in the --

21 A. And in the expert reports, in the footnotes, the sources -- other

22 sources on those documents are also listed as well as the possibility  
23 that they might be contained in Mr. Miroslav Tudjman's book.

24 Q. Sir, putting aside the first 60 pages or so of your report, which  
25 even the Trial Chamber itself did not really go to the scope of this

**Page 44970**

1 case, putting aside those -- the first parts of your report, I put it to  
2 you a review of your report indicates that in the -- in the last hundred  
3 pages of your report, the last 100 pages you cite either Mr. Praljak or a  
4 Praljak book or the Praljak web site approximately 110 times; correct?

5 A. I don't know whether this is correct because I did not really  
6 count all that and I did not take-over any views or positions of  
7 General Praljak. I simply used the documents that I believe are not  
8 forged. If you believe that they are forged, please give me some  
9 arguments in favour of that claim.

10 Q. And indeed, isn't it correct, sir, that some parts of your --  
11 large parts of your report are entirely dependent on Mr. Praljak. And I  
12 refer in particular as one example, one example, your section on the  
13 relationship of the Republic of Croatia **towards** Bosnia and Herzegovina,  
14 that can be found at pages 132 to 177 of your report, and that entire  
15 section is either based largely or in some parts entirely on Mr. Praljak.  
16 Correct?

17 A. It is entirely untrue. None of this report is based on  
18 Mr. Praljak, but on documents that clearly indicate their source. So for  
19 the most part the source of the documents is quite clearly indicated in  
20 the text. So I don't think that I used documents from Mr. Praljak, but

21 from various institutions, literature, both from the -- well, from the  
22 Bosnian, Serbian, Croatian, and international side that is relevant for  
23 the needs of the drafting of the expert report.

24 Q. Sir, in a number of citations, in fact, you give no other source  
25 or citation except for a reference to Mr. Praljak's web site. You don't

**Page 44971**

1 give a page, you don't give a document number. You just say,  
2 essentially, See web site; correct?

3 A. I am a scholar and I know very well how the scientific apparatus  
4 is used, which means that in the text I indicate the source of the  
5 documents whether it was -- it originated from the Croatian army, the  
6 HVO, BH Army, the president of Bosnia and Herzegovina. So it is very  
7 clearly indicated in the text who authored the document, and I also make  
8 references, specific references, to pages because it is easy then to  
9 check whether this document exists in that form.

10 Q. Well, sir, that's just not true. If you look at footnotes 309,  
11 310, 392, 474, 475, 480 --

12 JUDGE PRANDLER: [Microphone not activated]

13 MR. SCOTT: Sorry, Your Honour.

14 Q. 480, 490, 491, 601, 606, 617, the only citation we get -- the  
15 only information the Judges have to base -- to assess your report is a  
16 citation to [www.slobodanpraljak.com](http://www.slobodanpraljak.com) --

17 MR. KOVACIC: Objection, this is exactly what the witness said in  
18 previous answer. He said that the references were to the pages, and he  
19 was previously talking about web pages, internet pages. This is exactly

20 what he said.

21 MR. SCOTT: No, that's not correct, sir.

22 MR. KOVACIC: Judge Trechsel, don't -- don't make a face. This  
23 is what --

24 JUDGE TRECHSEL: I'm sorry, Mr. -- yeah.

25 MR. KOVACIC: I thought I heard it on Croatian language --

### Page 44972

1 JUDGE TRECHSEL: It's -- it's clever but it's a bit strange  
2 because when scientifically speaking you say "I refer to the page," then  
3 page is meant in the sense of a number in a document of several pages  
4 which you take and then you find where the quotation is, where the source  
5 is. Here when you -- the web site, the web site, may be called "page" in  
6 certain languages, but it -- you do not know what is there. Normally  
7 there is a lot of things on a web site, and it doesn't have the precision  
8 which an understanding Judge expects when he's told: This is a reference  
9 to a page. I mean, it does not correspond to the expectations that this  
10 affirmation raises. That may be different in Croatian. I am not able to  
11 comment on that.

12 MR. KOVACIC: Your Honour, I -- [Microphone not activated]

13 THE INTERPRETER: Microphone, please, counsel.

14 MR. KOVACIC: [Microphone not activated]

15 THE INTERPRETER: Microphone for the counsel.

16 MR. KOVACIC: I'm sorry. I entirely agree with your assertion,  
17 but when witness was talking here previously in those -- he said: Yes, I  
18 was referring to the pages on site, Praljak's pages on site, when we sum

19 up all together. So -- and before that he said there was a perfect  
20 database Praljak page, so sometimes instead of going into the details --  
21 that is impression what I had, but I don't want to testify. I think that  
22 we should ask the witness to clarify. That was merely my impression  
23 based on original Croatian language.

24 JUDGE TRECHSEL: Thank you.

25 Mr. Scott.

**Page 44973**

1 MR. SCOTT:

2 Q. So --

3 A. Your Honour, Your Honour, the question was addressed to me so  
4 perhaps he we can deal with all the doubts and I would like to deal with  
5 this as an expert --

6 JUDGE TRECHSEL: I'm sorry, this is an error. I have not  
7 addressed any question to you. I have just had an exchange of views,  
8 during which Mr. Kovacic has kindly explained what was possibly based on  
9 a linguistic misunderstanding and Mr. Scott has the floor now.

10 MR. SCOTT: Thank you, Your Honour.

11 Q. If we can --

12 A. No, Your Honour, Your Honour --

13 JUDGE TRECHSEL: I'm sorry --

14 MS. TOMANOVIC: Your Honour -- Judge --

15 JUDGE TRECHSEL: -- we say, the Bench says, who is going to  
16 speak.

17 And now, when the Defence counsel pops, up they have sort of a

18 special privilege.

19 Please, Ms. Tomanovic.

20 MS. TOMANOVIC: [Interpretation] Thank you, Your Honour. I think  
21 that there has been a misunderstanding. The witness wants to answer  
22 Mr. Scott's question that he failed to answer. He didn't mean to address  
23 the issue that you raised.

24 THE WITNESS: [Interpretation] Precisely, Your Honour, I didn't  
25 want to answer your question without your permission, but we have a

**Page 44974**

1 dynamic debate here and what we missed is that Mr. Scott asked me a  
2 question and by your leave, and only if you allow me to, I will answer  
3 that question.

