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1 Wednesday, 28 October 2009

2 [Open session]

3 [The accused entered court]

4 [The accused Pusic not present]

5 [The witness takes the stand]

6 --- Upon commencing at 8.59 a.m.

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

9 THE REGISTRAR: Good morning, Your Honours.

10 This is case number IT-04-74-T, the Prosecutor versus
11 Jadranko Prlic -- is it okay now?

12 This is case number IT-04-74-T, the Prosecutor versus
13 Jadranko Prlic et al.

14 JUDGE ANTONETTI: [Interpretation] Thank you, Madam Registrar.

15 This morning, 28 October 2009, I greet the accused, the Counsel,
16 the witness, the representatives of the Prosecution, and all the people
17 who are assisting us.

18 I would like to tell Ms. Alaburic that she still has one hour and
19 seven minutes, and therefore I now yield and give her the floor.

20 MS. ALABURIC: [Interpretation] Good morning, Your Honours. Good
21 morning to my learned friends from the OTP, to all the Defence teams, to
22 you, Witness, Mr. Gorjanc, and to everyone in and around the courtroom.

23 WITNESS: MILAN GORJANC [Resumed]

24 [The witness answered through interpreter]

25 Examination by Ms. Alaburic: [Continued]

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1 Q. Mr. Gorjanc, we concluded for the day yesterday by the
2 Presiding Judge asking you about the possibility of passing from
3 East Mostar on through Jablanica. I will be abandoning the subject for
4 the time being, as we are about to embark on that particular subject
5 matter in some detail when we start talking about the siege of Mostar.

6 Let us now press on with the subject of Muslim soldiers in the
7 HVO as a security issue.

8 Mr. Gorjanc, I will now be showing you a total of five documents
9 in order to ask you something about the documents eventually. The first
10 document is P1438, 1438, which is a report by the commander of
11 Sector West of the Croatian Army -- or, rather, Sector South. He was
12 surveilling units of -- controlling units of the 1st HVO Brigade. In his
13 report, by way of conclusion towards the very end of the report, second
14 paragraph from the bottom up, he says:

15 "The defence security has been reduced because of a considerable
16 number of Muslims in the unit by over 50 per cent."

17 This document dates back to February 1993.

18 The next document, P2223, 2223, that's right, a security report
19 of the SIS chief in the Ljubuski HVO Brigade. In the lower half of the
20 first page, it says:

21 "Through the brigade command, I proposed for the Muslim
22 soldiers --" or, rather, "Muslim conscripts to be disarmed through
23 sending all of them back after they come back from the front-line."

24 The next document in your binder is one you should skip because
25 we are not allowed to use it. Nevertheless, please look at 4D290,

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1 4D290 -- 49 -- or 4D290 -- 920, 4D920, 9, 920. There. This is an SIS
2 report for the 3rd Brigade of the HVO. It comprises several components
3 that are of interest to us. If we look at page 1, it talks about
4 Hajro Jakirovic who did not return to duty -- or had not returned to duty
5 since the 9th of May, after which an SIS official visited him for the
6 purpose of getting back a Motorola and a vehicle.

7 If you move on to page 2, you see the part where it says "MPD."

8 It reads:

9 "The Muslims left the unit for which reason there wasn't
10 sufficient manpower."

11 Then you have the page which ends in number 6, but it will be
12 quite sufficient for you to focus on what I am saying. It reads that
13 weapons were taken from the Muslim members of the 3rd Brigade who had
14 refused to participate in the defence effort. It goes on to say that all
15 the Croats fled from Blagaj. Nevertheless, there was every indication
16 that there were two different currents within the Muslim component, those
17 who were in favour of the HVO and those who were in favour of the
18 BH Army.

19 THE INTERPRETER: Interpreter's note, could all the other
20 unnecessary microphones be switched off, please. We can't hear counsel
21 properly. Thank you.

22 MS. ALABURIC: [Interpretation]

23 Q. So much for these two documents, and the next one we're look at
24 is P2562.

25 MS. ALABURIC: [Interpretation] If I may just tell the

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1 interpreters that only my microphone is on. Nevertheless, my colleague,
2 Mr. Stewart -- okay. I do apologise. I was wrong. The mike has been
3 switched off.

4 Q. P2562, which is a document of the Command of the 3rd Battalion of
5 the 2nd Brigade of the HVO, dated May 1993, it reads -- the first thing
6 I'll mention is the second sentence under paragraph 1:

7 "Of a total of 56 members of Muslim ethnicity, 39 are on their
8 way to the positions occupied by the Chetniks, two are participating in
9 all of the actions, and to the best of our knowledge, none of them have
10 gone over to the BH Army side yet."

11 The last thing that paragraph 2 says:

12 "Regarding the activities of our service, the IPD, since the best
13 part of the Muslims are being sent to the [indiscernible] positions, we
14 are permanently in touch with these men. We are trying to explain to
15 them our positions and the need for a shared life. The Muslims feel
16 protected by us, although not fully. We believe that these persons will

17 remain with our units, but more as a result of actually inhabiting an
18 environment that is predominantly Croat."

19 Another report, 2D1379, 1379. This is a report by the
20 SIS Administration, dated July 1993. The Croatian, towards the end of
21 page 1, says there is a special problem that has been occurring with
22 certain units. There are many non-Croat soldiers involved in these
23 units, for the best part Muslims. The importance of this warning was
24 particularly underlined by a recent attack by the BH Army against the HVO
25 in Bijelo Polje, when Muslim HVO soldiers from the unit crossed over to

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1 fight alongside the BH Army and went on to form the most powerful Muslim
2 unit as well as in the attack against Dubravka Plateau and Gubavica.

3 Based on these documents, Mr. Gorjanc, had you been a
4 representative of any of the military authorities in Bosnia-Herzegovina
5 at the time, would you have believed the Muslim soldiers of the HVO to
6 potentially constitute a security threat?

7 A. Yes.

8 Q. Can we now move on to the next set of documents talking about the
9 activities of the BH Army in relation to Muslim soldiers of the HVO.
10 Most of these documents are exhibits already. Therefore, I'll just go
11 through them very quickly yet again, and then I'll be asking you a
12 question at the very end of this exercise, Mr. Gorjanc.

13 The first document is 4D1461.

14 Mr. Gorjanc, can you look at the document, please? I'll be

15 asking you a special question about this document, because this document
16 has not been made an exhibit, or at least not so far. This is an
17 official note on an interview by the SIS, dated September 1992.

18 Midway through paragraph 3, roughly speaking, it reads:

19 "Based on intelligence received on the 16th of September this
20 year, in the evening hours, Muharem Dizdar, one of the HVO commanders,
21 and Ragib Dizdar visited members of the Muslim HVO, telling them not to
22 leave the HVO units or, rather, not to join the BH Army until the hour
23 struck, and they would be informing them in time."

24 Mr. Gorjanc, would you believe an SIS note like this to be of any
25 relevance, security-wise?

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1 A. Yes.

2 Q. Can you tell us if you, had you been in a position of military
3 authority receiving a document like this, what would you have done?

4 A. I would certainly have taken some preemptive measures, some
5 precaution. I would have observed the behaviour of Muslim soldiers. I
6 would possibly have transferred them to another front where their refusal
7 to obey orders or opting out of the fighting itself would not have caused
8 that much damage to the HVO.

9 JUDGE TRECHSEL: Ms. Alaburic, I may misunderstand something, as
10 can happen. I wonder what the weight of these documents now is.

11 Normally, a witness for a document is to say whether it's
12 correct, whether he can see that it's genuine, something of that kind.

13 If that is not possible, it is also possible that the witness says, I
14 know about these facts.

15 Now, this witness doesn't say anything about the document,
16 itself. He doesn't say anything about the facts the document speaks
17 about. You only ask him a hypothetical question, so all we have,
18 actually, is a hypothetical judgement, what would the witness do if he
19 were faced with a certain situation. I wonder whether you want to
20 comment on this.

21 MS. ALABURIC: [Interpretation] Your Honours, I'll be glad to
22 oblige and tell you about this.

23 Mr. Gorjanc is not a fact witness, nor, indeed, did we have any
24 discussions along these lines. That wasn't his task. He can't tell us
25 whether what the document claims is, in fact, true or false. He can't

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1 tell us whether it's authentic or not, and that's not what we expect him
2 to do. We expect him to tell us what, based on such facts as we are
3 presenting, he, as a military expert, given his background and knowledge,
4 would have done in a particular situation. I'm eliciting his opinion, in
5 other words.

6 As for all these documents, we shall be discussing these from a
7 factual or fact-driven perspective with other witnesses. What we wanted
8 Mr. Gorjanc to help us with was to discuss all these circumstances and
9 aspects. If everything that the documents claim is true, what would a
10 commander do? And then the next witness will be here to corroborate the

11 truthfulness of such facts as are claimed in these documents.

12 JUDGE TRECHSEL: Thank you, Ms. Alaburic. I consider this a very
13 satisfactory answer. Thank you.

14 MS. ALABURIC: [Interpretation] Thank you.

15 JUDGE ANTONETTI: [Interpretation] Witness, I have followed what
16 was said about the problem, and I would like you to specify this. As
17 Ms. Alaburic says, you're here as an expert witness who, in a given
18 situation, is going to enlighten the Judges by the knowledge which you
19 have of the problems. I will take another example.

20 When you were in the JNA during the "Cold War," let's imagine
21 that the officers of your regiment would have been in contact with a
22 Western power, and this during the Cold War, and that someone would have
23 come to tell them, Wait for a signal eventually to join the Western
24 power. In such an assumption, such a hypothesis, what would you have
25 done, you, yourself, if you had been commanding this regiment? What

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1 would you have done?

2 THE WITNESS: [Interpretation] In that eventuality, my duty would
3 have been to report this to the Security Service bodies, no more than
4 that, and also to stop any such suspects from obtaining relevant
5 information and data.

6 JUDGE ANTONETTI: [Interpretation] Right.

7 MS. ALABURIC: [Interpretation]

8 Q. Mr. Gorjanc, can you say, with a relatively high degree of

9 precision, what sort of fate an officer or soldier like that would have
10 been facing if the KOS would have started looking into their activities
11 in relation to a third country?

12 A. We established yesterday that I wasn't, myself, working for the
13 KOS. I'm not fully privy to their working methods. I think they would
14 have continued to monitor this person. They would have interviewed this
15 person. If there was any circumstantial evidence that was found, charges
16 would probably have been pressed. There were, in fact, cases like that.

17 Q. Thank you. Let's move on to the next document now. Just keep
18 listening to me, please, Mr. Gorjanc. This is 4D469, 4D469. The second
19 bullet says:

20 "There is pressure being exerted on the Muslims in the HVO and
21 MUP units. There is pressure being exerted on the Muslims in the HVO and
22 MUP units to leave these units. Should they fail to oblige, they shall
23 be threatened by physical liquidation and their houses being set alight."

24 The next document is a BH Army document, 4D33, 4D33. It's a
25 BH Army document that reads:

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1 "Call on all Muslims, members of the HVO, to side with their own
2 people."

3 The next document, 4D34, 4D34. Likewise, a BH Army document
4 which reads, bullet number 3 from the bottom up:

5 "Establish cooperation with our own fighters in the HVO and point
6 out the seriousness of the situation to them."

7 The next document is 4D35, yet another BH Army document. The
8 last section of paragraph 3 reads:

9 "The IPD, the Morale and Religious Issues Department, will set up
10 a plan in relation to, among others, Muslims in HVO units in the
11 municipalities of Capljina and Stolac."

12 The next document, 4D36, again a BH Army document, early
13 May 1993. Item 3, bullet point 2, reads:

14 "We have linked up with our own men in the HVO."

15 It then goes on to say:

16 "Men from the Capljina HVO have been given the task of taking the
17 village of Tasovcici and the bridge in Capljina, the objective being to
18 stop any forces from being brought in from the general Metkovic
19 direction."

20 It then goes on to say:

21 "The taking of the town of Stolac with our own men in the HVO."

22 Next document, 2D288, 288, another BH Army document signed by
23 Fikret Muslimovic. Do you know that person, Mr. Gorjanc?

24 A. Yes. I first met Fikret Muslimovic in 1988. He was one of the
25 men very close and deep to -- and deeply trusted by the late

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1 BH president, Alija Izetbegovic.

2 Q. Mr. Muslimovic concludes by saying that it was realistic to
3 expect the tensions to keep on mounting with the HVO. In that situation,
4 it was exceptionally important to make the Muslims in the HVO as passive

5 as possible and try to get them to leave the ranks of the HVO and join,
6 instead, the BH Army.

7 Mr. Gorjanc, knowing, as you do, the author of this document,
8 would you attach any sort of importance to this document at all?

9 A. Yes, exceptional importance, as a matter of fact, since he was
10 the chief of the Military Security and Intelligence Service of the
11 BH Army.

12 Q. The next document, 4D473. Towards the end of paragraph 2, it
13 reads -- and the author of this document is a commander, the commander of
14 a unit of the BH Army. This was dispatched in writing to the commander
15 of the 1st HVO Brigade. The BH Army commander says:

16 "I would like to mention, and this is very well known to you,
17 that a large number of Muslims -- Muslim soldiers are in your formations.
18 They are ethnic Muslims and belong to this people. Therefore, it would
19 not be good if a certain defined organisation and formation of your units
20 were to be disrupted."

21 How would you interpret this sentence, Mr. Gorjanc? What would
22 your interpretation have been had you received this, had this been sent
23 to you?

24 A. As a threat that he would be withdrawing his own fellow ethnic
25 Muslims from these units, and if that were, would have seriously

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1 threatened the combat readiness of my own unit.

2 Q. Because we don't have much time, unfortunately, I will be

3 skipping the next three documents covering the same subject, and I will
4 try to ask you a question by way of conclusion.

5 Mr. Gorjanc, had you been forewarned by your own Security Service
6 or the SIS about Muslim soldiers constituting a potential threat, had you
7 known that these warnings were based on such documents of the BH Army as
8 we have seen or mentioned, had you known something else, probably from
9 other sources, something that wasn't in writing, would you have
10 considered these Muslims to constitute a security threat or not?

11 A. In every way.

12 Q. Mr. Gorjanc, let us posit this security threat and let's say it
13 actually happened. You were an HVO commander losing control over a
14 significant portion of your own territory simply because you were
15 betrayed by soldiers of another ethnicity from within your own ranks.
16 What sort of reaction would you have put in?

17 A. I would have considered that to be an act of treason, and I would
18 have taken any steps available to me, including the pressing of charges
19 against those deserters.

20 Q. And what would you have done about the Muslim soldiers remaining
21 in the HVO?

22 A. In a situation that called for determined and urgent action, I
23 would probably have disarmed and isolated those soldiers.

24 Q. Mr. Gorjanc, two questions very similar to these the military
25 expert for the Prosecution, Mr. Pringle, answered, which was recorded on

1 page 24265, his answers were positive when asked whether a military
2 commander would have considered Muslims a military threat. He said, Yes,
3 I think so. Can we then conclude that you agree with the OTP expert on
4 that issue?

5 A. Yes, absolutely.

6 MS. ALABURIC: [Interpretation] Your Honours, in the third binder
7 I'm going to skip the topic of the military significance of
8 Central Bosnia because I would like to dedicate more time to the siege of
9 Mostar. Therefore, the following topic is the siege of Mostar and
10 whether it existed or not.

11 Q. Mr. Gorjanc, for this section you received certain materials from
12 the Defence, and you were requested to provide your opinion and say
13 whether the documents --

14 JUDGE ANTONETTI: [Interpretation] Before we speak about the siege
15 of Mostar, Witness, in the sequence of questions you just had, I wish to
16 ask you one question.

17 We have for the last four years a great number of elements coming
18 both from Prosecution and Defence, and with these elements we note that
19 there had been units of the HVO which were constituted with important
20 numbers of Muslim soldiers, sometimes units where the majority of
21 soldiers were Muslims, so we have to keep this in mind. Also, at the
22 time corresponding to these documents we know that there were
23 negotiations in Geneva in progress where apparently there appeared to be
24 constitution of a single army, constituted both of soldiers of the HVO
25 and of Muslim soldiers, possibly even at the time of the absorptions of

1 one group by the other one under either Croatian command or Bosnian
2 command. So all this at the time seemed to be very much in everybody's
3 mind.