4 JUDGE TRECHSEL: Go ahead.

5 THE WITNESS: [Interpretation] Let me remind you that Mr. Scott  
6 provided references to some footnotes that methodologically compromise my  
7 expert report out of a dozen or so numbers. I started with the first  
8 one, and I beg Mr. Scott to correct me if I'm wrong, I went to page where  
9 footnote 409 is located and it says here the public address by  
10 Alija Izetbegovic -- Alija Izetbegovic on the 10th of June on Sarajevo  
11 TV, and then I state that this footage can be seen --

12 JUDGE TRECHSEL: I'm sorry, there must have been a  
13 misunderstanding somehow. 309 was the number of the first of these  
14 footnotes. 30 --

15 THE WITNESS: [Interpretation] Footnotes [overlapping speakers] --

16 JUDGE TRECHSEL: And it's on side [overlapping speakers] --

17 THE WITNESS: [Interpretation] 409 [overlapping speakers] --

18 JUDGE TRECHSEL: 309, and the page is 96.

19 THE WITNESS: [Interpretation] I do apologise. I heard "309" --  
20 well, there were so many numbers. Let me look at 309. Well, here in  
21 this footnote it is stated www, but when you look at the text you will  
22 see that this is a report on the transfer of funds and I explain in great  
23 detail what the document is. It's a document that was issued in 2000 in  
24 the Republic of Croatia, and I believe that document to be very important  
25 for the Court because you can see how HVO was financed by the Republic of

**Page 44975**

1 Croatia. And there is no doubt that in scientific terms it is -- it is  
2 possible to locate and identify this document quite clearly.

3 So you can see here that the Prosecutor used his right in the way  
4 that he's entitled to, but I'm just trying to explain what this is all  
5 about. So could you please look at the beginning of the quote here, and  
6 you will see that in accordance with all scientific standards I make this  
7 reference in such a way that anyone can identify it. And this is a very  
8 important document which might prove -- well, it's about the financing of  
9 the HVO army, the way it was done by the Republic of Croatia, so how it  
10 was done. And those who are interested in it can find this document and  
11 get some additional knowledge about it. But I simply used the most  
12 relevant part, and they speak objectively as to what was going on and  
13 how. And I interpreted correctly, properly, what it says, how -- what  
14 the indicators are. So, Your Honours, please do have a look at it.

15 MR. SCOTT: I'm sorry, Your Honour, I had the impression that the  
16 Judges were studying something and might have additional questions.

17 Q. Sir, let me turn the next attention to Mr. Miroslav Tudjman, who  
18 I mentioned a few moments ago. Likewise, sir, I put it to you that in  
19 reviewing your report, and again focusing on those parts that relate to  
20 events that relate to after 1990, in those parts of your report you cite  
21 to Mr. Miroslav Tudjman 164 times for your second-most frequent source.  
22 Correct, sir?

23 A. It's only partially true. I don't know the exact information.  
24 For me it's irrelevant. But if you look more closely you will see that  
25 in most cases the original source is quoted first or referred to first,

**Page 44976**

1 and then there is a secondary reference where it is easier to obtain this  
2 document. Many of the documents used by Miroslav Tudjman were published  
3 in the Croatian media, and it's much more difficult to access them for  
4 the Trial Chamber and everyone else than it is in Miroslav Tudjman's  
5 book [as interpreted]. But in most cases I provide both sources,  
6 references to both sources. The first reference is the original source,  
7 but for ease and of checking I provide the additional reference. It is  
8 easier, also, for the Prosecution to check, and this is a scientific  
9 standard. It is customary to refer to the original source and then to  
10 any compendium where such documents may be located. It is completely  
11 proper from the scientific standards point of view in western Europe and  
12 in Croatia.

13 JUDGE ANTONETTI: [Interpretation] Mr. Prlic.

14 THE ACCUSED PRLIC: I just have one correction in transcript.  
15 This is page 76, line 10: Because the witness said in Miroslav Tudjman's  
16 book of documents, and this is important to be said, because he said  
17 "book of documents," book consisted of hundreds of documents and this is  
18 the only content of the book. He mentioned "book of documents," and in  
19 transcript we have just "book."

20 THE WITNESS: [Interpretation] For the Trial Chamber to have a  
21 full idea of this book, in addition to the book of documents, and the  
22 documents comprise most of the book, he also wrote a preface, I don't  
23 know how many pages. But I never ever referred to the preface in any  
24 way. I did not use his amateurish interpretations of various events in  
25 the Republic of Croatia Or Bosnia and Herzegovina. I only used the

**Page 44977**

1 documents. So speaking about Miroslav Tudjman as a person who may have  
2 influenced by report, there's no reason for that because I did not use a  
3 single word from Miroslav Tudjman's preface which I considered to be  
4 inexpert and also politically motivated, so I did not use any part of  
5 Miroslav Tudjman's preface but just the documents. I would like to  
6 take -- for the Trial Chamber to take that into account in light of this  
7 attempt to discredit me indirectly.

8 JUDGE ANTONETTI: [Interpretation] Mr. Scott.

9 MR. SCOTT:

10 Q. Sir, indeed in connection with some of the sources in the  
11 Miroslav Tudjman book, one of the books, 98 of those are simply  
12 references to newspaper articles selected and reprinted by

13 Miroslav Tadjman; correct?

14 A. I don't know how many, but the newspapers are a source.

15 Miroslav Tadjman did not forge, he did not author those newspaper  
16 articles; he used them as a legitimate source which then must be compared  
17 to other sources. I don't know what the number is because I did not  
18 really analyse that.

19 Q. But this was his selection? In other words, Miroslav Tadjman  
20 filtered the Croatian media and he selected the newspaper articles that  
21 were in these materials; correct?

22 MS. ALABURIC: [Interpretation] Your Honour, just one objection  
23 because there might be some lack of understanding because of the way we  
24 understand things in the Croatian language. When we say a newspaper  
25 article, we always consider those to be texts which are authored by

**Page 44978**

1 journalists. And in this particular case we're talking about documents  
2 that were also published in the media, so lest there should be some  
3 misunderstanding.

4 THE WITNESS: [Interpretation] Yes, this remark by the Defence  
5 counsel is correct. In Miroslav Tadjman's book of documents we have to  
6 the greatest degree the documents that are published in the media in the  
7 1990s, and then he took those documents either from the newspapers, from  
8 the media, or from some archives. So these are not articles that are  
9 comments or editorials. I only used the documents. These are the  
10 priorities for me.

11 JUDGE ANTONETTI: [Interpretation] Mr. Scott.

12 MR. SCOTT:

13 Q. So, sir, putting aside the newspaper articles, and I think to use  
14 counsel's term, if I understood correctly, articles written by  
15 journalists, the other items included in these materials were, if you  
16 will, someone -- a journalist says that he gets a copy of a document from  
17 some source and for whatever reason the entire document is reprinted in a  
18 newspaper. Is that what you're talking about?

19 A. That depends on the individual document. If you have a specific  
20 example, say so. Every document is specific, so we cannot make  
21 generalisations. There are certain documents that have been taken over,  
22 transcribed, from the source, from the institution, that is, which  
23 published it. Then there were documents that were taken over from or  
24 copied from newspaper articles. So I can't be objective. If you have a  
25 specific document in mind tell me and then we can discuss it.