4 A brigade commander in such a situation, which is very complex on
5 the political plane and also complex on the military plane, because then
6 these soldiers, while there was a conflict in progress, could have
7 certain consequences.

8 Now, you are an expert witness. In a situation which is so
9 complex, what were you supposed to do?

10 THE WITNESS: [Interpretation] Your Honour, I believe that a
11 brigade commander did not know all the facts with regard to the
12 negotiations in Geneva, and he acted based on concrete situations as they
13 evolved in his area of responsibility. And I would have acted in the
14 same context, and I would have undertaken the measures that I've already
15 mentioned. I would be cautious. I would put soldiers of a different
16 ethnicity under surveillance. I would have moved them to an area where
17 they would not have posed a threat to my state, and ultimately I would
18 isolate them and disarm them.

19 JUDGE ANTONETTI: [Interpretation] I would like to finish by
20 completing my question.

21 We know that in the several armies at the time, whether the
22 Serbian or Bosniak or Croatian, there was, in the military apparatus,
23 different ethnical groups, officers who belonged to another ethnical

24 group. As an example, in the BiH you had Colonel Merdan who was a
25 Croatian, and I could quote a certain number of examples. In such a

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1 situation, or at the higher level, higher echelon, in the responsibility
2 role of the officers of a different or another ethnic group, and on
3 the -- in the field, on the ground, there are also soldiers of another
4 ethnic group, the brigade commander, did he have -- with all these
5 elements, do what you have just said? And what I have added to my
6 question, does it change your answer?

7 THE WITNESS: [Interpretation] Your Honour, those were
8 individuals. They could not have a significant impact on the situation
9 in the area of responsibility and on the front-line. Secondly, those
10 individuals were mostly in high positions for political reasons. This
11 was to show to the general public that in the ranks of the army or any
12 other military - it doesn't really matter - there were also soldiers of
13 other ethnic groups.

14 JUDGE ANTONETTI: [Interpretation] This is your answer.

15 Ms. Alaburic.

16 MS. ALABURIC: [Interpretation]

17 Q. Mr. Gorjanc --

18 JUDGE ANTONETTI: [Interpretation] Wait a second. For a few
19 minutes, we are going to have some people from the United Nations --
20 officials from the United Nations who have to come and sit with the
21 Registrar.

22 Usher, please, could you bring in the people who will be present
23 during the hearing -- who will attend the hearing.

24 THE INTERPRETER: Correction.

25 [Trial Chamber and Registrar confer]

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1 JUDGE ANTONETTI: [Interpretation] All right. We'll have the
2 witness escorted outside the courtroom, because he needs to meet with a
3 representative of the Witness and Victim Unit, who has got to give him
4 something. We'll wait a few minutes.

5 Usher, please escort the witness outside the courtroom. He'll be
6 back in a few moments.

7 THE WITNESS: [Interpretation] Thank you very much, Your Honours.

8 [The witness stands down]

9 JUDGE ANTONETTI: [Interpretation] Yes, Mr. Praljak.

10 THE ACCUSED PRALJAK: [Interpretation] Your Honour
11 Judge Antonetti, could you please check with the witness, whether
12 Mr. Merdan was indeed a Croat? Mr. Merdan's name is -- name is Dzemal.
13 I believe they know each other from the Yugoslav People's Army. Maybe
14 you should ask him who that person Merdan was. He was in a prominent
15 position in the 3rd Corps, as you have said it.

16 [The witness takes the stand]

17 JUDGE ANTONETTI: [Interpretation] Witness, earlier on I asked a
18 question which, in my view, was clear, but it seems that there is a need
19 to have you specify.

20 Did you know Colonel Merdan?

21 THE WITNESS: [Interpretation] No.

22 JUDGE ANTONETTI: [Interpretation] You've never been stationed
23 with him or served with him within the JNA?

24 THE WITNESS: [Interpretation] Never.

25 JUDGE ANTONETTI: [Interpretation] All right. And in your report,

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1 which you drafted on the basis of the documents, have you noticed that
2 there was a Dzamal Merdan who once -- who held a high position within the
3 ABiH?

4 THE WITNESS: [Interpretation] I believe that I did come across
5 that name when I was dealing with Central Bosnia.

6 JUDGE ANTONETTI: [Interpretation] All right. You've seen the
7 name, but you've never served with him?

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

9 JUDGE ANTONETTI: [Interpretation] And this Dzamal Merdan, was he
10 a Croat or a Muslim?

11 THE WITNESS: [Interpretation] Your Honour, judging by the name,
12 he is a Muslim, Dzamal or Dzemo.

13 JUDGE ANTONETTI: [Interpretation] All right. Let's proceed.

14 MS. ALABURIC: [Interpretation]

15 Q. Mr. Gorjanc, based on the document that we have just seen, would
16 you say that the BiH Army fostered cooperation with the HVO or maybe it
17 tried to create a different atmosphere with regard to the HVO?

18 A. Judging by the documents that were available to me, the BiH Army,
19 throughout that entire time, had its own agenda and its own views to the
20 engagement of Muslims in the HVO units.

21 Q. Let's move on to the topic of the siege of Mostar.

22 Just a remark, Mr. Gorjanc, and I hope my learned friends from
23 the OTP will not object to my next leading question. Tell me, was your
24 task to provide an opinion as to whether it may be said about the East of
25 Mostar to be under siege or not?

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1 A. Yes, that was the question put to me.

2 Q. Let's now look at the document, and then we will arrive at a
3 conclusion. First of all, let's look at the territory around East Mostar
4 which was under the control of the Muslim authorities after the
5 30th of June, 1993.

6 MS. ALABURIC: [Interpretation] Just one remark for the
7 Trial Chamber. We will be dealing with the period after the
8 30th of June, 1993, because before that date the BiH Army had
9 communication with its units in Jablanica. Having said that, I would
10 like to say that it had to go through the territory that was under the
11 control of the Croatian authorities.

12 Q. Let's first look at 4D625. This is a map -- 4D625 is a map of
13 the territory of East Mostar in mid-July 1993. Here we can see an area
14 from East Mostar southwards and northward.

15 From East Mostar to Jablanica, how far is that? What's the

16 distance; do you remember?

17 A. About 50 kilometres.

18 Q. And in the direction of Blagaj and Buna?

19 A. About 10 to 12 kilometres.

20 MS. ALABURIC: [Interpretation] I would like to remind the
21 Trial Chamber that the Praljak Defence also showed a map of that
22 situation. IC1005 and IC1006 are the numbers of the maps
23 presented by the Praljak Defence. And now I'm going to talk about
24 documents that speak about communication between Jablanica and East
25 Mostar. I'm going to go through the documents, as fast as I can, and

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1 then we will arrive at a conclusion about that communication.

2 Q. The first document is 2D1389. And in that document, in a section
3 dealing with the zone of responsibility of the 4th Corps, it is stated
4 what area north of East Mostar was conquered by the BH Army, and in
5 conclusion it is stated that the 4th and the 6th Corps linked up.

6 One question, Mr. Gorjanc. Do you perhaps know where was the
7 headquarters of the 4th Corps and where was the headquarters of the
8 6th Corps?

9 A. The 4th Corps was headquartered in Mostar, whereas the command
10 post of the 6th Corps was in Konjic.

11 Q. What would you say about the linking up of the two corps, from
12 the point of view of communication between Jablanica and Mostar?

13 A. This means that the operative zone of the 6th and the 4th Corps

14 were joined and they had an unhindered communication between the two of
15 them.

16 Q. 4D768 is the following document, 4D768, a document issued by
17 Rasim Delic. Under item 3, there is a reference to transport between
18 Igman and Mostar.

19 Mr. Gorjanc, from the point of view of communication of Mostar
20 north of -- north of Mostar, towards Jablanica, was that possible or not,
21 judging by this document?

22 A. Judging by this document, communication was possible.

23 Q. The next document is under seal, so I would kindly ask the
24 Registrar not to broadcast it. And the document number is P3858. It is
25 an UNPROFOR information. It says -- Sulejman Budakovic, the commander of

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1 the BiH Army, says that the Presidency will agree to the cease-fire, but
2 that they had to keep corridors in the direction of Jablanica.

3 What would you conclude, based on this document? Was there
4 communication between Mostar and Jablanica, was it possible?

5 A. If they wanted to maintain it, then that means that they actually
6 had it.

7 Q. The next document is also under seal, P4447, and this document
8 under item 1, midway, it says that the Muslim refugees from Capljina
9 arrived in Mostar on the east bank of the Neretva and that they were
10 headed towards Jablanica.

11 Tell us, Mr. Gorjanc, does this confirm or deny the possibility

12 of communication?

13 A. This document confirms it.

14 Q. The next document is 4D780 --

15 JUDGE ANTONETTI: [Interpretation] Hold on. This document which
16 is before us, Mr. Expert Witness, shows that the Capljina refugees
17 arrived in Mostar. Now, if the refugees travel and arrive in Mostar,
18 this means that the HVO didn't prevent them from passing through, because
19 they must have travelled on roads controlled by the ABiH; yes or no?

20 THE WITNESS: [Interpretation] The question is what refugees we're
21 talking about; are they from the right bank of the River Neretva or,
22 rather, from the left bank? On the left bank, there were no obstacles on
23 the part of the HVO. The HVO could not have prevented their arrival. As
24 for the right bank, they should have crossed one of the bridges, either
25 in Capljina or in Zitomislic. That means that the HVO did not prevent

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1 their arrival in any way, irrespective of the banks that they came from.

2 MS. ALABURIC: [No interpretation]

3 THE WITNESS: [No interpretation]

4 JUDGE TRECHSEL: Yes, no translation. You are going a bit too
5 fast, Ms. Alaburic. It's hardly possible to follow you. When we have
6 the document, you say three words, the witness says, Yes, or, No, or
7 nothing, and you switch to the next, and we are trying to run breathless
8 behind you. I'm sorry, maybe it's because we are old, but please have
9 some regards to us.

10 MS. ALABURIC: [Interpretation] I will show every form of

11 consideration. I'm not young myself. I apologise.

12 Q. So my question was this: If I understood your answer to
13 Judge Antonetti's question properly, if the refugees arrived in
14 East Mostar along the left bank, then they were moving through the
15 territory that was not under the control of the Croatian authorities or
16 the HVO; is that correct?

17 A. Yes.

18 Q. The following document is 4D780. I'm going to repeat my
19 question.

20 Mr. Gorjanc, my question has not been properly recorded so I'll
21 repeat it. We are not talking about soldiers, but rather refugees. If
22 refugees were arriving at East Mostar from the south, along the left
23 bank, were they supposed to cross the territory that was under the
24 control of the Croatian authorities?

25 A. Your Honours, the counsel said "southern bank." I suppose that

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1 she meant "eastern bank." In that case, the HVO could not have prevented
2 them from doing so unless they used an infantry fire, and judging by the
3 document, there was no infantry fire opened at them.

4 Q. And as for the physical control over the territory, who exerted
5 territory [as interpreted] over that territory, who exerted control?

6 A. The BH Army exerted control over that territory.

7 Q. I'll start skipping documents gradually, simply because we're

8 running out of time and we have no time to go through all of these
9 documents. Mr. Gorjanc, you've seen them all.

10 Let's look at 3D939, 3D939. This document talks about the
11 involvement of a brigade of the BH Army along the following axis:
12 Vrđi-Goranci, and then on towards Mostar.

13 Is this to the south of East Mostar or in a different direction,
14 or, rather, is this to the north?

15 A. Yes, this is to the north, the western Neretva River bank. This
16 is the only viable route from the Dreznica river valley directly through
17 on to Mostar.

18 Q. And now 3D932. Paragraph 2 reads:

19 "The area of the 4th Corps of the BH Army is the place that,
20 based on an agreement, one or two companies must be sent to, following an
21 agreement from the composition of the 7th Muslim Brigade of the
22 3rd BH Army Corps."

23 Can you tell us more about this? What would this mean? How come
24 that all of a sudden a unit is arriving in the Mostar area from the
25 BH Army?

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1 A. The HQ of the 7th Muslim Brigade was in Zenica, Central Bosnia.
2 It was the manoeuvring unit of the 3rd Corps. I say "manoeuvring unit"
3 or a "manoeuvre unit" in the meaning we explained yesterday used to
4 conduct operations throughout the territory of the 3rd Corps, which means
5 that it was now on its way there in order to strengthen -- reinforce the

6 4th Corps in its operations.

7 Q. The unit from Central Bosnia was now about to arrive in the
8 Mostar area; right?

9 A. Yes.

10 Q. Okay. Let's look at the next document, 4D719.

11 JUDGE ANTONETTI: [Interpretation] Witness, this is an important
12 topic. So we have this document 3D00932. This is a document from the
13 4th Corps, signed Pasalic, which establishes that the 7th Brigade or a
14 few companies of that brigade which were subordinated to the 3rd Corps,
15 as everyone knows, will go to the area under the control of the
16 4th Corps. And everyone knows that the 4th Corps is Mostar.

17 As far as you're concerned, and I'm talking from a military point
18 of view, does this document show that the units of the BiH from Zenica
19 could go and reach Mostar without any problem whatsoever?

20 THE WITNESS: [Interpretation] Your Honour, I don't know how many
21 problems there were in that specific situation, in actual fact, but, yes,
22 it would have been able to arrive there.

23 JUDGE ANTONETTI: [Interpretation] All right. In this light,
24 would you agree, as a military expert, with the fact that one can say
25 that Mostar is a city under siege, like Sarajevo, or that Mostar is in a

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1 different kind of situation?

2 THE WITNESS: [Interpretation] Mostar was in a substantially
3 different situation.

4 JUDGE ANTONETTI: [Interpretation] How different?

5 THE WITNESS: [Interpretation] To the north, where the main
6 reserves of the BH Army were, there were two roads leading. One was down
7 the Neretva River Valley, which was most probably under fire, under
8 artillery fire, HVO artillery fire. The other route took one across a
9 mountainous area, the western slopes of Mount Prenj and on towards
10 Jablanica. That route was not under fire by the HVO.

11 JUDGE ANTONETTI: [Interpretation] When you say that the situation
12 in Mostar was different from the situation in Sarajevo, do you say so
13 because you're familiar with the situation of Sarajevo?

14 THE WITNESS: [Interpretation] Well, Your Honour, to quite a
15 considerable degree I have emotional links to Sarajevo, myself, and I
16 closely followed everything that was going on there.

17 JUDGE ANTONETTI: [Interpretation] Ms. Alaburic.

18 JUDGE TRECHSEL: Excuse me. I have more questions on this
19 document and the conclusions it allows to take.

20 What would you say -- what kind of a document is this?

21 THE WITNESS: [Interpretation] This is an information document.
22 The 4th Corps Command informs the forward command post of the
23 Supreme Command Staff in Jablanica of something that's going on.

24 JUDGE TRECHSEL: Then why is it called "Order"?

25 THE WITNESS: [Interpretation] Your Honour, I don't see the word

1 "Order" anywhere. It would be impossible for the 4th Corps to exercise

2 command over a part of the Supreme Command itself which at this point in
3 time happens to be at the forward command post.

4 JUDGE TRECHSEL: There must be, then, a problem in translation.

5 MR. STEWART: Sorry, Your Honour, we're not seeing the word
6 "Order." If Your Honour could --

7 JUDGE TRECHSEL: Maybe I have it wrong --

8 MR. STEWART: -- draw to our attention where, because at the
9 moment --

10 JUDGE TRECHSEL: I'm sorry. I'm sorry, I think I'm probably on
11 the wrong document. I'm awfully sorry. I was on the previous document,
12 which was an order, and in -- okay, thank you. I'm sorry.

13 JUDGE ANTONETTI: [Interpretation] Ms. Alaburic.

14 MS. ALABURIC: [Interpretation] To err is human. We are entirely
15 sympathetic.

16 Q. Mr. Gorjanc, do you know whether a single unit of the BH Army
17 could, in fact, enter Sarajevo while Sarajevo was under siege?

18 A. I don't know for a fact that any unit actually went in, but I
19 know that there was a unit that came out. Several units reached Igman,
20 as well as Cemerno, Vares as well, and Treskavica.

21 Q. All right. 4D -- 4D719. Mr. Gorjanc, try to focus on what I'm
22 about to read out to you. I will be quoting several portions of this
23 document from October 1993.

24 This is a 4th Corps document of the BH Army. The second
25 paragraph down towards the very end reads:

1 "It was established that it is necessary to stop all traffic on
2 the main road while relieving personnel at positions held by this
3 company, due to an increased activity by the enemy and action taken
4 against men and vehicles."

5 Mr. Gorjanc, does this not mean that the BH Army units were, as a
6 rule, moving down this main road?

7 MS. WEST: Objection, Your Honour.

8 Good morning, Mr. President.

9 JUDGE ANTONETTI: [Interpretation] Madam West.

10 MS. WEST: At this point I'm going to object to the question.
11 Again, I understand Ms. Alaburic is trying to get through these
12 documents, but the last question was so clearly leading, I feel I have to
13 say something.

14 JUDGE ANTONETTI: [Interpretation] Ms. Alaburic, yesterday I
15 cautioned you to be careful and to work on a step-by-step basis by first
16 submitting the document to the witness, saying, This is what this
17 paragraph says, this is the second document, then ask the question.

18 MS. ALABURIC: [Interpretation] Your Honours, I entirely agree
19 with my learned friend. I do apologise for my leading question. But
20 there is this sentence that seems so self-explanatory, but I'm slightly
21 uncomfortable about it, and therefore I'll have to ask an open-ended
22 question.

23 Q. The sentence that we've just read out, Mr. Gorjanc, what follows
24 from that? What was the axis along which the BH units were deploying?

25 A. In this case, the company was in the immediate vicinity of the

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1 Mostar-Jablanica main road. It was most probably for that reason that
2 problems were occurring. As people were travelling down that road, it
3 was more difficult to take shifts because the HVO could at any point in
4 time open fire.

5 Q. What about this claim that the document makes? This is page 3 of
6 the Croatian, and we'll give you an English reference as well:

7 "A large problem for the command of the operations group was
8 presented by the transport of civilian population and everyone else
9 marching north and south."

10 My question, Mr. Gorjanc: If you think back to that map that we
11 looked at at the beginning of this examination, or, rather, as we first
12 started discussing this subject, how would you explain this, the
13 expansion of civilian population to the north and south?

14 A. These people were probably moving down a mountain road and across
15 the western slopes of Mount Prenj. The road must have been broad enough
16 for them to be able to advance in both directions, north and south, with
17 no hindrance whatsoever.

18 Q. What about the towns towards which they were moving, if they were
19 heading north and south?

20 A. North would have meant Jablanica and then on to Konjic, and on to
21 Sarajevo from there across Mount Igman. You couldn't actually access the
22 city of Sarajevo, itself.

23 Q. What about south?

24 A. That would have meant Mostar. Across Jablanica and then on to
25 Mostar, and onwards to Buna.

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1 Q. If you head south of Mostar?

2 A. As far as Buna and Blagaj, and then down towards the coast, as
3 everyone knows.

4 Q. It goes on to say:

5 "There are enormous problems being faced with the transport of
6 the wounded and everything else for the city. There is a need that is
7 underlying to repair an APC to be used for these purposes during
8 night-time."

9 Mr. Gorjanc, if you look at this sentence, what does it lead you
10 to conclude? Were the wounded eventually taken through to Mostar or not?
11 What sort of assistance were they given?

12 A. This makes it perfectly clear that they were being taken to
13 Mostar Hospital.

14 Q. Next sentence:

15 "There was a large problem in terms of supplying bread to this
16 unit because the wood needed for the production of the Mostar Bakery had
17 to be taken to Mostar and then on to Bijelo Polje."

18 Mr. Gorjanc, was there any road connecting Mostar and
19 Bijelo Polje at this point in time or not?

20 A. Yes, there certainly was one.

21 Q. As we read on, we see something that they refer to as the
22 Cargo Platoon.

23 Mr. Gorjanc, what exactly does that term suggest to you?

24 A. The Cargo Platoon, as a matter of principle, would comprise 20 or
25 30 horses used to transport cargo on their backs across mountainous

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1 areas.

2 Q. In relation to that, there is talk here of oil being transported
3 dripping down on these horses' backs, opening wounds on the animals,
4 themselves, thus side-lining the animals and putting them out of action.

5 Based on this sentence, what exactly did the BH Army do to bring
6 oil into Mostar?

7 A. They were obviously using horses for that purpose. They brought
8 oil in on horseback.

9 Q. The next thing it says is about the fighters along the front-line
10 protesting on a massive scale, among other things, because of the
11 unmasked departure for the north by the civilians and soldiers alike.

12 Mr. Gorjanc, based on this sentence and everything else that we
13 have been talking about, what would you say about the possibility of
14 using the roads from East Mostar, leading towards Jablanica and down
15 further south, Buna and Blagaj?

16 A. It was possible to use these roads.

17 Q. I'll be skipping the next two documents. The next one up is
18 4D798, 798. It's a document by Sefer Halilovic that he dispatched to

19 Rasim Delic in September 1993. If you look at bullet point number 2, we
20 see mention there of a helicopter that was sent into the area to
21 transport the seriously wounded as well as an entire company to the
22 Bijelo Polje sector, only to eventually reach Mostar, itself.

23 Mr. Gorjanc, based on this claim, what could we possibly conclude
24 about whether it was possible to travel back and forth between Jablanica
25 and Mostar?

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1 A. This was by air, by helicopter, and obviously there were no
2 restrictions on that, in terms of what the army could do. The HVO could
3 have exerted no influence at all over where and whether the helicopters
4 were flying.

5 Q. Next document, also under seal, P9851. The conclusion contained
6 in paragraph 2 of this document reads:

7 "It seems that as of mid-August, there was limited movement by
8 the population between the larger east bank and Jablanica in central
9 Bosnia (to the north and south)."

10 Further down:

11 "A mountain path is used for this purpose, and we are looking at
12 people who are trying to be reunited with their families. Movement is
13 still limited on account of the danger being faced by those travelling
14 along that route and also because of the fact that in order to leave, one
15 must first obtain a permit from the BH Army, which allegedly is very
16 difficult to obtain."

17 We'll be looking at another document now that talks about more or less
18 the same subject, and then we'll be commenting on both documents jointly.
19 I'll be skipping the next document and be calling 4D4545 -- or, rather,
20 4D545, 545. This is an excerpt from Esad Sejtanic's book. He says --

21 THE INTERPRETER: Interpreter's note, could counsel please
22 provide a reference as to where she's reading from. Thank you.

23 MS. ALABURIC: [Interpretation] I can't hear the interpreters
24 because I'm tuned into the B/C/S channel.

25 Q. I'll just say a single sentence:

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1 "Again, a large number of citizens wanted to leave for Jablanica
2 and further into Bosnia. Repressive measures, regrettably, had to be
3 taken to stop the population from leaving on a large scale, and we
4 restricted movement to the extent possible."

5 That was the only passage that was translated into English, and
6 that's why I didn't need to go into more detail.

7 Mr. Gorjanc, at this point in time I would like to know more
8 these observations to the effect that the BH Army were trying to stop the
9 departure of civilian population from Mostar on to Jablanica. Can you
10 explain how such a thing would have been possible?

11 JUDGE TRECHSEL: I'm sorry, there must be a little problem of
12 translation, because the text that we have in the transcript does not
13 correspond exactly to the text in -- on the paper. On the paper, I read:

14 "By repressive measures, regrettably, we prevented the outflow of

15 population and reduced any movement of population to minimum."

16 You, however, have read: "Regrettably, we had -- measures had to
17 be taken," and that's not the same thing, because in the written text
18 here, without any comment, he says: "We took, regrettably, these
19 measures," but what you read means: "We were forced to take these
20 measures," and if that is the correct translation, it would, of course,
21 be interesting to know whether the book anywhere gives an explanation why
22 this was considered necessary.

23 MS. ALABURIC: [Interpretation] Your Honours, obviously what I
24 read out in Bosnian was obviously misinterpreted into English. The
25 accurate translation is what you have in front of you. So this makes no

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1 mention of anybody being forced to do anything. The last sentence reads,
2 I quote:

3 "By repressive measures, regrettably, we prevented the outflow of
4 population and reduced any movement of population to a minimum."

5 Q. Mr. Gorjanc, could you please explain to us the situation in
6 which the ABiH is preventing --

7 MS. WEST: My apologies, Your Honour. If we can just back up for
8 a moment.

9 I understand previously the question from Ms. Alaburic was:

10 "At this point in time, I would like to go into the observations
11 that the BH Army were trying to stop the departure of the civilian
12 population from Mostar to Jablanica, and can you explain how such a thing

13 would have been possible?"

14 I interrupt now because I object to the question. Mr. Gorjanc,
15 as we know and as has been explained, is not a factual witness, so
16 clearly we cannot be looking for a factual answer.

17 Secondly, in regard to his expertise, this seems to me to be more
18 of a strategic question -- a strategic question, looking for a strategic
19 answer, and I'm not sure that Mr. Gorjanc has the wherewithal to answer
20 such a question where he wasn't there at the time.

21 MS. ALABURIC: [Interpretation] Your Honours, I am grateful to my
22 learned friend. I will rephrase my question, but I consider my question
23 to be of a strategic nature, also, and it is a theoretical question. I
24 asked the question under the assumption that what the document says is
25 true, and I want the expert to explain to us how it is possible for the

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1 ABiH to prevent the civilian population from leaving Eastern Mostar
2 toward -- northward or southward, which is -- which makes no difference
3 at this point in time. But we consider the question strategic because it
4 is possible for someone to use their own civilian population to attain
5 some objectives, which can be part of a military doctrine or part of a
6 certain practice.

7 THE INTERPRETER: Could all unnecessary microphones please be
8 switched off.

9 MS. ALABURIC: [Interpretation]

10 Q. So, Mr. Gorjanc, under the assumption that the ABiH, indeed, was

11 preventing the departure of civilian population from Eastern Mostar, can
12 you explain to us, from the point of view of military doctrine and/or
13 practice known to you, how that is possible, if we're speaking about a
14 town which is badly supplied, which is being targeted by enemy artillery,
15 and which the population lives badly?

16 A. Any town defending itself, and where there is population at the
17 same time, the morale of the defenders is much better when they know that
18 they are defending their own people. And in that context, two or three
19 documents back, when soldiers of the ABiH dislike the population leaving
20 northward, this measure was probably taken to raise the morale of the
21 soldiers of the ABiH.

22 Q. Tell us, is this a legitimate and legal way of using civilian
23 population, in your opinion?

24 A. In principle, yes, but the principle is: When a town is being
25 defended, parts of the population, such as women, children and elderly

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1 people, are taken out of the town.

2 Q. All right. Just one more document in this context. This is also
3 under seal. It is P3547, 3547. In paragraph 6, referring to Mostar,
4 under item 2, we can see:

5 "The UNHCR Metkovic have cancelled all aid convoys because the
6 HVO insist on being informed of the percentages of aid being delivered to
7 each side of the population," as written here.

8 If anyone were to say to you that in a certain period, to which

9 this report refers, there were no convoys of humanitarian aid in the area
10 of Mostar, what would you consider to be the cause?

11 A. From the language used here, I can conclude that the UNHCR
12 cancelled these convoys and that they were unwilling to supply Mostar
13 because the HVO had demanded data on the shares of the aid being dealt
14 out to either side.

15 JUDGE TRECHSEL: Excuse me. Just an intermediate question.

16 Witness, do you know or not whether it is legitimate to put such
17 a condition?

18 THE WITNESS: [Interpretation] Your Honours, I cannot say that I
19 know for certain, but it would be logical for those goods, if it passes
20 through territory under the control of the HVO, for them to ask for equal
21 shares to be given to either side because both suffer from shortages.

22 JUDGE TRECHSEL: Thank you. I was only asking about the legal
23 situation, not on what you think is logical. So the answer is, I don't
24 know, as I read it. Thank you.

25 JUDGE ANTONETTI: [Interpretation] Witness, all the documents

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1 which Ms. Alaburic showed you in this last half hour, I checked that all
2 these documents have references in your report. So you've seen these
3 documents, and they enabled you to have your own conclusions, and this is
4 important to have this on the transcript.

5 In the document we now have on the screen, it seems that the HCR
6 cancelled some convoys, and the reason, officially, would be that they

7 wanted to be informed of the percentage of aid which had to be delivered
8 to the populations, in the plural, the people; that is to say, the
9 Croats, the Muslims, possibly the Serbs, because there still were a few
10 left in Mostar. When you saw this, how did you analyse this, in military
11 terms? And this is a follow-up to the question of my colleague. From a
12 military point of view, can a military authority stop a convoy and demand
13 to be told to whom the food is destined? Can -- a military may ask such
14 a question? Because the real cause is that the HVO wanted to know what
15 was -- to whom the humanitarian aid was going, the distribution of it.

16 THE WITNESS: [Interpretation] Your Honours, I think that an army
17 doesn't have the right to raise this issue. But in that context, the HVO
18 was the authority in Herceg-Bosna, and those civilian authorities really
19 closely cooperated with the UNHCR. This is how I read the document.

20 JUDGE TRECHSEL: Witness, a related question.

21 You have explained to us that the axis to East Mostar by road was
22 free. Why do we have here a document where the UNHCR gives clearly the
23 impression that they need approval of the HVO to go to Mostar East?
24 I think that -- it seems to me there is a little contradiction.

25 THE WITNESS: [Interpretation] Your Honours, when I spoke about

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1 free travel, I was referring to the stretch of road between Buna and
2 Jablanica and not between Buna and Metkovic. That area, up to the border
3 at Doljani, was under the control of HVO forces.

4 JUDGE TRECHSEL: Thank you.

5 MS. ALABURIC: [Interpretation]

6 Q. Mr. Gorjanc --

7 JUDGE ANTONETTI: [Interpretation] Wait. Witness, I'd like things
8 to be quite clear, because all this is very complex and somebody from the
9 outside could really have problems understanding.

10 What you have just said is if the HVO gives its authorisation, it
11 is because it controls a part of the road which it actually controls.
12 But as from a given moment, it becomes the BiH who then controls the
13 road. Is that what you've just told us? Because I'm trying to
14 understand what you've said.

15 THE WITNESS: [Interpretation] Yes, Your Honours.

16 JUDGE TRECHSEL: I'm sorry, Ms. Alaburic. One question seems to
17 be leading to the next here, and the next is different.

18 MS. ALABURIC: [Interpretation] Your Honours, if you allow, I
19 would just like to put a map on the ELMO for you to be able to see how
20 Mostar can be reached from Croatia, because Metkovic is in Croatia, and
21 how you can travel from Mostar to Jablanica, and I believe we will all be
22 more comfortable then.

23 I prepared different types of maps. I'll give you the simplest
24 one.

25 JUDGE TRECHSEL: I just want to state that I did not challenge

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1 and do not plan to challenge the answer given to me on this subject by
2 the witness. Please give me a sign when you think that I can ask my

3 question.

4 MS. ALABURIC: [Interpretation] Your Honours, if we can see it on
5 the ELMO and if we can discern -- is the map on the ELMO? Oh, here it is
6 now. I believe you will be able to see sufficiently well and that the
7 witness will be able to explain.

8 JUDGE ANTONETTI: [Interpretation] For the French interpretation,
9 I didn't get the translation of Ms. Alaburic. Somebody must have
10 forgotten to press the button.