**Page 44979**

1 Q. No, sir, at this point we're talking about general methodology.  
2 And I don't want to spend any more time talking about that particular  
3 subpoint, if you will. But going back to my earlier question. Be that  
4 as it may, whatever these were, whether they were articles written by  
5 journalists or papers that have been reprinted in some media source in  
6 Croatia, it was Miroslav Tudjman who selected and decided what materials  
7 to put in his book, right? So these are filtered by Miroslav Tudjman to  
8 support what you wrote was a politically motivated amateurish conclusion?

9 MR. KOVACIC: Your Honour, I have an objection to that question.  
10 The question by -- the book by Miroslav Tudjman is on e-court and it is

11 3D00320, the entire book, and not to read some other individual numbers  
12 referring to individual agreements from that book that have been admitted  
13 into evidence. Now, my learned friend is asking very general questions,  
14 and I think that one should -- that he should show him the examples he's  
15 referring to. And I know why I'm saying this, because the examples he's  
16 referring to are nothing more than a facsimile of some agreement, for  
17 example, some document which was published as a facsimile, as a  
18 photograph of the document, in the Croatian press at a time when such  
19 documents were not accessible to various individuals.

20 So Tudjman in that book -- Miroslav Tudjman in that book uses  
21 either various documents from the different archives or on several  
22 occasions the facsimile from a newspaper. So it's not a newspaper  
23 article per se. And now the insinuation made is that it's a newspaper  
24 article instead of putting it before the witness so that we can all have  
25 a look at it.

### **Page 44980**

1 And, for example, during the examination-in-chief we used  
2 3D00320, the one I mentioned a moment ago, and you were able to see it.  
3 We have it on e-court.

4 MR. KARNAVAS: Just very briefly, Your Honours. I think I would  
5 have the objection of relevance unless -- it's my understanding that what  
6 Mr. Scott is doing is he's challenging Miroslav Tudjman's assessments of  
7 the documents by using the characterisations made by the witness. It's a  
8 perfectly legitimate technique, assuming that what is being introduced  
9 here in court or has been introduced at some point are Tudjman's thoughts

10 as opposed to the documents themselves that are in the book. So if he's  
11 trying to impeach Tadjman, what Tadjman characterises in his book,  
12 assuming that those characterisations have been introduced by the  
13 parties -- and I do say that it's a perfectly legitimate technique,  
14 because the gentleman has indicated his opinion about the amateurish, you  
15 know, conclusions.

16 If on the other hand, if on the other hand, only the documents  
17 that are in the book have been introduced by the parties -- and since the  
18 gentleman has only -- has indicated, since he's only looking at those  
19 documents as a source upon -- which those essentially are original  
20 sources, assuming that they've been published in newspapers and what have  
21 you, correctly, then I don't think that this is a proper line of  
22 questioning. I hope you that there's a distinction because you have a  
23 book and there is some commentary. The commentary belongs to Tadjman.  
24 The commentary has not been introduced by the parties and therefore it is  
25 not subject to cross-examination if you're asking me, because that's not

### **Page 44981**

1 at issue. What is the at issue is if the gentleman had adopted those and  
2 relied upon them, then obviously it's fair game. However --

3 JUDGE TRECHSEL: I think what the Prosecutor is putting to the  
4 witness is that the witness heavily relied on the collection of documents  
5 published by Miroslav Tadjman, and the idea behind it is that this might  
6 be a unilateral not quite biased collection. And therefore, I think it  
7 is legitimate to put this to the witness.

8 MR. KARNAVAS: Well -- and if -- I would agree to you to a

9 certain extent. However, if that was the universe, the universe, of  
10 documents that he looked at, then I would say you're absolutely right,  
11 but it's not the universe --

12 JUDGE TRECHSEL: Wouldn't that be for the witness to answer?

13 MR. KARNAVAS: Well, that's my whole point.

14 JUDGE TRECHSEL: I think it would be his and not your answer  
15 suggesting it to the witness.

16 MR. KARNAVAS: No, no. I -- I -- I --

17 JUDGE TRECHSEL: But it's a good suggestion, I admit, but I --

18 MR. KARNAVAS: I'm offended by that comment, Judge Trechsel --

19 JUDGE TRECHSEL: I'm sorry.

20 MR. KARNAVAS: --- because there is no suggestion over here,  
21 because you're suggesting, if I may say, you're suggesting that this  
22 gentleman relied only on that book and I'm suggesting that's the point.  
23 It --

24 JUDGE TRECHSEL: It was not -- I'm sorry, it was not my  
25 suggestion. I interpret -- I said how I understood the Prosecutor.

## Page 44982

1 MR. KARNAVAS: Well -- and I'm saying if you go back to the  
2 transcript, Your Honours, and look at it extremely carefully you will see  
3 what Mr. Scott is doing is a very clever technique of trying to adopt  
4 Tudjman's comments and use them as -- this gentleman relied on those  
5 comments. There are two different issues here: Now, that he relied on  
6 the documents, yes, but he's indicated as to what else he's relied on and  
7 that's -- he can be asked that question.

8 JUDGE TRECHSEL: I'll give you one thing, Mr. Karnavas, the  
9 reference to the amateurish use made allegedly by Mr. -- was perhaps not  
10 entirely necessary, but otherwise I think we can -- we have clarified the  
11 terrain and can continue, Mr. Scott.

12 JUDGE ANTONETTI: [Interpretation] Professor, we have spent a lot  
13 of time discussing this issue. I will sum it up and give you my  
14 understanding of the discussion between the Prosecutor, Defence counsel,  
15 and the Bench. Miroslav Tadjman is the son of late President Tadjman.  
16 He writes a book. This book contains a series of documents which he  
17 got -- we don't know how he got them -- he got them and he uses these  
18 documents, and in this book he gives his point of view based on a number  
19 of documents. The Prosecutor then puts you a question about the book and  
20 you say that this is the viewpoint of an amateur.

21 I'm a little bit surprised by this and rather dumbfounded by it  
22 and amazed. From what I understood, listening to Praljak's testimony,  
23 that Miroslav Tadjman had headed the intelligence services. If the head  
24 of the intelligence services based on politically  
25 connotated [as interpreted] documents provides a viewpoint of an amateur,

**Page 44983**

1 this is rather surprising. For instance, books have been written by  
2 former CIA **heads and nobody has said that these people wrote amateurish**  
3 books. So why did you say that Miroslav Tadjman was an amateur when he  
4 wrote this book? I don't understand this.

5 THE WITNESS: [Interpretation] Your Honour, I'm very pleased that  
6 you asked me this question because it will clarify very many issues. I'm

7 trying to save time and answer briefly but this is an important question.  
8 Miroslav Tadjman, not only was he the chief of the services but he was a  
9 university professor and has a Ph.D. in informatics. So when I say  
10 "amateur," I mean that he's not a historian -- yes, I will slow down.