11 Yes, you may proceed.

12 MS. ALABURIC: [Interpretation] Your Honours, we have the map
13 here, where we see the main roads around Mostar. We can see how Mostar
14 can be reached from the south, that is, from the direction of Croatia.
15 To the right is the main road leading to Mostar from Nevesinje, that is,
16 from the territory controlled by the Serbs. And to the north, there is
17 the main road through Bijelo Polje towards Jablanica. I believe that
18 will help us understand what the witness is saying to us better. As
19 far --

20 JUDGE TRECHSEL: Thank you. You said the HVO controlled an area.
21 What does -- who was that, the HVO who? The operation zone, or the
22 military police, or what does it mean, specifically?

23 THE WITNESS: [Interpretation] Your Honours, I cannot provide an
24 accurate answer about that unit. That zone was under the responsibility
25 of the south-eastern zone of operations of the HVO, I think, but the

1 relevant documents were not available to me. But I can show you on the
2 map which communication was controlled by the HVO and which by the ABiH,
3 if you allow.

4 JUDGE TRECHSEL: So the zone controls a certain area, a certain
5 "superficie" of the terrain; is that correct?

6 THE WITNESS: [Interpretation] Yes.

7 JUDGE TRECHSEL: Thank you.

8 JUDGE ANTONETTI: [Interpretation] Witness, I intervene because
9 this is important.

10 We have the map on the ELMO. Could you, with a pencil, show
11 where the humanitarian convoys start from, where they go through, by
12 which control of the HVO they have to pass? Can you do this quickly just
13 now on the screen so that we see there is no interpretation mistake?

14 THE WITNESS: [Interpretation] Your Honours, I have no pen at
15 hand.

16 JUDGE ANTONETTI: [Interpretation] Usher, please, could you give
17 the magic pencil to the witness.

18 THE WITNESS: [Interpretation] Hereabouts [marks] is Metkovic, and
19 somewhere here [marks] is the border between Bosnia and Croatia. Here
20 [marks] is Buna, and from here [marks] all the way through here [marks],
21 the area was controlled by the ABiH, and this area [indicates] is
22 controlled by the HVO.

23 JUDGE ANTONETTI: [Interpretation] Very well. Please give an
24 IC number to this map. This map is very important. Right.

25 Madam Registrar, could you please give a number to this map?

1 THE REGISTRAR: Your Honours, that will be IC1087.

2 MS. ALABURIC: [Interpretation] Your Honours, there's one minute
3 left until the break. Maybe just one more explanation, to avoid
4 misunderstanding.

5 Q. Mr. Gorjanc, it's about one answer you provided to the question
6 asked by Judge Trechsel. Does the zone of operations have control over a
7 part of territory? If you know, tell us. How was the territory of
8 Herceg-Bosna divided, militarily?

9 A. Militarily, it was divided into several zones of operation, one
10 of them being the south-eastern zone, which included the southern and the
11 eastern part of Herzegovina. Another was the north-western part, which
12 included the north of Herzegovina and the west. Then there was the Zone
13 of Operation Central Bosnia in Central Bosnia, and the Zone of Operation
14 Posavina, and the northern part toward the Sava River.

15 Q. Mr. Gorjanc, when we say "Zone of Operation South-Eastern
16 Herzegovina," is that then simply part of the area of Herceg-Bosna?

17 A. Yes, it is.

18 Q. If, in the area of a zone of operation, there are contact points
19 with the enemy and combat action, and in another part there is no combat,
20 can you tell us where the military is and what it does?

21 A. The military, in principle, has part of its forces at the
22 front-line and at contact points with the enemy along a stretch that's
23 three to five kilometres wide, and the other units are -- either rest or

24 train or engage in some other non-military activity.

25 MS. ALABURIC: [Interpretation] Thank you, Mr. Gorjanc.

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1 I believe, Your Honours, that we can now break.

2 JUDGE ANTONETTI: [Interpretation] Very well. We're going to now
3 take the break, and you have about 20 minutes left to finish.

4 --- Recess taken at 10.32 a.m.

5 --- On resuming at 10.54 a.m.

6 JUDGE ANTONETTI: [Interpretation] Ms. Alaburic.

7 MS. ALABURIC: [Interpretation] Your Honours, the 20 minutes that
8 we have left, by your leave, would be distributed in the following way:

9 I'll take 13 [Realtime transcript read in error "30"] minutes and
10 General Praljak will take 7 minutes.

11 Q. Mr. Gorjanc, given the importance of the topic of communication,
12 I would like to show you another document from the set of documents,
13 4D780. Maybe you can focus on what I'm going to tell you.

14 This is an order issued by Stjepan Siber. He was the deputy --

15 JUDGE TRECHSEL: Excuse me. I would like to correct the
16 transcript because the mathematics are not very convincing. Out of your
17 20 minutes, you want to take 30, yourself, and you said "13," I'm sure.
18 Not "30 minutes," "13." That's just a correction for the transcript.

19 MS. ALABURIC: [Interpretation] Your Honours, I did say "13," and
20 I'm sorry that you were the one who spotted this mistake. If you hadn't
21 spotted the mistake, maybe I would have ended up having 30 minutes,

22 instead of 13.

23 Q. Let's look at the document. You have it on the screen,
24 Mr. Gorjanc. Let's see what the deputy commander of the BiH Army says in
25 the document:

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1 "The main goal of the aggressors, the HVO and the HV," as he
2 defines them, "is to cut off communication between Prozor and Jablanica
3 and thus block the Mostar-Jablanica-Sarajevo axis."

4 Mr. Gorjanc, please tell us, based on this document, what can you
5 tell us about communication across Jablanica from Mostar to Sarajevo?

6 A. Judging by this document, that communication was free to the Army
7 of Bosnia and Herzegovina to use it.

8 Q. Very well. I wanted to ask you whether the civilian population
9 could also use it, but we will deal with that later.

10 In paragraph 215 of your report, you provide your conclusions
11 about the topic of the siege of Mostar and whether it actually existed or
12 not, based on the documents that you had available to you. Could you
13 please share with us your conclusion? Did the siege of Mostar exist or
14 not?

15 A. After the thorough study of all the documents that were available
16 to me and based on the military theory, I can conclude that Mostar, as a
17 city, was never besieged in the classical way. It was never closed.

18 Q. Very well. Mr. Gorjanc, a few very brief questions about the
19 eighth paragraph of your report, which is the military significance of

20 Central Bosnia/North Herzegovina.

21 You attached a number of maps with your report. Could you please
22 tell us who is the author of the maps?

23 A. I drafted them, personally, in the CorelDRAW programme.

24 Q. I'm just going to list the documents which are maps. 4D1486,
25 4D1485, 4D1484, 4D1491, and 4D1483.

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1 In paragraph 201 of your report, you, Mr. Gorjanc, provide a
2 conclusion as to why, from a military aspect, it would be desirable for
3 an army in the area to conquer and place under its control the territory
4 of Konjic. Could you tell us, briefly, why is Konjic so important?

5 A. Your Honours, could I please be shown the record on the screen
6 because I have an e-court document on both screens.

7 MS. ALABURIC: [Interpretation] Could the usher please oblige.
8 Mr. Gorjanc has been very disciplined and has been following the record
9 or the transcript of the trial.

10 THE WITNESS: [Interpretation] Thank you.

11 MS. ALABURIC: [Interpretation]

12 Q. The military significance of Konjic, can you tell us a sentence
13 or two?

14 A. Konjic is midway between Sarajevo and Mostar. From Konjic -- or,
15 rather, the general territory of Konjic and Jablanica is the departure
16 point of three roads, from Makljen to Bugojno, from Kiseljak, Dusina to
17 Neretvica, and the third main road from Mostar across [indiscernible] in

18 the direction of Konjic and onwards to Mostar. At the same time, from
19 Mostar you could launch military operations in the direction of more
20 towards Igman, with a view to lifting the blockade of Sarajevo.

21 Q. Mr. Gorjanc, you said "from Mostar across Igman"?

22 A. I apologise. From Konjic across Mount Igman towards Sarajevo,
23 from Konjic along the right bank or, rather, in the middle part of the
24 flow of the Neretva towards Prozor and Gornji Vakuf, and finally from
25 Konjic in the direction of Mostar.

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1 Moreover, in Konjic was the factory of ammunition called Igman,
2 ranging from calibre 4.5 to 14.5 millimetres. The former states of the
3 former Yugoslavia were supplied from there, and it also manufactured for
4 the BiH Army. In Konjic, there was also a large and significant facility
5 of the military command, the ARK facility, the Atomic War Command that
6 belonged to the army. Under the conditions of a nuclear war, this would
7 have been the headquarters of the military command of the former state.

8 Q. Thank you very much, Mr. Gorjanc.

9 What about Vitez and its significance?

10 A. Vitez?

11 Q. Vitez.

12 A. Yes. Vitez was extremely important as a factory of explosives.
13 That was the largest and perhaps the only factory of explosives in the
14 former state, and it also produced gunpowder.

15 Q. And now what about Bugojno, Travnik, and Novi Travnik; what made

16 them significant?

17 A. Bugojno had a factory, known as Slavko Rodic, which manufactured
18 mines, ammunition for light anti-artillery weapons, and ignition devices
19 for various types of ammunition. In Travnik, there was a manufacturing
20 plant for military gear, and there was an overhaul institute for the
21 electrical devices such as radios and the like. And in Novi Travnik,
22 there was the biggest factory of heavy artillery that ever was in the
23 former state, which produced cannons, artillery guns,
24 multi-rocket-launchers, and so on and so forth.

25 Q. Mr. Gorjanc, when we are talking about communication along the

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1 Neretva Valley down to the Adriatic coast, why is that important?

2 A. That was the basic communication of the former state from north
3 to south, from Posavina down to the Adriatic coast.

4 Q. Mr. Gorjanc, I'm going to have a few very brief questions about
5 the rest of your expert report. In Chapter 11, you're dealing with
6 "asanacija," the clearing up of the terrain. I'm going to ask you to
7 provide your explanation about the clearing up of the terrain from the
8 remains of the enemy army. This is translated as a clear-up operation or
9 a mop-up operation, and in B/C/S it's "asanacija."

10 Mr. Gorjanc, when it comes to such operations, the clearing up of
11 the terrain, can they be considered ethnic cleansing?

12 A. No.

13 Q. In Chapter 12, Mr. Gorjanc, you are analysing the topic of

14 re-subordination. Is there such a thing as automatic re-subordination?

15 A. No. Any re-subordination had to be preceded by a decision and an
16 order of the superior to both units, the unit that is being
17 re-subordinated and the unit to which that first one is re-subordinated
18 to.

19 Q. In the next chapter, you analyse the term "staff tasks," and in
20 paragraph 258 you say that in every military, the General Staff does not
21 have the authority of direct command over operative and strategic or only
22 operative troops, but when it comes to minor tasks, the Supreme Command
23 can transfer its responsibilities to the General Staff.

24 If I remember General Praljak's testimony well, he formulated his
25 understanding of his own authorities in almost an identical way.

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1 Could you please establish a link between the staff functions of
2 the General Staff with the possibility for the General Staff to have
3 command responsibilities under certain conditions?

4 A. That command responsibility of the General Staff can apply to the
5 system of training of units, commands and staffs, to the internal
6 organisation of certain units, or, rather, to the instructions for
7 issuing decisions, assessing situations, monitoring a situation on the
8 battle-field, and so on and so forth. It doesn't have anything to do
9 with commanding units as a whole.

10 Q. And, finally, concluding provisions and issues, Mr. Gorjanc, if
11 troops are isolated, arrested, or placed in custody, if one's own troops

12 are isolated, does an incarcerated soldier lose the status of a soldier
13 in such an army?

14 A. No.

15 Q. Mr. Gorjanc, a hypothetical situation for you to consider. If
16 you had been a member of the military authorities in Herceg-Bosna, and if
17 you had planned a conflict with the Muslims in Bosnia and Herzegovina, in
18 view of your understanding and knowledge of the peoples of the former
19 Yugoslavia, the circumstances, customs, and the history, would you have
20 created the HVO as an army with a huge percentage of Muslim soldiers?

21 A. No, I would certainly have not.

22 Q. And my last question, again a hypothetical one. If, in the early
23 1990s, you had been the president of the Republic of Croatia, and if you
24 had planned to divide Bosnia and Herzegovina, and if you had planned to
25 annex part of Bosnia-Herzegovina to Croatia, knowing fully well that that

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1 would mean a conflict with the Muslims in Bosnia-Herzegovina, so you
2 obviously would have had to plan for such a conflict, would you have
3 armed the Army of Bosnia and Herzegovina, would you have assisted in the
4 training of its soldiers and officers, would you have helped the
5 authorities of Bosnia and Herzegovina, Muslims?

6 A. If that had been my intention, I certainly would not have done
7 all those things. I would not have assisted them.

8 MS. ALABURIC: [Interpretation] Thank you very much, Mr. Gorjanc.
9 Thank you for your cooperation and your answers.

10 Your Honours, this brings my examination-in-chief to an end.

11 JUDGE ANTONETTI: [Interpretation] Mr. Praljak, you have seven
12 minutes for military issues.

13 THE ACCUSED PRALJAK: [Interpretation] Thank you very much,
14 Your Honour. That will be sufficient.

15 Examination by Mr. Praljak:

16 Q. [Interpretation] Good morning, Mr. Gorjanc.

17 A. Good morning.

18 Q. A question was asked about something earlier on, how much time
19 does it take to establish an army, something to that effect. My question
20 is: Can one establish an organised army of an organised country, in
21 terms of the degree of civilisation, democracy, and so on and so forth?

22 A. I think I said yesterday that the existence of a state is the
23 precondition for the existence of an army.

24 Q. So if we were, for example, to send Iraqi troops, for example, in
25 Iraq, or to send there, to join the Iraqi troops, 300 American

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1 instructors, does that mean that within six months it would turn into an
2 armed force as effective as the US Army?

3 A. Well, your hypothetical example clearly shows that that is not
4 the case.

5 Q. Thank you very much. You were an officer of the JNA and you
6 wanted to go abroad someplace, Trieste, for example, did you need to ask
7 for permission to go?

8 A. Yes, certainly. The last thing was in 1988, the Division Command
9 was supposed to issue me with a permit to travel abroad. When I did for
10 the very first time back in 1977, I needed approval from Belgrade in
11 order to travel abroad.

12 Q. Once back, what exactly did you have to write up?

13 A. As soon as I was back, I had to write up a special report, what I
14 saw abroad, in the sense of military relevance, and who I was
15 communicating with while abroad. In the last period, it was no longer
16 necessary to write these reports, except, of course, if we came across
17 anything that we believed was relevant.

18 Q. Mr. Gorjanc, in an army like that, or any other army, if it was
19 observed that there was a certain group of soldiers and officers
20 preparing an armed rebellion against their own army, how would you
21 qualify an action like that?

22 A. As treason.

23 Q. Thank you. Thirdly, you saw the documents and you concluded that
24 the BH Army was attacking the HVO in the hills; right?

25 A. I can't say that they were attacking, but what the documents show

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1 is that they had the intentions to issue order like that -- to issue
2 orders like that.

3 Q. The main road, Mostar-Jablanica-Konjic-Tarcin-Visoko-Zenica, what
4 about that road, based on your investigations of the Central Bosnia
5 subject matter; could that road be used?

6 A. Yes, all the way up to Bilalovac, it could.

7 Q. Let's move on, thank you. You said the HVO could use its
8 artillery in the Bijelo Polje area in order to control that road. The
9 BH Army was in Dreznica; right?

10 A. Yes.

11 Q. What about -- what about night-time, night-time? What is the
12 visibility like? Can the artillery target anything at all, or could
13 anyone at all could have used that road during night-time?

14 A. I don't quite know what sort of night-vision equipment the HVO
15 was using, but I think more advanced equipment was only being introduced
16 into the JNA and the range -- the night-vision range would have been up
17 to 2.000 metres, provided visibility was good. That was the -- that was
18 the extreme range, but it really depended on a lot of things.

19 Q. Assuming someone was attacking you from the hills, would it have
20 exceeded those two kilometres, if there was rain, for example, or cloud
21 banks, or anything like that?

22 THE INTERPRETER: Interpreter's note, one speaker at a time,
23 please, kindly. Thank you.

24 MR. KARNAVAS: We didn't get the last answer, and if the
25 gentlemen could pause because we, too, are interested in the answers.