11 When I say "amateur," then I say that with every right to abridge  
12 the whole procedure because the word "amateur" means he's not a trained  
13 historian or politicologist and that his comments and his visions in the  
14 sense of my scientific approach, scholarly approach, with respect to  
15 interpretation are not relevant. They can be interesting in one way or  
16 another in the way in which you have said and can speak and testify to a  
17 given situation, but I hold that in the sense of interpreting the events  
18 are amateur because he doesn't have the title of historian or  
19 politicologist, but he is a doctor of information science. So I  
20 apologise for using the word "amateur." I could have substituted it with  
21 two or three sentences and taken up more time that way.

22 JUDGE ANTONETTI: [Interpretation] Very well.

23 For my second question that is the crux of this debate. In your  
24 expert report, which we have, did you base your work on the documents in  
25 the book of Miroslav Tadjman at a hundred per cent, or did you use this

### **Page 44984**

1 work only partially or did you just not even take it into account? I  
2 believe that my question is very straightforward.

3 THE WITNESS: [Interpretation] Thank you very much. The question  
4 is more than clear. I relied in part and I took over not only from him  
5 but from the sources he took matter over relevant documents. For

6 example, the decision on the recognition of Bosnia-Herzegovina by the  
7 Republic of Croatia, then different international documents and the like.  
8 So the answer is correct in part. In the extent to which it was  
9 necessary if I couldn't find the document in some other source, but for  
10 practically all the documents that I stress as being his I emphasize that  
11 might have been left out, that I state the source of the source, the  
12 original source, that is to say the place from where he took over the  
13 documents. And I also quote him in another place or I quote him as  
14 number two because it's simpler to work that way, for the interested  
15 parties to find this accessible.

16 So all the elements that I mentioned are to be found in his book,  
17 but I mention the primary source as well, whether it be a newspaper, an  
18 archive, or anything else. So it was -- it's customary in scholarly  
19 work, as I've already said -- as I said, it might have been left out, but  
20 it is usual to stipulate the archive material in the archive and to save  
21 somebody else the trouble from going through the same process of going to  
22 an archive, it is simpler if the documents based on a subjects are  
23 contained in a book and have been correctly facsimiled and copied into  
24 that book, then it's much easier just to stipulate the book and indicate  
25 where they can be found. So I don't know whether I was clear enough or

### **Page 44985**

1 whether it was interpreted incorrectly or what.

2 JUDGE ANTONETTI: [Interpretation] Very well. Let's break for 20  
3 minutes. The Prosecutor can come back to the topic after the break if he  
4 wishes to do so. Let me remind Mr. Scott that he has only used one hour

5 and 38 minutes. He has one hour and 28 minutes left.

6 --- Recess taken at 12.36 p.m.

7 --- On resuming at 1.00 p.m.

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

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

10 Q. Sir, before finishing and moving on on this -- these questions in  
11 connection with Miroslav Tudjman, let's just clarify that there's at  
12 least three different Miroslav Tudjman items that you source or use as  
13 sources in your report. This is one called "The Truth About Bosnia and  
14 Herzegovina" which for the record is 1D00410 -- or at least that's one  
15 time it's been marked. And I'm not being critical when I say that, Your  
16 Honours, I'm just saying I think it may have been marked -- different  
17 excerpts have been marked at different times. But that's at least one  
18 place, 1D00410, Miroslav Tudjman, "The Truth About Bosnia and  
19 Herzegovina."

20 And then there's another book by Miroslav Tudjman which is called  
21 "Time of Perjurers," which is 3D00855, and another Miroslav Tudjman  
22 source that has been used by Mr. Jurcevic is Mr. Miroslav Tudjman's  
23 journal, as I understand, it's a series of journals called "national  
24 security and the future." So just to be clear that we're talking about a  
25 number of items at times.

**Page 44986**

1 And, sir, it's to the second of those that I'd like to turn my  
2 attention now for the moment, and that is Miroslav Tudjman's book titled  
3 "Time of Perjurers." Can you tell the Judges what role you played

4 together with Miroslav in writing and preparing that book?

5 A. Your Honour, I did understand the last sentence and question, but  
6 I don't understand whether the very complex question that Mr. Prosecutor  
7 spoke at the beginning of the session, whether that's also part of this  
8 question. He gave a number -- made a number of statements, and I don't  
9 know whether I am supposed to speak about that too -- and if not could he  
10 just repeat the question without the comments because otherwise I'm going  
11 to have to respond to all the comments, too.

12 Q. Yes, sir, I'll be happy to do that if it will assist you. I did  
13 indeed, for the Chamber's -- well, for the record, the benefit of the  
14 record in terms of some of the testimony and discussion that was taking  
15 place before the break, I put on the record that there are three  
16 different -- at least, at least three different Miroslav Tudjman sources  
17 in connection with Mr. Jurcevic's work, and I stand by that.

18 My question to you, sir, in connection with the book that I  
19 mentioned "Time of Perjurers," which I believe was published by  
20 Miroslav Tudjman in Zagreb in 2006, did you assist Mr. Miroslav Tudjman,  
21 the former head of Croatian intelligence services, the son of the former  
22 president, did you assist Miroslav Tudjman in writing the book "Time of  
23 Perjurers"?

24 A. No, not in writing of that book or any other book. I didn't  
25 assist Mr. Miroslav Tudjman at all, and I am not in any close contact

**Page 44987**

1 with him in any way, professional or friendly terms. I think that I was  
2 invited to present the book at one of the promotions -- a number of

3 promotions, and I spoke about the importance of those book -- of that  
4 book from the point of view of some interest in Croatia. So I never did  
5 assist Mr. Tudjman on this book, and he didn't assist me in any way.

6 Q. Well, let's look, please, at Exhibit 3D - and this will be in the  
7 first binder, binder number one, 3D00855. The first binder.

8 A. [In English] Can you repeat?

9 Q. Yes, sir. It's 3D00855.

10 JUDGE PRANDLER: Mr. Scott, I am sorry, are you sure it is in  
11 binder one?

12 MR. SCOTT: I had understood, Your Honours, that all the  
13 Defence-numbered exhibits were in binder number one. 3D, if there's an  
14 extra --

15 JUDGE TRECHSEL: Yes.

16 MR. SCOTT: You have it.

17 JUDGE PRANDLER: Okay. Yes. Thank you.

18 MR. SCOTT:

19 Q. If you have that now, sir --

20 MR. SCOTT: And, Judge Prandler, do you have that?

21 JUDGE PRANDLER: Yes, thank you.

22 MR. SCOTT:

23 Q. Sir, looking at the internal title page, if you will, this  
24 appears to be -- and I think -- because this document comes from, in  
25 fact, the Praljak Defence. It appears that in the book,

2 handwritten a note to Mr. Praljak under the title of his book. Do you  
3 see that?