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1 THE ACCUSED PRALJAK: [Interpretation]

2 Q. Assuming, and we've seen that all here, that the BH Army was
3 attacking Vrda from the direction of Dreznica, what about the distance of

4 the HVO artillery positions; would it have exceeded the two kilometres
5 within which it was possibly or feasible to observe that road?

6 A. Yes, it would have been more.

7 THE ACCUSED PRALJAK: [Interpretation] Did it make it into the
8 transcript? Thank you very much.

9 Q. Mr. Gorjanc, if it's true that the HVO was on one side, along the
10 north-south axis, and the BH Army on the opposite side - let's forget
11 about the VRS for the time being - in any given case, any given
12 eventuality, could one speak of that town being surrounded, given the
13 fact that there was a road leading to Zenica that was open?

14 A. No, no way.

15 Q. And my last question. His Honour Judge Trechsel asked you the
16 following question: Did the HVO zone control a certain area? We don't
17 know what they mean by "area" or by "control." You said any normal army
18 would have kept a third of its men along the front-line facing the enemy,
19 another third where they could put them up, and perhaps another third
20 behind the lines, depending on developments in terms of combat; right?

21 A. Yes, but this last third would be in their own homes, family
22 homes.

23 Q. The HVO -- you looked at those documents. Did you see, do you
24 remember, that a third of its manpower would be taken to the front-line,
25 and that was that?

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1 A. I can't say, because those documents were not available to me,

2 not in that sense, not from the HVO side. And as far as my personal
3 observations go, this was the actual situation. That would be my
4 personal conclusion, but I've seen no documents to that effect.

5 Q. Let's assume that this was the case. You are an expert. The HVO
6 had a third of a brigade mobilised somewhere along the front-line. Would
7 they have any other lines, any people behind the lines, in the rear, as
8 they say, and then after that could you tell me what this army could
9 possibly be controlling, generally speaking?

10 JUDGE ANTONETTI: [Interpretation] General Praljak, the Registrar
11 tells us that you have used nine minutes, while your time is seven
12 minutes, which means that you're already off limits and you should wrap
13 up. Please finish your question, and then it will be over.

14 THE ACCUSED PRALJAK: [Interpretation] This is my last question.

15 Q. So an army's holding this front-line. What is this army actually
16 controlling, what can it possibly control? And, secondly, what is the
17 real territory under their control? And, thirdly, what do you mean by
18 "control"? That's the last thing.

19 JUDGE ANTONETTI: [Interpretation] General Praljak, there are
20 three questions. You were told to ask one question.

21 THE ACCUSED PRALJAK: [Interpretation] Well, this has been raised
22 as a problem. Judge Trechsel, as a matter of fact, you did. What are
23 they controlling and what is territory? Let's look into these matters.
24 What is the territory and what is the control? Let's try to define these
25 concepts. What is the territory and what is the control? Yeah, well,

1 right, that is the way to go.

2 JUDGE TRECHSEL: Mr. Praljak, there may later be opportunities,
3 but you had a certain credit of time. You have used more than that, and
4 that's it for today.

5 JUDGE ANTONETTI: [Interpretation] Let's leave it at this,
6 Mr. Praljak.

7 THE ACCUSED PRALJAK: [Interpretation] Your Honour, just one
8 thing. If I may be allowed, every time you're timing me 30-second
9 fractions, you don't treat the Prosecutor like that. I'm being
10 stop-watched every time here. What are they controlling and what is the
11 territory?

12 JUDGE ANTONETTI: [Interpretation] Mr. Praljak, on the substance,
13 the witness has already answered and we'll surely have the opportunity to
14 come back to this during cross-examination. I really have this in mind,
15 and if there are further doubts, we shall come back to this. My
16 colleague said it's over, so the Bench says it's over.

17 Witness, I have a technical question for you which is not a
18 substance question. Can you confirm that you authored a report which, in
19 your version, has 271 paragraphs?

20 THE WITNESS: [Interpretation] Yes.

21 JUDGE ANTONETTI: [Interpretation] All right. Can you confirm
22 that there are footnotes in your report, and in the B/C/S version there
23 are 158 footnotes?

24 THE WITNESS: [Interpretation] Yes.

25 JUDGE ANTONETTI: [Interpretation] Okay. I shall ask the

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1 Registrar to display page 82 in B/C/S, 4D28-1062, on the screen.

2 [Trial Chamber and Registrar confer]

3 JUDGE ANTONETTI: [Interpretation] Let me repeat the page of the
4 report. It's page 82 in the B/C/S version, and the number is 4D28-1062.

5 MS. ALABURIC: [Interpretation] Your Honours, my mistake. I
6 should have said at the end that the number for this report in e-court
7 would be 4D1731. The document would be tendered under that number. I do
8 apologise for this omission on my part.

9 JUDGE ANTONETTI: [Interpretation] Yes, Ms. Alaburic, but I want
10 page 82 in B/C/S. Page 82 is the page I want, page 82 of the report in
11 B/C/S, and that's it. So please don't take the floor. I know what I'm
12 doing.

13 MS. ALABURIC: [Interpretation] Your Honours, but we have to look
14 for the page, because the Croatian report is in my possession and I
15 carved it up into chapters. One of my colleagues may be able to give me
16 a hand.

17 JUDGE ANTONETTI: [Interpretation] It is on the screen.

18 Registrar, I would like to see the footnotes, so please display
19 the text. This is it.

20 Witness, take a look at this. This is page 82 of your report.
21 There are footnotes, and you quote documents. We're talking about
22 footnotes 133, 134, 135, 136, and 137. I can see that the footnotes are

23 in English.

24 Do you speak English?

25 THE WITNESS: [Interpretation] No, Your Honour. I am fully

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1 familiar or relatively familiar with military terminology.

2 JUDGE ANTONETTI: [Interpretation] There are documents you quote
3 in your footnotes, you quote, so P44747 [as interpreted] and so on and so
4 forth. Have you read all these documents before inserting them or using
5 them in your report?

6 THE WITNESS: [No interpretation]

7 JUDGE ANTONETTI: [Interpretation] In order for everyone to
8 understand well, as regards footnote 133 -- I'm going to take a footnote
9 which is visible to avoid any problem. Let's take 134, which is
10 "4D00780," which is in the first paragraph of page 82. Can I infer that
11 you've read the whole 4D00780 to draw the conclusion which is in the
12 Roman number V in the text?

13 THE WITNESS: [No interpretation]

14 JUDGE ANTONETTI: [Interpretation] All right. This is all I had
15 to ask.

16 MR. KOVACIC: May I only put a comment on the problem of the
17 transcript we have before it went. This is on the page we just -- we
18 just have on the screen, line 14. There should be a response of the
19 witness, but it said: "No interpretation." It was clear that the
20 witness, to His Honour Judge Antonetti's question, said, Yes, but perhaps

21 the question should be repeated.

22 JUDGE ANTONETTI: [Interpretation] Yes. Witness, you had said,
23 Yes, but this wasn't recorded. My question to you had been whether
24 footnote P4747, if you -- as regards that footnote, if you had read it
25 and if you had used it in your report.

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1 THE WITNESS: [Interpretation] Yes.

2 JUDGE ANTONETTI: [Interpretation] All right, thank you. This
3 "Da" was missing.

4 JUDGE TRECHSEL: I have another technical question, Witness.
5 Maybe something has escaped my attention, but could you explain why your
6 original version has, as you have just confirmed, 271 paragraphs, while
7 the English translation that we have before us has 281 paragraphs?

8 MR. STEWART: Your Honour, I think they both have 281, actually.
9 I've just been looking. I don't know where the "271" came from, but
10 I think if I may -- we're on technical matters. Both versions we have
11 appear to have --

12 JUDGE TRECHSEL: Perjury, perjury, because the witness really
13 confirmed that it was 271, or perhaps a mistake of the translation --

14 MR. STEWART: Well, Your Honour --

15 JUDGE TRECHSEL: -- but we will not prosecute this --

16 MR. STEWART: When a learned Judge puts a page number in those
17 terms, witnesses will often just go along with it, Your Honour. That's
18 part of the problem sometimes on these practical matters.

19 JUDGE TRECHSEL: Well, I appreciate your answer.

20 MR. STEWART: Thank you, Your Honour.

21 JUDGE TRECHSEL: And I don't think we should take this any
22 further.

23 JUDGE ANTONETTI: [Interpretation] Questions from the Defence team
24 for the cross-examination, with the understanding that two hours had been
25 granted to the other counsels. So let's start with Mr. Karnavas, whom I

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1 would like to greet again.

2 MR. KARNAVAS: Good morning, Mr. President, and good morning,
3 Your Honours. Good morning to everyone in and around the courtroom.

4 Cross-examination by Mr. Karnavas:

5 Q. Good morning, sir.

6 I don't believe I will have too many questions. I've been
7 allotted about 40 minutes among our -- my colleagues, but I don't believe
8 I will take the entire 40 minutes.

9 We will be distributing some documents. It is -- I highly doubt
10 that we will even need to go to the documents, sir. But in the event we
11 need to, we will -- they're there.

12 Let me pick up, sir, where we left off with General Praljak's
13 questioning.

14 MR. KARNAVAS: And I'm going to wait until the distribution --
15 perhaps the usher could make two trips, as opposed to one. It might --
16 my apologies for this delay.

17 Q. Now, just going back to your background, I had an opportunity to
18 read your CV, and it would appear that you've attended just about every
19 course offered to an officer in order to reach the highest possible grade
20 in the JNA. Is that correct?

21 A. Yes.

22 Q. And in addition to having attended all these courses, you also
23 have some practical experience being a soldier for all of your career, so
24 you also have boots on the ground, as they say, experience?

25 A. Yes.

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1 Q. And in addition to that, you've also taught, which means that
2 aside from having that practical experience, you also have the
3 theoretical experience that you were able to provide to students who were
4 trying eventually to be officers like yourself on the field, ready in the
5 eventuality a conflict or a war broke out; is that correct?

6 A. Yes.

7 Q. Okay. Now, let's go back to this zone or area of responsibility,
8 and I'm sure -- I'm sure you've heard of these terms. These are not
9 foreign to you?

10 A. Yes.

11 Q. And yesterday you were directed to I believe it was paragraph 24
12 of your report. You don't have to look at it. But in connection to the
13 question referencing to paragraph 24, you indicated that it would be a
14 three- to five-kilometre zone or area of responsibility, depth-wise. At

15 least that's what I understood. Am I correct?

16 A. Yes.

17 Q. And then there were some other questions, and there was one
18 particular question, I believe it was from President Antonetti, who asked
19 about brigades and the names of these brigades, because it appears, and I
20 believe you confirmed, that the brigades were connected to the
21 municipalities, hence why they had names that were representative of the
22 municipalities from which they hailed; correct?

23 A. Yes.

24 Q. Now, you know, I'm not -- I've never served in the military, but
25 I have spent quite a bit of time reading JNA documents, for this case and

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1 for other cases. And when it comes to the brigade rules now, it would
2 appear that the material that was used by the JNA, material that you used
3 to train, provided schematics so that when somebody was out there in the
4 field, they would know exactly where the depth would be; correct?

5 A. Yes.

6 Q. Okay. And now -- and when we look at the rules for the brigades,
7 at least, it would appear that we're talking about 15 to 20 kilometres,
8 although that could change depending on the terrain; correct?

9 A. Yes.

10 Q. And as I understand it, and correct me if I'm wrong, that that
11 would -- as far as the area or zone of responsibility for a brigade, that
12 would be provided to the brigade commander by the corps commander or his

13 superior, although if one wasn't provided, the brigade commander would be
14 in the position and obligated to designate his own area of
15 responsibility, including the depth behind the confrontation line; is
16 that correct?

17 A. Yes.

18 Q. All right. Now, I'm not going to go into the schematic, unless
19 the Court wishes to see that, but in that depth you would have, for
20 instance, a designation for the forward command post, where the reserves
21 may be, where certain artillery may be located, and so on and so forth;
22 correct?

23 A. Yes.

24 Q. All right. Now I want you to -- I want us to go to, say, an
25 urban area, an urban area where there's conflict in this urban area. All

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1 right? Are you with me, Colonel?

2 A. Yes.

3 Q. And, let's say, Mostar, for instance, would be a good example. I
4 suspect that you've been to Mostar.

5 A. Yes.

6 Q. And I suspect, in your involvement in this case, you learned that
7 more or less in the middle of Mostar there's a place -- there's this road
8 referred to as the boulevard, and that was the confrontation line that
9 separated the two forces. Correct?

10 A. Yes.

11 Q. No dilemma there? You need to answer it. So there's no dilemma.

12 Okay. Now --

13 A. Yes.

14 Q. -- when we're talking about this confrontation line, the area of
15 responsibility in Mostar is not simply this boulevard, but it goes
16 further back, and the depth could be 15 or 20 kilometres or even further
17 behind, depending on what is happening on the ground; is that correct?

18 A. Yes.

19 Q. And, of course, when we're talking about the area of
20 responsibility, if you have a tank placed someplace, artillery is placed
21 someplace else, that would be within the confines or within this zone of
22 responsibility; correct?

23 A. Yes.

24 Q. And as a commander, if you were in charge, if you were
25 responsible, you would be responsible not just what is happening in front

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1 of you and beyond, but also what is happening behind you, that depth area
2 that we're talking about; correct?

3 A. Yes.

4 Q. And so if soldiers in that depth area are doing something that is
5 contrary to what they should be doing, they need to be investigated and
6 perhaps even punished, if necessary; correct?

7 A. Yes.

8 Q. All right. Now, there was -- there was a pregnant pause there,

9 and so maybe you can help me out, because I also had a chance to look at
10 some other rules dealing with the Law of Wars. You know, as I understand
11 it, JNA officers were responsible to understand the necessary legal
12 instruments, international treaties, conventions, and what have you, that
13 apply to war situations, how to treat civilians, how to treat prisoners
14 of war, and what have you; correct?

15 A. Yes.

16 Q. And a commander would be responsible, as I understand it -- you
17 know, that he would be held accountable if he knew or could have
18 known - those are the terms used in the rules, we here use "would
19 have" - but could have known, okay, they would be responsible to -- if
20 they failed to prevent or then failed to punish; correct?

21 A. Yes.

22 Q. All right. Now that's -- I'm just mentioning that because of
23 that pregnant pause of yours, because I want to make sure that we're in
24 agreement that everything that happens within this zone of
25 responsibility, the commander is responsible for, albeit, you would agree

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1 with me, a commander is not omnipotent and omniscient. He can't be
2 everywhere and know everything; correct?

3 MS. ALABURIC: [Interpretation] Your Honours, by your leave, at
4 this point I would like to object. With regard to the lack of precision
5 in the term "responsibility," I believe that we should have to pin-point
6 responsibility for what. If we're not precise with regard to one aspect

7 of responsibility, one could conclude that a military commander could be
8 responsible for absolutely everything that is happening in an area of
9 responsibility. So I would like you to order my learned friend Karnavas
10 to be more precise when it comes to the term of "responsibility." What
11 activities does he have in mind?

12 JUDGE ANTONETTI: [Interpretation] Mr. Karnavas, so that there is
13 no ambiguity, could you ask the witness to specify this notion of
14 responsibility which he may understand according to your questioning?

15 MR. KARNAVAS: I will, Mr. President and Your Honours. And as
16 you well know, my practice generally is to go from the general to the
17 specific. We just covered something rather general. Now we'll go to the
18 specific.

19 Q. Let's just say, sir, that a particular soldier commits murder,
20 kills a civilian - it doesn't matter who that civilian is - or robs a
21 civilian, or rapes a civilian. The commander would be responsible,
22 assuming that he is capable, under the circumstances, of knowing of it,
23 to either prevent or punish that event; am I wrong?

24 A. I believe that a commander in such a case cannot be held
25 responsible. He can only be responsible if he did not take adequate

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1 measures once he had learned about the incident. What does this mean?
2 This means file a criminal report, place such a soldier into custody, and
3 report to either the civilian or military authorities or, rather, refer
4 the matter to them for further proceedings.

5 Q. Right. And before the objection that was raised, I indicated
6 that a commander cannot be ever knowing and ever present to know what's
7 going to happen or to prevent everything. So it all depends on the
8 circumstances; correct?

9 A. Yes.

10 Q. And that's all I wanted to get out of that part. But since we're
11 on that, we know that soldiers would serve some time on the line and
12 then, as you indicated, sometimes they would go home because, at least in
13 this instance, there were no barracks; correct?

14 A. Yes.

15 Q. And so when a soldier is relieved -- is relieved from the front
16 and goes home, be it in the city or be it in some village, and I want you
17 to follow closely the scenario, with the soldier carrying his weapon and
18 having also the ammunition with him, if on his way to home or while at
19 home he or she, if a woman is in the armed forces, commits a crime, if a
20 commander were to learn of that, he would be responsible to take the
21 necessary actions because that individual is still a member of the armed
22 forces, is still a soldier, and the commander is still responsible for
23 that soldier's behaviour; correct?

24 A. Yes. However, a commander most probably will not learn about the
25 act directly, but rather from the civilian authorities, which are already

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1 duty-bound to take measures before they even inform the commander and
2 take some steps even before that.

3 Q. I agree. But you would also agree with me, and I don't want to
4 dwell on this concept too much, that a commander cannot willfully be
5 blind? In other words, a commander cannot take certain actions to make
6 sure that no information comes his way that he would then have to react.
7 You would agree with me that a commander cannot do that; right?

8 A. Yes.

9 Q. All right. Now, I want to go back to another concept. Well,
10 just one more thing about this area or zone of responsibility because
11 there's been a lot of controversy.

12 You've just confirmed that the brigades -- sure.

13 JUDGE ANTONETTI: [Interpretation] Mr. Karnavas, I would like to
14 ask a question to go a bit further on your question.

15 Witness, you told us that according to your expert report, a
16 third of the soldiers were on the front-line, one-third in the reserve,
17 and one-third on leave at home. So I assume there is the situation of
18 those who are back home -- you have a soldier, Mr. X, who is back in his
19 village, in his farm, and who, for some unknown reason, is going to rape
20 his neighbour, and the information comes to the knowledge of the brigade
21 commander. According to you, who is competent? Is it the military
22 prosecutor or is it the civilian prosecutor, according to you?

23 THE WITNESS: [Interpretation] A military prosecutor, if there is
24 one available, if there is, indeed, a military court and a military
25 prosecutor's office. In the former armies in the former Yugoslavia, such

1 courts did not exist. In Slovenia, for example, they don't exist even to
2 this very day.

3 The question is, Your Honours, how the commander learned about
4 the incident, about the crime, whether he learned about it directly via
5 his intelligence service or through the civilian intelligence service.
6 In such a case, if soldiers are at home, an incident is first reported to
7 the civilian organs and only then to the military organs. Most probably,
8 such a crime would have already been dealt with by the civilian
9 authorities in cooperation with the military authorities in the
10 respective territory.

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

12 Q. Do you know whether in this instance, in the situation that you
13 were asked to provide an expert report, whether a military prosecutor was
14 in existence?

15 A. I don't know. I have not studied the document in depth.

16 Q. Okay. Now, I don't want to dwell on this too much, but I think
17 we can go on to the next topic which had to do with control, because this
18 issue -- but before that -- I'm getting old, myself, as one of the Judges
19 indicated about age earlier.

20 I wanted to ask you about zones or areas of responsibilities,
21 because yesterday you limited your to three to five kilometres. That
22 struck me odd. Now we've got it up to 15 to 20, at least with the
23 brigades. But when it comes to the corps, we're talking anywhere,
24 I think it is, around 60 to 100 kilometres, somewhere around there;
25 right? I'm talking textbook now. I'm not talking about what was

1 happening on the ground.

2 A. I have to add something to your words, sir. When we are talking
3 about an area of responsibility and the depth of the area of
4 responsibility of a JNA brigade of 15 to 20 kilometres, what is meant is
5 the complete deployment of all units, which means all the battalions,
6 including the reserve battalions and logistics units. They are all in
7 place and ready for combat. As for the combat activities, themselves,
8 they take place on the very front-line which is in depth of the active
9 battalion, which is three to five kilometres. And as far as I know, not
10 a single brigade of the HVO was in the classical deployment for defence,
11 as is required by the rules of the JNA or any other army in the world,
12 which would have been 15 to 20 kilometres.

13 There is one more thing that I would like to correct. In settled
14 areas, in urban areas, that depth is very shallow and does not exceed a
15 couple of kilometres, for example. To be very concrete, the Soviet Army,
16 several divisions were defending Stalingrad along the depth of between
17 1500 and 1700 metres in settled areas.

18 Q. Let me stop you here for a second. Yesterday, you kept talking
19 about three to five kilometres, and granted we're not talking about the
20 JNA, we're not talking about having the JNA working alongside with the
21 Territorial Defence, we're not talking about the way it should have been
22 planned prior to the break-up of the former Yugoslavia. I understand
23 that. Now, how many documents have you actually read concerning the

24 various places to actually be able to give an opinion to the
25 Trial Chamber that the zone or the depth should have been anywhere from

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1 three to five kilometres? Because that's what you limited yourself to,
2 and the point that I'm trying to make is, when we're talking about
3 brigades, whether they were established properly, whether they were
4 manned completely. Given that many of them had professional JNA
5 officers, they would at least know, and I would have expected you to at
6 least tell the Trial Chamber, that the depth would have been anywhere
7 from 15 to 20 kilometres behind the confrontation line.

8 A. Yes, if an entire brigade would be lined up for defence, which
9 was not the case in the HVO. That would be a normal situation in any
10 normal operation.

11 Q. All right. So yesterday, when you were talking, you were talking
12 theory as opposed to what was really happening on the ground?

13 A. [No verbal response]

14 Q. You're shaking your head. That means a yes?

15 A. Yes.

16 Q. Okay. I have to make my record, so -- now, because -- let's go
17 to the next topic, which is control, because you've indicated --
18 yesterday, again this issue of control came up, and it was in your
19 testimony, and I believe I have it here on page 31 from yesterday. There
20 was a topic that came up on control, and you talked about it, and then
21 you said at one point, and it's at line 22, "control, in the military

22 sense." Okay? So -- and this is -- I guess I want to talk about a place
23 like Mostar.

24 When you say "control, in the military sense," you more or less
25 indicated that Mostar is the zone of responsibility of the commander of

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1 Mostar, right, or did I get that wrong?

2 A. Yes.

3 Q. Okay. And now -- and then you've indicated that if somebody
4 commits a crime, they would -- you would expect the civilian police to
5 act first, maybe inform the commander or have it go up the line. Now,
6 did you actually see anything -- any documents, and if so, if you could
7 give us a ballpark figure of how many, as to what exactly was happening
8 in Mostar, concretely?

9 A. I can't talk about that. I've not had such documents. As you
10 have seen, most of the documents are of a formal and legal nature. There
11 were orders and similar things.

12 Q. And it would be fair -- I mean, to be fair to you, because I
13 don't want you to think that I'm being unfair to you, you looked at the
14 documents, ones that were provided to you or that you searched for, that
15 you thought were necessary for the limited purposes for which you were
16 asked -- you were asked to render an opinion; correct? Based on your
17 remit, you acted accordingly?

18 A. Yes.

19 Q. All right. Now, I want to share with you one document, because I

20 want to go back and kind of link it up with the civilian aspect that
21 you've indicated, and perhaps you might be able to assist us. And the
22 document is 1D02006.

23 MR. KARNAVAS: It's two or three pages -- two pages,
24 Your Honours. I believe everybody has a hard copy. The witness may need
25 some help, Mr. Usher. We'll provide that to you. 1D02006.

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1 Q. You have a hard copy, sir, and it's in a language that you'll be
2 able to follow. It's in the binder -- one of the binders that we gave.

3 Okay. If you could look at that, and I would like everyone to
4 sort of spend a moment looking at it. It's dated 2 September 1993. If
5 we go to the second page, it's signed by Branko Kvesic. He's the head of
6 what would appear to be the Department of Interior, at least from the
7 letterhead, that's what we can glean from. I take it this is a document
8 that you have not seen.

9 A. No.

10 Q. Okay. Now, if we go through it, and I'm going to take some time,
11 from the first paragraph it says:

12 "Immediately after fighting broke out against Muslim armed forces
13 in the town of Mostar on 9 May 1993, and at the order of operation" --
14 "and at the order," I underscore that for everybody, "at the order of the
15 Operation Zone South-Eastern Herzegovina, a certain number of members of
16 the civilian police were engaged on the forward front-line."

17 Now, let me stop right there and ask a question.

18 It would appear from this document that whoever is in command of
19 the operations zone had the capacity at that time, at that place, to
20 issue an order for the civilian police to be mobilised to be at the
21 front-line.

22 MS. ALABURIC: [Interpretation] Your Honours, just one objection.

23 From what my learned friend has just read, it doesn't arise that
24 the commander of the operations zone had the power to issue an order on
25 mobilisation. He could only do that if the civilian police were to be

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1 subordinated to him.

2 MR. KARNAVAS: Your Honour, I don't want to quibble about
3 technique, but this can be done on cross-examination or redirect
4 examination. I am entitled to conduct my cross, albeit as nonsensical as
5 it may be to my colleague. But --

6 JUDGE ANTONETTI: [No interpretation]

7 MR. KARNAVAS:

8 Q. Now, from this an order is issued, an order of the
9 Operational Zone South-Eastern Herzegovina. I'm asking you: Do you
10 know -- and you can say yes or no. Do you know concretely whether the
11 commander of the operational zone or somebody within the operational zone
12 had the capacity, had the ability, had the right, had the power, to issue
13 an order for the civilian police to be at the line? Yes, No, Maybe, I
14 don't know, those are the universal choices.

15 A. I don't know. I can't answer that.

16 Q. We'll move on. We'll skip a number of paragraphs. We talk --

17 and then we go a couple of paragraphs. It says:

18 "On 10 June 1993, we issued an order," "we issued an order to set
19 up two police companies, the first company consisting of members of
20 Mostar Police Station and the 2nd Company consisting of members of the
21 police stations in Capljina, Citluk, Ljubuski, Grude, Posusje,
22 Siroki Brijeg, Neum, Ravno."

23 We can skip a paragraph, and then it says:

24 "The 1st Police Company, with a total of 120 members of the
25 Mostar Police Station, also joined by 60 members who had already been in

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1 combat for a month, took over the forward frontier at the location
2 Ricina Street, the Hit building, the glass building and Mali Park."

3 We go on:

4 "The 2nd Police Company was mobilised on 30 June 1993, was
5 engaged in active combat at several sections of the front ..."

6 And it goes on.

7 We'll move on to the next paragraph:

8 "In addition to a complete company, the Mostar Police Station has
9 engaged another 56 members at the following three locations ..."

10 And it lists them:

11 "And then 18 members since 10 July 1993."

12 Then it goes on:

13 "The Special Police Unit of the Mostar MUP Police Administration,

14 currently consisting of 23 members, was placed at Hotel Ero on 9 May 1993
15 and is holding the front-line in carrying out other combat tasks at that
16 location."

17 We'll skip one paragraph and then we'll start in sort of the
18 middle of the next paragraph, where it says:

19 "Bearing in mind that some of our units have been engaged since
20 fighting broke out in the town of Mostar and we do not have our own
21 forces or the capability to resolve this problem ourselves, it is
22 understandable that the problem of relieving units must be organised in a
23 different way and a long-term solution must be found. We would suggest
24 that you ask for a detailed report from the command of the defence of the
25 town of Mostar in connection with these problems to determine the number

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1 of troops and units needed at the forward defence line in the town and
2 determine a rotation schedule."

3 We'll move on a little bit. It says:

4 "The whole situation is made more difficult by the fact that over
5 200 policemen are providing physical security to facilities in the town
6 of Mostar alone, about which we have already informed you in our document
7 number," and it lists the number, "on 19 August 1993. It is well known
8 that public law and order, and the crime situation in our area, is very
9 complex. Mysterious murders are taking place, private property is being
10 stolen, the curfew is not respected. Public law and order are being
11 violated, and the civilian police are in charge of all this. These

12 problems were discussed at the HZ-HB government session, and it was
13 decided that these trends must be energetically curtailed. With this
14 report, we only want to draw your attention to the fact that so many of
15 our policemen are currently engaged in other tasks and we do not have any
16 strength to undertake any serious tasks in the sphere of security."

17 Then it goes on:

18 "At the order --" "at the order of the HVO Main Staff," and it
19 lists the number, "on 7 August 1993, we also set up the 3rd Police
20 Company made up of our employees from the area of Livno PU, Travnik PU
21 and Derventa PU. The company is engaged in the Blidinje area, where it's
22 carrying out all the tasks ordered. The duration for which this unit
23 will be engaged is not given in the order of the HVO Main Staff."

24 Now, Colonel, having shared this document with you, it would
25 appear at least from the document - I wasn't there, you weren't there -

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1 but at least from the document it would appear that the military is
2 commandeering or is taking away from the civilian authorities valuable
3 resources such as the civilian police. You know, I'm sure there was a
4 good reason, but nonetheless they were taking them and putting them on
5 the front-line or placing them in areas for military purposes as opposed
6 to civilian purposes. Would you not agree with me on that?

7 A. Despite everything, my answer needs to be reasoned.

8 I've been looking at this document. There were 200 policemen
9 securing the facility. That is also a police task, a civilian police

10 task, to secure facilities. The 3rd Company was in the Blidinje area.
11 As far as I know, the HVO were not there. They would have to secure the
12 road through Blidinje. The fact remains the military police cannot be
13 subordinated to the army in normal circumstances, whereas here I think
14 there is a document missing based on which the Ministry of Internal
15 Affairs, which is in charge of the police, gives a task to the police.
16 The military commander, himself, had no right to do that.

17 MR. KARNAVAS: Now, I'm told there's a mistake in the transcript.

18 Q. So you're saying that the fact remains that the civilian police
19 cannot be subordinated to the army. That's what you're saying; right?
20 That's what you said? I just want to make sure that the transcript is
21 correct.

22 A. Yes.

23 Q. Okay. And then you said "in normal circumstances." Would it be
24 fair to say, sir, since you haven't looked at the documents, you weren't
25 even asked to look at them, you haven't spent much time over there,

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1 you're not in the best position at this point in time to tell us whether
2 these were normal circumstances or not; isn't that a fact?

3 A. I can't say whether circumstances were normal or extraordinary.
4 I suppose there was a war going on in Mostar, so the circumstances could
5 be defined as extraordinary or exceptional.

6 Q. All right. So you cannot sit here with any degree of certainty
7 and say that the military did not order the civilian police to be

8 subordinate to it and to put it in the front-line; you cannot say that,
9 can you?

10 MS. ALABURIC: [Interpretation] Your Honours, I apologise --

11 MR. KARNAVAS: Your Honour, I'm entitled to the answer of my
12 question and I would object at this point to any interruptions. I
13 understand it hurts.

14 MS. ALABURIC: [Interpretation] No, it doesn't hurt at all. No,
15 Your Honours, it's not about hurting. I just want to draw everyone's
16 attention to the fact that my learned friend, Mr. Karnavas, has put
17 together his examination of Mr. Gorjanc as though Mr. Gorjanc were a
18 factual witness; whereas, in fact, Mr. Gorjanc never studied the
19 situation in Herceg-Bosna, nor indeed did we ever want to call him here
20 as a factual witness. He provided us with his opinions. He's here to
21 give us his opinions.

22 As for the specific situation in Bosnia-Herzegovina, this can
23 only be done based on documents that we have been showing him, and on
24 that basis alone. Therefore, I don't think we can outright discredit
25 Mr. Gorjanc simply because he doesn't know something about Herceg-Bosna,

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1 whereas he was not called to appear here in the first place as a fact
2 witness for Herceg-Bosna. Just to avoid a misunderstanding. That's all.