4 A. [Interpretation] The handwritten note, is that what you mean?

5 Q. Yes, sir.

6 A. Yes, I do see it.

7 Q. "Dear Slobodan, truth is the only way to justice and freedom.

8 This is my debt to" something that I can't read "you and all the victims  
9 of injustice and lies.

10 "Sincerely yours,

11 "Miroslav Tudjman."

12 Is that correct?

13 A. Yes -- well, in essence it is. Maybe some letters and words I  
14 can't really recognise.

15 Q. All right. And this would have apparently been -- there's a date  
16 below, if I'm not mistaken, the 4th of June, 2006, which would be --  
17 actually, it's just a few weeks after the trial of this case started,  
18 which the opening statement being at the end of April 2006. So anyway,  
19 you see the date there, sir, 4.6.2006?

20 A. Yes. I think it says ZGB, that's Zagreb, and I can see the date,  
21 yes.

22 Q. Thank you. Now, sir, on that cover page -- and I don't know if  
23 you're looking -- I'm looking, of course, at the English version -- well,  
24 actually in this case it doesn't really matter. But if you look across  
25 from the title pages there's some other names and positions and functions

1 on the far side, and if I'm not mistaken, sir, one of those persons is  
2 Professor Dr. Josip Jurcevic. Do you see that?

3 A. That's correct, yes, I see that.

4 Q. So -- and the word above that, perhaps the word immediately above  
5 your name if you might just assist us with the -- if you can just read  
6 that to us and maybe the booth can tell us what that means.

7 A. Yes, it says above that that I am one of the reviewers of the  
8 book. That means that the publisher of the book, once the book was  
9 finished, and this was the usual practice in Croatia, sought the  
10 recommendation of various reviewers for the publication of the book.  
11 This is the so-called publisher's review when the book is finished and  
12 when it reaches the publisher for the publisher to get some funding from  
13 the Ministry of Culture or other institutions, seeks a review from  
14 various experts, including myself, as to whether this book should be  
15 published.

16 So once the book was finished -- and before that I did not in any  
17 way, as I indicated, cooperate on that or any other text by Mr. Tudjman,  
18 but Detecta, the publishing house, asked me to do that. And this  
19 publishing house publishes various modern books, and I'm often asked by  
20 them to review books to tell them whether some books should be published  
21 or not, whether it is of any interest or not, but I do not in any way  
22 influence the writing of the book, and there are at least a dozen books  
23 published by Detecta that I reviewed in this way. And I said that I  
24 presented the book, I think, on one or two occasions, and there were many  
25 such presentations of the book.

1 Q. Well, when you said -- just so the record is very clear in some  
2 time, weeks from now, there's no confusion, when you said "present the  
3 book," what do you mean?

4 A. It is the usual practice in Croatia when a book is published,  
5 then there is a presentation or a promotion of a book in some public  
6 space. It's either a public occasion or only for invited persons. So  
7 the publisher promotes the book in a way, and again some people are  
8 invited by the publisher to speak about the book. People who know  
9 something about the topic, so that they can present this book to tell the  
10 Croatian public why it is of interest. And from what you can see from my  
11 CV, I took part in a huge number, hundreds and hundreds, probably  
12 thousand of such presentations.

13 Q. Thank you for that. Bottom line is you promoted  
14 Miroslav Tudjman's book, you endorsed it, you said this is something the  
15 public should be interested in. You told us a moment ago, you promoted  
16 the sale of Mr. Tudjman's book; correct?

17 A. Not the sale of the book --

18 Q. Sir, I just asked you and I was very careful: What do you mean  
19 when you said you presented the book and you described it to us, you  
20 promoted the book; correct?

21 A. Yes, but you're trying to say something that is not true, and I'm  
22 saying that this is not true. I did not take part in the marketing  
23 effort for the book because it's a paid job, and I did not get any kind  
24 of monetary compensation for the presenting and reviewing the book. I

25 spoke about the importance of the book and the topic for Croatian

**Page 44991**

1 public --

2 Q. I take it onboard. You told us you didn't get paid to do it.

3 Now, yesterday in response to some -- I think a question by the  
4 President in terms of Lord Owen's book, if I'm not mistaken, although  
5 it's not particularly critical but I think it was Lord Owen's book,  
6 Judge Antonetti asked if you had ever read the book, or somebody  
7 did - again, if I'm getting some of this wrong -- but the point is you  
8 were asked about it. And this is what you -- this is the testimony you  
9 gave yesterday.

10 "A. I have. It was a long time ago, but when you read memoirs  
11 of this type I always take them with a pinch of salt with some  
12 reservations with respect to the facts because the people taking part  
13 tried to depict their role by asserting themselves, protecting themselves  
14 and their actions, justifying themselves, and generally portraying  
15 themselves in a positive light."

16 Your testimony yesterday.

17 So, sir, when you, among others, have repeatedly relied for your  
18 report on Mr. Praljak and upon Miroslav Tudjman, did you consider the  
19 source, as you told the Judges you always do?

20 A. Yes, what I said -- I don't know who asked me the question, but  
21 you quoted me correctly, and I still say that in all the cases including  
22 the case of Mr. Praljak -- I don't know if he wrote a memoir and I don't  
23 know whether Mr. Tudjman did or at least he did in part, but I consider

24 those to be secondary, secondary, sources. And the question yesterday  
25 was asked in the context - I think it was asked by Ms. Alaburic -

**Page 44992**

1 regarding some facts. And I said that as for that book, I read it -- I  
2 had read it a long time ago, and I didn't consider it to be relevant for  
3 this level of analysis. And to be quite specific and in answer to your  
4 question, in accordance to what I said about Owen, Mr. Praljak, and  
5 Mr. Tudjman, I didn't include any of those views into my expert report.

6 And I'm telling you once again that there are no quotes in which  
7 I quote the thoughts or positions by Mr. Praljak or Mr. Tudjman in my  
8 expert report. If that is not the case, please refer me to the relevant  
9 portion.

10 Q. Going on, sir, you -- I note for the record and I put to  
11 you - correct me if I'm wrong - but in reviewing your expert report,  
12 which at least in the English version was something like 190  
13 single-spaced pages, you don't make a single citation to the -- what we  
14 call in this courtroom the Presidential transcripts, the recordings of or  
15 the records of meetings and conversations in President Tudjman's --  
16 usually his office, sometimes a few other locations. And is it correct,  
17 sir, that you at no point cite or refer to that material?

18 A. That's correct. And in the introduction to chapter 3 entitled  
19 "The Relationship Between the Republic of Croatia **and** Bosnia **and**  
20 Herzegovina" I provided methodological explanation as to what I did, what  
21 documents I used, and I indicate that I focused on the most important and  
22 most relevant documents, the official documents, that pertain to the

23 institutions of the Republic of Croatia, the president, the parliament,  
24 the government. And there is a plethora of various other sources,  
25 memoirs, the prime ministers, and so on, and I didn't use that either --

**Page 44993**

1 Q. Don't you think as a historian, sir, which you've told us you  
2 are, that by omitting the Presidential material, which this Tribunal, not  
3 just this Court -- this particular Chamber but the Tribunal in general  
4 has used extensively, that Defence team -- multiple Defence teams have  
5 used extensively, that the Prosecution, in fairness, has used  
6 extensively; don't you think as a historian it is a huge omission of your  
7 information not to have considered or referred at all to that material?

8 A. No, not at all. I followed the transcripts carefully, both in  
9 the Croatian media and in some books that were published. I compared  
10 them with other books of documents, such as, for instance, the book of  
11 documents published by a prime minister of one of the governments in  
12 Croatia, Franjo Greguric, and a whole series of memoirs. And as you can  
13 see, the informal, the unofficial sources were not used by me and in the  
14 introductory remarks at page 154 I explain the level of my approach. The  
15 expert report is, as usual, too extensive, and if I had approached this  
16 from a different methodological viewpoint or at a different level of  
17 analysis, I would have had to involve more material. So this is a  
18 synthetical expert report and this is what I state in the preface and at  
19 page 154 the introductory remarks. If you want me to, I can read it,  
20 Your Honours, so that you can see how I approached it --

21 Q. Everyone has your report, sir. Sir, I put it to you that the

22 reason you didn't use or refer to Presidential transcripts as you -- had  
23 nothing to do with any other reason except you found their content to be  
24 inconvenient to your particular views and conclusions; correct?

25 A. That is just not correct. The transcripts are very long,

**Page 44994**

1 unspecific, and they're not official documents; and apart from that, I  
2 didn't use a whole series of other documents as I've said, documents of  
3 that type. I used official documents, both from the level of the  
4 president and from the level of other institutions, and there are  
5 abundant examples in this book relating to specific things --

6 JUDGE ANTONETTI: [Interpretation] Professor, maybe I  
7 misunderstood something or there was an error in the translation. When  
8 talking about the Presidential transcripts you say that they are not  
9 official documents? When I heard this I really wondered why you were  
10 saying that. Did you know that the OTP in the framework of requests for  
11 assistance asked Croatia **for all documents that it may have and that**  
12 **would be relevant regarding the events that occurred in the former**  
13 **Yugoslavia? And it is in this -- at this occasion that the government**  
14 **sent this -- these Presidential transcripts. And now you're telling us**  
15 **that these are not official documents? I find this hard to understand.**  
16 **Could you please shed some light on this.**

17 THE WITNESS: [Interpretation] The transcripts are transcribing  
18 pages of conversations conducted in the Presidential offices with  
19 different people and different circumstances and the like, and they'll  
20 certainly be a valuable historical source when it comes to dealing with

21 concrete -- the concrete work of the president at the level of the  
22 institutions functioning and concerning a series of problems.

23 However, when we're talking about such a complex question which  
24 was the assignment given me in my expert report, and it says what my  
25 basic assignments were requested by the Defence, and this is on page 5

### **Page 44995**

1 under number (A), it says this expert report was compiled at the request  
2 of the Praljak Defence with respect to the trial conducted against him  
3 and other persons before the International Criminal Tribunal for the  
4 former Yugoslavia. **And within that framework, the Defence asked for an**  
5 expert report that would deal with the following: A, the history of BH  
6 and the development of key events during -- up until 1995, with  
7 particular reference to the process of the former Yugoslavia's  
8 disintegration and the events in Bosnia-Herzegovina from 1990 to 1995;  
9 and B - and this is important as far as this question is concerned - the  
10 relationship between the Republic of Croatia **to Bosnia-Herzegovina, with**  
11 particular reference to the different key forms which show and explain  
12 the vital prerequisites of the relationship between Republic of Croatia  
13 and Bosnia-Herzegovina from 1991 to 1995. I don't want to read on. You  
14 can have a look at what it says there, and I say that the author of the  
15 expert report agreed with the Praljak Defence about the time-period and  
16 topics to be discussed. And the author of the expert report was allowed  
17 freedom in methodology, the structure of the contents, the causal  
18 interpretation, way in which the research results are presented. And I  
19 know - and this is no longer a quotation - from the work that I do and

20 also from --

21 MR. SCOTT: [Microphone not activated].

22 THE INTERPRETER: Microphone, Mr. Scott, please.

23 JUDGE ANTONETTI: [Interpretation] I was going to stop you,  
24 Professor. You have answered my question at length. You said that you  
25 met demands that were asked of you and you did not focus on the

**Page 44996**

1 transcripts. Very well.

2 Mr. Scott. Don't worry, the time -- this time will not be  
3 deducted from your time.

4 MR. SCOTT: Thank you, Your Honour.

5 Q. Well, sir, it's interesting because, you know, going back now to  
6 a moment ago, Miroslav Tudjman, you don't cite the Presidential  
7 transcripts of Mr. Tudjman, but you do cite secondarily, referring to  
8 Miroslav Tudjman's journal "National Security and Future," you refer  
9 allegedly to reprints of records of meetings of the Bosnia-Herzegovina  
10 Presidency. So apparently you found it was okay to refer to records of  
11 meetings involving Mr. Izetbegovic, but it was not okay to refer to  
12 records of meetings involving President Tudjman; right?

13 A. This is one of the complex questions that we're discussing and it  
14 contains several questions within it. First of all I quoted --

15 Q. No, not really, sir -- excuse me, I'm sorry. Our time is short,  
16 especially today. We only have about 15 more minutes today. Again, it  
17 was really a "yes" or "no" question. At least the first part of it.  
18 Maybe there's follow-up, maybe there's not. You did cite in your

19 report - and I can take you to it if you want to - page 73, footnote 206;  
20 page 118, footnotes 400, 402; page 122, footnote 416.

21 You did cite repeatedly in your report to records of meetings  
22 involving President Izetbegovic while completely ignoring records of  
23 meetings involving Franjo Tudjman, yes or no?

24 A. Very minimally did I quote the meetings of official sessions of  
25 the Presidency of BH exclusively in a limited context in order to explain

### **Page 44997**

1 what the situation was like with that Presidency, or rather, to put  
2 forward arguments for a very important fact for these proceedings that  
3 the central part of the government, including the BH Presidency, were in  
4 a form of isolation during certain key periods of the history of  
5 Bosnia-Herzegovina. And so I quoted a text where you can see that they  
6 didn't even have any telephone links to the outside world. They were  
7 quite isolated, and this is something that is discussed at those  
8 meetings. And so that's what that purpose served, as well as some other  
9 details. That is to say, when it was important to explain a situation,  
10 then I used that as a source too; but when it was a question of what you  
11 call Miroslav Tudjman's journal, I don't think it is -- his magazine or  
12 whatever, I just used the documents that were quoted there and I used a  
13 text written by an author, I don't remember his name anymore. So I did  
14 not use any journals or diaries of Miroslav Tudjman. If I did, you can  
15 tell me where and when.