3 MR. KARNAVAS: If I -- if I may --

4 JUDGE ANTONETTI: [Interpretation] Hold on, hold on.

5 MR. KARNAVAS: If I may, please, just respond very briefly.

6 JUDGE ANTONETTI: [Interpretation] Yes.

7 MR. KARNAVAS: We can't have it both ways. You can't have him to
8 say, whenever it suits us, he's just here as an expert, and just moments
9 ago he's giving me answers as if he's a fact witness. Look at the
10 previous answer. And that's why I'm going back and saying that since he
11 hasn't studied the situation, hasn't read the documents, hasn't met
12 anybody, hasn't discussed it, he cannot, with any degree of certainty,
13 military or otherwise, tell us whether in that time, at that place, the
14 military was not subordinating and not taking away from the civilian
15 authorities its civilian police to do military tasks. He cannot say
16 that.

17 MR. STEWART: Excuse me -- go on.

18 MR. KARNAVAS: Your Honour, one at a time. I mean, somebody --
19 let's control the courtroom a little bit.

20 MS. ALABURIC: [Interpretation] Your Honours, I think my learned
21 friend Mr. Karnavas should not be meting out advice like that. We've
22 been here for over three and a half years. We know each other full well.

23 The witness never said anything like that. Nowhere in his report
24 does the witness claim that in Herceg-Bosna there was anything that was
25 going on or was not going on. When he addressed subjects that had to do

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1 with Herceg-Bosna, he stated in no uncertain terms, and, Your Honours, we
2 played close attention to that in terms of this opinion being provided
3 based on certain documents. Should anyone else come up with documents

4 indicating that there was no communication between Jablanica and Mostar,
5 then the witness can amend his opinion and give us a different one.

6 Another thing that I wish to draw your attention to is for our
7 military expert to be positioned in the same way as the OTP military
8 witness previously, and the witness I mean is Mr. Andrew Pringle. It was
9 clear as day that he was no factual witness, but that he was going to be
10 addressing certain documents from Herceg-Bosna and providing his opinions
11 based on his military background and on military theory. That was the
12 only thing that we expected Mr. Gorjanc to do, and that's the only thing
13 we wanted him to do. Therefore, I would like to have this examination
14 conducted in such a way as to take that into account.

15 MR. STEWART: Sorry. And I -- I didn't --

16 JUDGE ANTONETTI: [Interpretation] Ms. Alaburic --

17 MR. STEWART: I want to complement my lead counsel. I just raise
18 the question Mr. Karnavas says the witness is giving answers as if he's a
19 fact witness. We'd invite Mr. Karnavas to point precisely to where he
20 gives -- well, his co-counsel says --

21 MR. KARNAVAS: Page 69, page 69, line 8 to 16. He said he looked
22 at this and he began -- he looked at the document and he began giving
23 factual answers based on the document.

24 MR. STEWART: Well, that makes the point, because he says --

25 MR. KARNAVAS: The point is this --

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1 MR. STEWART: Excuse me. Control of the courtroom, Mr. Karnavas,

2 does require you, with respect, for a moment, please, to just let me make
3 my point and then you can make your point. It is my objection at the
4 moment, so if you would just sit down while I make my objection, then I
5 will sit down and you can answer it. That, I think, is the normal,
6 courteous way of dealing with it.

7 I've been looking at this document. There were two -- it's quite
8 obvious the witness is gleaning the information from the document,
9 working on the information from the document, not giving evidence as a
10 factual witness, not saying he was there, not saying he has any
11 first-hand knowledge. He's doing exactly what an expert witness should
12 do. After all, Mr. Karnavas has shown him and read through this document
13 to give him the material in the document on which he expresses his
14 evidence.

15 He is not giving evidence as a factual witness. We don't claim
16 he is, and he hasn't crossed that line.

17 JUDGE ANTONETTI: [Interpretation] I would like to take the floor,
18 I would like to say something, and I'm not talking about the substance,
19 but I would like to say the following: This is Mr. Karnavas'
20 cross-examination. Hence, in his line of questioning he expresses his
21 view and Mr. Prlic's view of -- on the issue of the civilian or military
22 police in Mostar. On the basis of document 1D02006, Mr. Karnavas is
23 asking questions to the expert witness, who is not a fact witness, as we
24 all know. Let us -- let Mr. Karnavas be.

25 Under the procedure, the party who summoned the witness is

1 entitled to ask new questions under redirect, so let's wait for him to
2 have completed his line of questioning to counter-attack, because you're
3 raising objections in front of the witness, who may or may not understand
4 the issue. And if he does, since this is your witness, he'll take your
5 side now.

6 Let me remind you that this is the Court's witness now, so I've
7 always said so. Let the one do the questioning do the questioning, and
8 after that, in your redirect, you take the floor to correct or change
9 slightly what has been said according to the answers.

10 This is a theoretical problem or a theoretical issue on
11 civilian/military police. For four years, we've been dealing with this
12 topic, so we're familiar with it. So it's interesting to know Mr. Prlic
13 and Mr. Prlic's counsel's view on this, and then you can intervene during
14 redirect, because we're wasting time, because what the Judges and
15 everyone else are interested in is to know whether the civilian police
16 and military police can or not be re-subordinated; if not, what are the
17 respective prerogatives of the parties?

18 This is what we're interested in, and we're not talking about a
19 discussion in which we're all bickering about a very simple problem,
20 which boils down to trying to find out what are the competences of the
21 civilian and military police, and perhaps the witness can help us out,
22 possibly.

23 Mr. Karnavas, proceed.

24 MR. KARNAVAS: Thank you, Mr. President.

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1 A. Your Honours, by your leave, I would like to say something.

2 I did not study the relationships within the HVO and between the
3 HVO and the authorities, so I can't tell you directly what was the
4 rapport between the military police and the civilian police, and so on
5 and so forth, but I can tell you in principle and answer your question as
6 to whether the military had any legal or any other jurisdiction over the
7 military -- over the civilian police. No, it didn't have, under all
8 military rules. However, if somebody who is superior in the chain of
9 command issues an order to the police, then the military can control it.

10 But let me add to that something else. In the doctrine of
11 All-People's Defence, the armed forces comprised everybody who carried
12 arms, and the police were the best-trained force and they were always the
13 first who joined the army to defend an area. I'm talking about the
14 civilian police.

15 I don't want to talk about this report, because I've not seen it
16 before and I can't be the judge of its regularity and legality. I can't
17 do that.

18 And I would like to thank you for allowing me this opportunity to
19 say this.

20 JUDGE ANTONETTI: [Interpretation] All right. Mr. Coric's
21 counsel.

22 MS. TOMASEGOVIC TOMIC: [Interpretation] Your Honours, I would

23 like to say that throughout your presentation, we received a different
24 interpretation in the earphones than what is written in the written
25 translation. You were using the English transcript, and you said that

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1 Mr. Karnavas was dealing with the civilian and military police and their
2 relationship. And in the Croatian version we received that it was about
3 the relationship between the military and civilian police, which was not
4 the topic of Mr. Karnavas' cross-examination.

5 I wanted to correct this. And that's why the witness started his
6 first sentence the way he did, because I presume that he heard the same
7 things I did.

8 JUDGE ANTONETTI: [Interpretation] Mr. Karnavas.

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

10 Q. Sir -- and I want to thank you for that explanation, because that
11 sort of makes my point. When you're discussing the All-People's Defence
12 and you're saying, in principle, what you're talking about is the way
13 that you were -- that you studied and that you taught, how things should
14 be between the military and the civilian authorities in the eventuality a
15 war broke out; correct?

16 A. Yes.

17 Q. And one would expect that when Yugoslavia broke up and Slovenia,
18 for instance, became independent, you didn't stop thinking the next day
19 as a Slovenian colonel with Slovenian doctrine; you were still thinking
20 like a JNA officer, although you were now part of the Slovenian armed

21 forces. Correct?

22 A. No. I must say that I was one of the founders of the Slovenian
23 doctrine. I immediately embarked on --

24 Q. Okay. So the next day you stopped -- you were no longer -- you
25 had no mindset of the JNA doctrine and now you were following a Slovenian

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1 military doctrine; is that what you're trying to tell us, sir? Because
2 what I'm getting to is this, and this is based on what you said
3 yesterday, that it would have been easier, to some extent, for armies to
4 be set up because they had a cadre of officers that were already trained,
5 they were all JNA officers, and I put to you, sir, that once Yugoslavia
6 broke up, they stopped -- they did not stop thinking like JNA officers.
7 They may have improvised, given the situation, but it was the doctrine
8 that you have been lecturing to us for the last day or two; correct?
9 That's the doctrine that they were supposed to be employing; correct?

10 A. I can say only that the way we were thinking was in consistence
11 with International Rules of Warfare, not only the doctrine. That
12 doctrine was just one part, and the Rules of Warfare are comprised by
13 that doctrine when the use of the troops is in question.

14 Q. And just let me conclude here. When you were asked to perform
15 this report of yours, and what we see is basically theory based on JNA
16 and All-People's Defence, you were not asked to look at any documents
17 that might be meaningful for us to understand what exactly was happening
18 on the ground; isn't that a fact?

19 A. Yes.

20 Q. All right. So when you say that "under normal circumstances," in
21 your previous answer, what you're really telling us is, This is the way
22 things should be because this is how we were taught, and this is de jure,
23 at least, how the military is supposed to function vis-a-vis the civilian
24 authorities; right?

25 A. Yes.

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1 Q. It would be fair to say that these are not normal circumstances.
2 This is a civil war in one of the republics of the former Yugoslavia,
3 where all sorts of things are happening that were not necessarily --
4 neither side or sides -- all the sides were not necessarily prepared for;
5 isn't that correct?

6 A. Yes.

7 Q. All right. So as you sit here today, you cannot say to us, with
8 any degree of military certainty, as an expert, that is, whether the
9 military on occasion, depending on the circumstances, depending on the
10 place, may have acted beyond its legal authorities and may have de facto
11 taken on authorities or used resources that would have been or should
12 have been under the auspices of the civilian authorities; isn't that a
13 fact?

14 A. I can't confirm. I can't say that.

15 Q. Just as you cannot confirm or just as you did not know, for
16 instance, that there was a military prosecutor operating at the time;

17 correct?

18 A. I didn't know that.

19 Q. And with that, sir, I want to thank you very much for coming here
20 and giving your evidence.

21 MR. KARNAVAS: I have no further questions, Your Honours.

22 JUDGE ANTONETTI: [Interpretation] All right. It's about time to
23 have a break. Let's have a 20-minute break, and we'll proceed with the
24 other Defence counsels.

25 --- Recess taken at 12.24 p.m.

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1 --- On resuming at 12.49 p.m.

2 JUDGE ANTONETTI: [Interpretation] Let's resume the hearing.

3 We had finished with D1. Let's proceed to D2, Counsel Nozica.

4 MS. NOZICA: Thank you, Your Honour. Good afternoon to everyone.

5 The Stojic Defence has no questions for this witness. Thank you.

6 JUDGE ANTONETTI: [Interpretation] All right. We've already
7 settled the case of D3. D4 now.

8 MS. TOMASEGOVIC TOMIC: [Interpretation] Thank you, Your Honours.
9 We are D5. No questions.

10 JUDGE ANTONETTI: [Interpretation] That's right, D4 had already
11 intervened, so that's D5. Now D6.

12 MR. IBRISIMOVIC: [No interpretation]

13 JUDGE ANTONETTI: [Interpretation] It's now the Prosecution's
14 turn. But before that, I would like to ask a question to the witness.

15 But perhaps my colleague will do that.

16 JUDGE TRECHSEL: No, it's an entirely technical matter.

17 The answer of Mr. Ibrisimovic has not been recorded in the
18 transcript, and I guess that it is, No questions. Is that correct,
19 Mr. Ibrisimovic?

20 MR. IBRISIMOVIC: [Interpretation] That's right, no questions.
21 Thank you.

22 JUDGE TRECHSEL: Thank you.

23 JUDGE ANTONETTI: [Interpretation] Witness, I have a question.

24 You talked about Stalingrad at a given stage. In your military
25 studies, in the training you attended, in the classes you received or

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1 gave, are you familiar with Stalingrad?

2 THE WITNESS: [Interpretation] I think so, yes.

3 JUDGE ANTONETTI: [Interpretation] So you're familiar with it, so
4 you know that in 1942, in Stalingrad, there were three lines of defence.
5 Then around July 17th, 1942-- why July 17th? Well, it's four days after
6 my birthday. That's how I know the date. So on the July 17th, 1942,
7 there was a fourth line of defence, and Stalingrad was held by the
8 Russians, by the 57th and 58th Soviet Armies. And for that fourth line
9 of defence, they had used 160.000 civilians who had been used to
10 strengthen the defence before the German Army, commanded by Paulus,
11 attacked these two Soviet armies.

12 Now, let's come back to the case at hand. We've learned that

13 sometimes the lines were strengthened by having people put at work to dig
14 trenches or just work within the defence lines. Now, according to what
15 you have learned, is it possible to use civilians, as the Soviets did in
16 Stalingrad, to strengthen the defence lines?

17 THE WITNESS: [Interpretation] According to views that prevailed
18 in the former Yugoslavia, this was something that was done by so-called
19 work obligation units. These were temporary units set up to perform such
20 tasks. Nevertheless, it was never envisaged for them to be used during
21 actual combat operations. As far as I know, at Stalingrad this was used,
22 at least in part, during actual combat.

23 JUDGE ANTONETTI: [Interpretation] All right. So you say that
24 civilians can be used for non-combat activities. Okay, I take note of
25 what you say. But if you have a front-line in which nothing is

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1 happening, with the occasional firing without anyone knowing where they
2 come from, according to you, in military terms, is it a combat zone by
3 which the use of civilians is prohibited; or is it so that if the area is
4 quiet, the defence can be strengthened by using non-military staff to dig
5 or remove rubble, whatever?

6 THE WITNESS: [Interpretation] As a matter of principle, this
7 should not be done, not along the front-line.

8 JUDGE ANTONETTI: [Interpretation] So what you are saying is that
9 for the first line, it's not allowed. But for the lines which are more
10 in the back, is it possible?

11 THE WITNESS: [Interpretation] Further back, yes, unless the lines
12 are not taken by units or the units are to come later, then the civilian
13 workforce may as well jump in, as well as the civilian machinery.

14 JUDGE ANTONETTI: [Interpretation] All right.

15 JUDGE PRANDLER: Thank you, Mr. President.

16 I would only like to say that, for the record, that during the
17 Second World War, the Soviet Union was not a party to some of the
18 Geneva Conventions, number 1. And, number 2, that the 4th Geneva
19 Convention on the civilian population was not yet adopted. It was, of
20 course, as we all know, adopted in 1949. Thank you.

21 JUDGE ANTONETTI: [Interpretation] Mr. Kovacic.

22 MR. KOVACIC: [Interpretation] Your Honours, I think we have a
23 very serious mistake in the transcript, line 23. We still have that on
24 our screens. The response to your question was:

25 [In English] "Further back, yes, unless the lines are not taken

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1 by units or the units are to come later ..., " et cetera.

2 [Interpretation] The witness didn't say "further back, yes,
3 unless ..., " he said "specially, " so it should have been further back
4 "yes, especially the lines."

5 [In English] " ... yes, especially the lines, the lines -- if the
6 lines are not taken by units..., " et cetera. [Interpretation] It's
7 entirely different, the meaning.

8 JUDGE ANTONETTI: [Interpretation] All right.

9 Witness, you have received training and you lecture currently.

10 Now, in this context, I would like to ask you the question: As regards
11 prisoners of war, according to you, according to how you were taught,
12 according to the textbooks and the instruments which were in force at the
13 time in Yugoslavia, or even in Slovenia, for that matter, is it allowed
14 to use a prisoner of war for the purposes of work?

15 THE WITNESS: [Interpretation] POWs who are mere soldiers can be
16 used to perform labour, but not along the front-line. Captured officers
17 must never be used for these purposes, except, of course, if they happen
18 to volunteer.