16 Q. Sir, you referred to those journals as the source. Some of these  
17 records of meetings were reprinted, again, reprinted in

18 Miroslav Tudjman's journal. Now, again, it's not a place where --  
19 instead of going to other sources, instead of going to the archive,  
20 instead of going to the Presidential offices, et cetera, et cetera, you  
21 once again relied on Miroslav Tudjman to provide your material. And be  
22 that as it may, the answer to my earlier question, the only question I  
23 put to you, was -- the answer was: Yes, you relied on meetings of  
24 Izetbegovic, you did rely, you did not use, you do not cite, you do not  
25 refer to any records of meetings with Franjo Tudjman, yes, correct?

**Page 44998**

1 A. Partially yes -- well, you actually asked three questions, once  
2 again an introductory question -- actually, your lead -- you're  
3 suggesting something, so it's a leading question, and then another one  
4 where you bring me into a position to answer something that does not  
5 correspond to the truth, and I have subscribed here to tell the truth and  
6 the whole truth, and only the truth --

7 JUDGE TRECHSEL: I'm sorry, Witness. I think this is a slightly  
8 abusive answer. The answer could be answered yes or no and you have in  
9 long speech in substance answered yes, and the procurator just asked you  
10 to confirm this and this calls for a yes. I can't see how it's  
11 otherwise. Instead, you start lengthily talking and eating away time  
12 that should not be lost.

13 JUDGE ANTONETTI: [Interpretation] Professor, the Prosecutor is  
14 trying to understand as he puts his questions to you - he's not the only  
15 one who's trying to understand - how is it that an expert like you on the  
16 basis of your expert report you ignored the Presidential transcript? The

17 Prosecutor tells you that you have quoted records of meetings with  
18 Izetbegovic. I was happy to see these documents yesterday. These  
19 documents seem extremely interesting, since we have the --  
20 Mr. Izetbegovic's point of view and his inner circle on these issues. So  
21 this is interesting. In that case, why didn't you do the same to balance  
22 things out and refer to the transcripts of meetings where he meets Susak,  
23 Praljak, Lord Owen?

24 Professor, you've written a number of books, you've conducted  
25 research work, you know full well that in this Tribunal when experts come

**Page 44999**

1 to testify questions will always relate to credibility and methodology.  
2 In cases like that, there can be a methodological vacuum. Why only look  
3 at one side and not the other? This is what the Prosecutor is trying to  
4 understand. As my colleague put it very astutely, there's no point in  
5 giving us long speeches. Just answer by saying yes or no. Maybe you've  
6 made a mistake. Maybe you didn't have time. I'm perfectly prepared to  
7 listen to everything, but it is important to have a valid explanation  
8 from you in terms of the research you have conducted and the expert  
9 knowledge you have.

10 THE WITNESS: [Interpretation] Well, Your Honour, I have  
11 absolutely understood your question. I'll try and be as brief as  
12 possible in order to explain why in full consciousness I acted in the way  
13 I did. I did not deal in my expert report with individuals, nor was that  
14 what I was asked to do, nor was it possible. The reason why I used the  
15 transcripts which speak of -- not as is imprecisely said that they are

16 Alija Izetbegovic's transcripts. They are transcripts from the sessions  
17 of the Presidency of Bosnia-Herzegovina, which includes all three  
18 constituent peoples. And on the basis of that we were able -- you could  
19 very easily recognise, although I didn't use that too, specific relations  
20 between those constituent national or ethnic communities at the level of  
21 the Presidency, and they were essential only at certain times and points  
22 when I used them to support arguments otherwise made.

23 Where we can see what the relationship was within the Presidency  
24 of Bosnia-Herzegovina itself, which was a collective body, and ultimately  
25 it was the key factor of the relations, the constituent relations, within

### **Page 45000**

1 Bosnia-Herzegovina. As opposed to Franjo Tudjman and other transcripts,  
2 I held that it was far more relevant to use the officially published  
3 documents and communication with the international community and  
4 communication, as I say, with the international community, so that from  
5 Franjo Tudjman's transcripts I didn't even use what allegedly could have  
6 served to assert Franjo Tudjman because there are all sorts of things in  
7 those transcripts if you look through them, and I have looked through  
8 them. And so there are many things there.

9 There are all sorts. And if one wanted to on the basis of those  
10 transcripts, one could make a eulogy to Franjo Tudjman, you could either  
11 show him up to be the worst man in the world or you could do whatever you  
12 like, but that wasn't my assignment.

13 JUDGE ANTONETTI: [Interpretation] Please try and slow down. You  
14 have explained this to us. Let me sum it up in one sentence. You felt

15 that these documents did not meet the requirements submitted to you by  
16 the Praljak Defence, so you felt it was not necessary to spend some time  
17 on it. This is what I have understood your answer to be.

18 Mr. Scott, we have something like ten minutes left.

19 MR. SCOTT: Thank you, sir.

20 JUDGE ANTONETTI: [Interpretation] One moment, I would like to  
21 everyone know that the Registrar has just told us that we had a technical  
22 glitch this morning. 22 seconds of the tapes have been wiped out. This  
23 has to do with part of the hearing which unfolded between 9.54.25 and  
24 9.54.47 seconds. The Registrar has just told us that the IT section  
25 would like to apologise for this. I don't know what these 22 seconds

### **Page 45001**

1 contain, but we will at any rate have the transcript which will enable us  
2 to check.

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

4 Q. Sir, going back to -- and just to finish up hopefully on this  
5 part today. Going back to the citations and references to  
6 Mr. Praljak - and when I say "to Mr. Praljak" I don't mean necessarily or  
7 only to him personally - but materials that he published, materials that  
8 he's responsible for, materials that he authored, collected, et cetera.  
9 And I'd like you to look at one section of -- I think you quote it, the  
10 whole section on arming and equipping BH army units. And I apologise  
11 because I didn't put the page number in my outline, but let me see if I  
12 can find it very quickly. It's in -- nope, the table of contents  
13 unfortunately doesn't have the page references either. Give me a moment.

14 A. It's the chapter II, section 3. In the Croatian it is on page  
15 187 if I can be of assistance.

16 Q. Thank you, sir. And in the English version - I also just found  
17 it as well - in the English it's at page 156. And if we look at that  
18 section, sir, and if we look at the footnotes, I direct the courtroom's  
19 attention to the footnotes for that section, if I'm not mistaken - if I'm  
20 mistaken I'll be corrected - but with the exception of footnote 576, with  
21 the exception of footnote 576, every other footnote in that section of  
22 your report cites to a source identified with Mr. Praljak. Correct?

23 A. Those are quotations of relevant documents or cites of relevant  
24 documents, and that's how I felt them to be. And I don't consider it  
25 essential whether there are -- they are in a British archive or a

### **Page 45002**

1 Croatian archive. Do you perhaps have an objection to the importance of  
2 citing the documents or -- well, it's not primary as far as I'm  
3 concerned, maybe it is to you. But it wasn't important to me who found  
4 the document, who came up with it, where it was; what was important to me  
5 was to use documents that were accessible on any count.

6 Q. Well, let's look at a particular example in this case. Let's  
7 look at in English it's page 156. Mr. Jurcevic, in terms of the Croatian  
8 version, it would be the fourth paragraph in III-3 -- actually, the  
9 particular subsection --

10 A. What page, please?

11 Q. Well, it's on page 156 of the English, sir, but in your  
12 subsection -- III-3, and then subsection 3.1, "Arming and Equipping," on

13 that page, sir, under the heading. I think if I can assist you, it will  
14 be the fifth paragraph under that heading.

15 A. [In English] Just a minute. Just a minute.

16 Q. And this illustrates one of the points that I'm trying to get to,  
17 sir, in the way that material is cited. You say here in that paragraph:

18 "Numerous MORH," and I believe that stands for the Republic of  
19 Croatia Ministry of Defence, "numerous Ministry of Defence documents  
20 signed by the highest officials, including those from the period of  
21 partial armed conflicts between Muslims/Bosniaks and Croats in the  
22 Republic of Bosnia and Herzegovina, RBH, (from the final months of 1992  
23 to the initial months of 1994), indicate that weapons, military  
24 equipment, and food for the BH army were being sent from the RH," the  
25 Republic of Croatia."

### **Page 45003**

1 Now, sir, I put it to you that the impression you create in the  
2 reader when you say numerous documents support that proposition, and then  
3 you put in the parenthetical from the final months of 1992 to the initial  
4 months of 1994, one would have the impression that you have documentation  
5 to support that assertion. But when you look at the materials you cite  
6 right below that, the only -- the last document you cite is a document  
7 from March 1993.

8 Now, the Chamber knows that for some months now an issue has been  
9 presented in the trial to when and where aid was provided and whether or  
10 not, in fact, that aid largely, perhaps not every single bullet, but  
11 largely dried up, if you will, stopped, was terminated once the conflict

12 between the Muslims and Croats in Bosnia-Herzegovina broke out roughly,  
13 at least principally, in April of 1993. Sir, you would have the reader  
14 of this report believe that there are numerous documents which document  
15 that from the final months of 1992 all throughout and including into 1994  
16 support that proposition, and yet you don't cite a single -- in fact,  
17 cite a single document that says so, do you?

18 A. [Interpretation] In what you've just read out - and you read it  
19 out correctly and quoted it correctly - now when it says partially  
20 Muslim/Bosniak and Croatian armed conflicts in BH, I say where this  
21 bracket refers to and to remind the readers from what period to what  
22 period the conflict lasted. And I say at the top -- or rather,  
23 underneath that, the -- I say weapons, food, equipment, and so on, and  
24 the rest. And the other chapters to be found in this expert report,  
25 humanitarian aid, and all the rest of it, confirm that --

**Page 45004**

1 Q. Sir --

2 A. -- without a doubt. Of course in that one place I wasn't able to  
3 quote all --

4 Q. We'll perhaps close on this -- I'm in the Chamber's hands of  
5 course.

6 Sir, I put it to you one way or the other, whether you were  
7 following this trial - sometimes you've told us you followed this trial  
8 attentively, sometimes you've said you've just occasionally, but somehow  
9 you got the impression, didn't you, that there was an issue in this  
10 case -- somehow you had the impression that there was an issue in this

11 case about the period in which aid was delivered. And you've made a --  
12 you've said a -- you've made statement here and you allege numerous  
13 documents to support this view of the period between April of 1993 at  
14 least -- including April of 1993 to the initial months of 1994, you  
15 suggest that there are documents to support that position, but you  
16 haven't shown us or cited a single document, have you? And that is a  
17 "yes" or "no" answer, sir.

18 I see footnote 580, which refers to a document from December  
19 1992; I see footnote 581, I believe, which refers to March -- a document  
20 from March 1993, and that's the end of it. Correct?

21 MR. KARNAVAS: Your Honour, in fairness to the witness, look at  
22 the entire question. You know, there's an allegation being put forward.  
23 Perhaps he should -- look at the time, it's highly compound.

24 MR. SCOTT: If need be, Your Honour, I'll re-state it. I think  
25 it's rather simple.

### Page 45005

1 Q. Sir, I say it to you again: In that paragraph -- this is your  
2 language, sir, these are your words:

3 Numerous Croatian Ministry of Defence documents signed by the  
4 highest officials, including those from the period," et cetera "indicate  
5 between Bosniaks and Croats in the Republic of Bosnia-Herzegovina from  
6 the final months of 1992 to the initial months of 1994, indicate that  
7 weapons, military, and food for the BH army were being sent from the  
8 Republic of Croatia, but yet you do not cite in fact a single document  
9 that supports during that time-period, correct? The time-period being

10 roughly, let's just say March -- after March of 1993 to the "initial  
11 months of 1994."

12 A. As for these two notes, 580 and 581, I cite approximately ten  
13 documents. But this expert report is a whole, a comprehensive report,  
14 and all the other chapters and notes testify to that. So if we look at  
15 only these two citations, of course you have a limited number of  
16 documents; but compared to other notes it must -- might be bigger than  
17 others. But when it comes to weapons, equipment, and food, in the other  
18 chapters which relate to the same topics of sending aid, you can see that  
19 I incorporate not only the 1992 to 1994 period, but later periods too --

20 JUDGE ANTONETTI: [Interpretation] Professor, I'm sorry to  
21 interrupt you. The Prosecutor can resume tomorrow. I thought that there  
22 was no hearing in this courtroom this afternoon. I believe that the  
23 Perisic case will be heard in this courtroom this afternoon. I'm going  
24 to be chastised for this by the other Judges. Let us stop for today and  
25 resume tomorrow at 9.00.

**Page 45006**

1 MR. KOVACIC: Could I just say for the record for tomorrow  
2 morning when we will continue, that the Prosecution should show this  
3 document which is now discussed in reference. So -- because the witness  
4 cannot know by heart which document is mentioned, and then you will see  
5 why that is important. I think he should be shown this document which we  
6 are talking about, 3D2633. Thank you.

7 JUDGE ANTONETTI: [Interpretation] Very well. See you tomorrow at  
8 9.00.

9 --- Whereupon the hearing adjourned at 1.48 p.m.,  
10 to be reconvened on Thursday, the 17th day of  
11 September, 2009, at 9.00 a.m.

12

13

14

15

16

17

18

19

20

21

22

23

24

25