19 JUDGE ANTONETTI: [Interpretation] So you are saying that
20 prisoners of war who are private soldiers can be used to perform labour,
21 but not along the front-line; but captured officers must never be used,
22 except if they volunteer. Can we infer from what you say, Mr. Expert
23 Witness, that the use of war prisoners is possible under the condition
24 that they're not on the front-line and that -- not exposed to a threat?
25 Is this what you are saying to us?

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1 THE WITNESS: [Interpretation] Yes.

2 JUDGE ANTONETTI: [Interpretation] Was this taught in military
3 academies in Yugoslavia?

4 THE WITNESS: [Interpretation] Yes.

5 JUDGE ANTONETTI: [Interpretation] Is it still taught currently,
6 presently?

7 THE WITNESS: [Interpretation] I couldn't say. I have been away
8 from the teaching within the army for about ten years.

9 JUDGE ANTONETTI: [No interpretation].

10 [Interpretation] Is it working now? It's working now, so let me
11 repeat the question.

12 I want to find out about what was taught in military academies in
13 Yugoslavia on some topics, such as the use of prisoners of war, and let
14 me finish the question. Earlier on, this question was asked by
15 Mr. Karnavas, and this came up several times.

16 According to your training, you should have had a very high rank
17 within the Yugoslav Army, even end up as a general had all these events
18 not taken place; is this true?

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

20 JUDGE ANTONETTI: [Interpretation] Very well. So if I understand
21 you rightly, you had the best possible military training in a country
22 which was not in the Warsaw Pact and which, according to certain military
23 experts, was maybe the second armed force in the world?

24 THE WITNESS: [Interpretation] As far as I know, for a while it
25 was ranked as fourth in Europe, in terms of the number of military

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1 conscripts actually in the units, not in terms of the actual fire-power.

2 JUDGE ANTONETTI: [Interpretation] Your answer has now been
3 written in the transcript.

4 Madam Prosecutor, I will also greet you and give you the floor

5 for the beginning of your cross-examination. The Court has given
6 six hours to the Prosecution for its cross-examination.

7 MS. WEST: Good afternoon, Mr. President, Your Honours,
8 Ms. Alaburic.

9 Cross-examination by Ms. West:

10 Q. Good afternoon, Mr. Gorjanc. Before we get into the substance of
11 your report, the first thing I want to be clear about is the method by
12 which you wrote the report.

13 Do you have your report in front of you?

14 A. Yes.

15 Q. In paragraph 1 of your report, you wrote that you were told that
16 you were not expected to produce an expert report of a factual nature,
17 but that an expert opinion would be requested about certain events, "on
18 the assumption that information contained in documents that would be
19 shown to me is correct."

20 Sir, so my question is: In your report, did you note, in the
21 body of your report, the documents that were shown to you?

22 A. Yes.

23 Q. So the reason I ask is, if you look from about page 1 to about
24 page 25, and this is the part of your report in which you talk about a
25 wartime army, in that part of the report I only saw about three

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1 footnotes. Is that because you only referred to three sources?

2 A. For the most part, I refer to my background and my long

3 experience of training and in military schools. I'm not so much talking
4 about specific documents. This is a general chapter.

5 Q. So we should understand that any place in this report where it is
6 un-cited, where there is no footnote, the source of that knowledge is
7 coming from your experience and your training?

8 A. Yes.

9 Q. Is it also correct to say that any of the documents upon which
10 you based your report, then, are all footnoted in your report?

11 A. Yes.

12 Q. Very good. Now, much of the questions that I will ask you over
13 the course of all of tomorrow, at least, will rely on the same technique,
14 in that I'm going to show you a document, I want you to assume it to be
15 true, because it will be very likely you've never seen the document
16 before. I want you to assume it to be true, and then I will follow up
17 with a question about it. But before we get there, I'm going to ask you
18 some questions of a general nature.

19 Now, I understand during the course of these events, at least in
20 1991, you had joined the Slovenian military. Correct?

21 A. Yes.

22 Q. But nonetheless, from 1991 to 1995, you were aware of generally
23 the events going on in the former Yugoslavia, in places other than
24 Slovenia?

25 A. Yes, I was following that for personal reasons.

1 Q. So, for example, were you familiar with the fact that the
2 Republic of Bosnia-Herzegovina was recognised by the European community
3 as an independent state in April of 1992?

4 A. Yes.

5 Q. And were you also aware that it was admitted as a member state to
6 the United Nations in May of 1992?

7 A. Yes.

8 Q. Were you familiar with the fact that in November of 1991, the
9 Croatian Community of Herceg-Bosna declared its existence? And I'm going
10 to quote here:

11 "... as a separate political, cultural, economic, and territorial
12 whole on the territory of Bosnia-Herzegovina"?

13 A. Yes.

14 Q. And, further, a little bit less than a year later, in August of
15 1993, that the entity then declared itself to be the Croatian Republic of
16 Herceg-Bosna?

17 A. Yes.

18 Q. Mr. Gorjanc, would you agree with me that neither the
19 Croatian Community of Herceg-Bosna nor the Republic of Herceg-Bosna was
20 ever recognised by the Republic of Bosnia-Herzegovina or the
21 international community as a state?

22 A. Yes.

23 Q. And would you also agree that beginning in April of 1992, that
24 the army -- the ABiH, Army of Bosnia-Herzegovina, was the armed forces of
25 the Republic of Bosnia-Herzegovina?

1 A. A part of the Republic of Bosnia-Herzegovina, no more. The Serbs
2 had their own army, the VRS.

3 Q. We'll move on to that. I'm going to ask you to look at your
4 second binder. You have two binders in front of you. One is bigger than
5 the other. The first one is the very big one. The second one is the
6 smaller one. You have it. That's the correct binder. There you go, and
7 you can open that up. And if you can look to P09276, which I believe is
8 the very first document in front of you. It's a map.

9 Okay. Sir, would you agree with me that in December 1990,
10 following the elections, that the area that you see in that map, the area
11 that is outlined in red and has been labelled "Bosnia-Herzegovina," every
12 bit of that area in red belonged to the Republic of Bosnia-Herzegovina?
13 Would you agree with that?

14 A. Yes.

15 Q. And now if you just go forward about a year to December of 1991,
16 that area, that area in red, remained exactly the same; is that correct?

17 A. Yes.

18 Q. And then if you go forward a little bit more to May of 1992, and
19 this would be after Bosnia-Herzegovina became an independent state and
20 also a member state of the United Nations, that red line that you see was
21 the internationally-recognised border of BiH?

22 A. Yes.

23 Q. Very good. And then at least until -- from that time at least

24 until the middle of 1994, that area within the red part remained the
25 sovereign territory of the state of Bosnia-Herzegovina?

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1 A. Yes.

2 Q. Now, similarly, at the time that it became a member state and
3 internationally recognised, at that same time would you agree with me
4 that the Government of Bosnia-Herzegovina was based at least primarily in
5 Sarajevo?

6 A. Yes.

7 Q. I'd like you now to look at P00476.

8 JUDGE ANTONETTI: [Interpretation] Wait a minute. I would like to
9 keep the map for a while to ask another question.

10 Witness, you have now the map in front of you, and I see on this
11 map that there is your country, Slovenia, and I see that between Bosnia
12 and Slovenia there is Croatia, with Zagreb. During the 1990s, the
13 students -- the Slovenian students who were close to the border, were
14 they studying in Zagreb or were they studying in Ljubljana?

15 THE WITNESS: [Interpretation] For the most part in Ljubljana, but
16 there were some who studied in Zagreb as well.

17 JUDGE ANTONETTI: [Interpretation] Right. Those who were living
18 close to the border, and I'm speaking about the former Yugoslavia in the
19 years 1990, what was the general, natural trend, to study in a major city
20 like Zagreb, for instance, or to study, because of republican criterion,
21 being in the Socialist Republic of Slovenia, would you stay in Slovenia,

22 or was this question never asked and there was no problem and one was
23 studying in Belgrade or Sarajevo? Was there a ethnical aspect or did
24 students go wherever it was interesting to pursue such studies?

25 THE WITNESS: [Interpretation] For the most part, the students

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1 were studying in Ljubljana because of the language barrier that existed
2 between Slovenia and Croatia. All of them would have completed their
3 secondary education in Slovenia in the Slovene language. One would study
4 in Zagreb or Belgrade, not so much in Sarajevo, not as far as I know, at
5 those universities that didn't exist in Slovenia for certain types of
6 profession.

7 JUDGE ANTONETTI: [Interpretation] Right. The reason I'm asking
8 this question, General Praljak told us that the students who are in
9 Mostar were going to study in Croatia, and that it was more natural to go
10 and study in Croatia than in Sarajevo, so I was trying to check what he
11 told us by your Slovenian example. So if I understand you rightly, you
12 are telling me that the linguistic factor was important, and due to the
13 fact that some people used the Slovenian language, they might have had
14 more difficulties to go elsewhere; this is the reason why they went to
15 study at Ljubljana. This is what I'm supposed to understand?

16 THE WITNESS: [Interpretation] Yes.

17 JUDGE ANTONETTI: [Interpretation] Right. Well, thank you very
18 much for these precisions. It was a question which could have escaped
19 many, and I explained why I asked it.

20 MS. WEST:

21 Q. Sir, if you could go to the other binder, the bigger one, and
22 we'll go to P00476. It's the third document. This is a document --
23 I think you had that there.

24 JUDGE ANTONETTI: [Interpretation] You probably made a mistake,
25 Madam Prosecutor. Yes, it is in the first binder, the third document of

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1 the first binder.

2 MS. WEST: Thank you, Mr. President.

3 So if everyone has that, that's P00476, and this is a document
4 from the same period of time. It's September of 1992, and it's a
5 decision from the Constitutional Court of the BiH.

6 Q. And in this document, they analyse an event upon which you've
7 already commented, which is the establishment of the Community of
8 Herceg-Bosna in November of 1991, and if you can see, that's number 1.
9 And they also review, if you look at number 5, the Decree on the
10 Armed Forces of the Croatian Community of Herceg-Bosna, among some other
11 documents. Now, at the very last page of this document, the Court comes
12 to an opinion, and the opinion is that the challenged documents do not
13 comply with the constitution and law.

14 Now, Mr. Gorjanc, would it be -- would it follow that here the
15 Constitutional Court declared Herceg-Bosna and its army to be illegal?

16 A. It arises from the document that that would be the case, yes.

17 MS. ALABURIC: [Interpretation] Your Honours, I would like to

18 state an objection for the record.

19 The fact that the Decree on Armed Forces was annulled does not
20 provide a basis for -- the basis for a conclusion that the HVO army was
21 supposed to be abolished as a result of that. I hope my learned friend
22 will take that objection into account.

23 JUDGE ANTONETTI: [Interpretation] [Previous translation
24 continues] ... so you can proceed.

25 MS. WEST: Thank you.

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1 Q. Mr. Gorjanc, would you agree with me that when it came to the
2 military doctrine at the time, it was the doctrine of the All-People's
3 Defence which was foremost in the mindset of the warring parties in the
4 Croat-Muslim war?

5 A. Yes.

6 Q. Indeed, that's the conclusion you come to in that section of your
7 report?

8 A. Yes.

9 Q. And on paragraph 40 of your report - you don't have to turn
10 there, you can just tell me if this is right - you wrote:

11 "In order to gain a more complete understanding of war events in
12 the former Yugoslavia, especially in Bosnia-Herzegovina, it is necessary
13 to be familiar with the laws and other regulations --" or, rather, "the
14 practice of the armed forces of the SFR of Yugoslavia upon which they
15 were based."

16 A. Yes.

17 Q. And so for our purposes, you would agree that for much of their
18 own doctrine and practice - you know, we'll apply it here to these
19 facts - the HVO and the ABiH, in your opinion, based much of their own
20 practice on SFRY doctrine?

21 A. Yes.

22 Q. And, for example, in paragraph 64 of your report - this is the
23 part of your report where you talk about the application of the
24 All-People's Defence - you actually cite the BH Constitution and note
25 that part of the BH Constitution was actually taken from the SFRY

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1 Constitution; correct?

2 A. Yes.

3 Q. Now, in your report you make several notations to the ABiH
4 execution of SFRY doctrine, whether it be All-People's Defence or other
5 doctrine, so is it your opinion, then, to be clear, that the HVO also
6 adopted the SFRY doctrine?

7 A. To a large extent.

8 Q. So are there some areas where the HVO did not adopt the doctrine
9 of the former Yugoslavia?

10 A. Yes, there are, there are some.

11 Q. And, specifically, we're talking about military doctrine. Can
12 you tell us, in a general way, what those areas are?

13 A. Well, you see, I did not study the doctrine of the HVO in such

14 great detail, so it's very difficult for me to say, as I sit here.
15 However, what I know, in general terms and from some documents, the
16 relationships within the HVO were not completely in compliance or,
17 rather, were not fully adopted from the Yugoslav doctrine, especially
18 when it comes to the relationship between the Supreme Command, the
19 Ministry of Defence, and the General Staff.

20 Q. But would you agree with me that the HVO adopted the doctrine of
21 complying with the International War Laws or in the Geneva Conventions
22 and the Additional Protocols?

23 A. Yes.

24 Q. Thank you. And if we look at P05496. I think it's in the binder
25 you're looking at right now, P05496. There you go. This is an HVO

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1 document. It's the "Official Gazette" of the Croatian Community of
2 Herceg-Bosna, and it's the declaration on the adoption of documents on
3 the protection and exercise of human freedoms and rights. And
4 specifically, sir, I'm going to direct you to number 3, where it lists
5 the Geneva Conventions I through IV and the 1977 Additional Protocols.

6 Mr. Gorjanc, this does not surprise you, does it, that the HVO
7 adopted those rules of war?

8 A. No, it does not.

9 Q. And if we can go to the second binder, 1D02447. It's 1D02447.
10 Thank you.

11 I'd like to look at this document. This is dated May 22nd, 1992,

12 and this was an agreement that was signed by some parties. It was at the
13 invitation of the Red Cross, and in it the parties came to discuss the
14 application of International Humanitarian Law. If you go through the
15 documents -- if you go to page 2, it talks about general principles, and
16 at the very top it says -- it speaks of the Geneva Conventions. And if
17 we go to the third page, it also talks about, under 2.3, a civilian
18 population and the convention that would be applied there. If you go to
19 the next page, 2.4 talks about the third Geneva Conventions and so on.
20 But the last page shows the signatures of several of the parties who were
21 there, one of whom represented the Croatian Democratic Community.

22 Would you agree with me, sir, that this would be an example of
23 what we spoke about earlier, which is that you're not surprised that the
24 parties adopted conventions regarding International Warfare Law?

25 A. Well, yes, I'm not surprised.

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1 JUDGE ANTONETTI: [Interpretation] Witness, Expert Witness, ever
2 since you have begun testifying we spoke about the Geneva Conventions,
3 and we have seen a certain number of documents, and the Prosecutor is
4 also showing you some documents, and I would like to know, owing to
5 experience, in what memories you may have, in the JNA was it explained to
6 soldiers what were the Geneva Conventions? I'm asking this question for
7 my own personal case. When I did my military service in the French Army,
8 I don't remember being told about the Geneva Conventions, so I would like
9 to know whether in your country, when soldiers, recruits, were arriving,

10 were they told about the Geneva Conventions, were they told what was the
11 content, or were they just told that, When you have a prisoner, you don't
12 kill that prisoner? Could you explain to me how it took place,
13 concretely?

14 THE WITNESS: [Interpretation] As part of the training of recruits
15 who were serving their compulsory military service, a lesson was
16 dedicated to the Geneva Conventions. The platoon or company commander
17 would deliver a lesson in that respect. It was only in the mid-1980s
18 that small booklets were distributed among the soldiers to give them the
19 basic guide-lines on the application of the Geneva Conventions.

20 JUDGE ANTONETTI: [Interpretation] Right. So you are telling me
21 that in the training of a soldier, there was one hour of conferences and
22 then they were given a booklet about this. All right.

23 According to the documents you had, could you check that at the
24 level of the HVO, the same was being done or not?

25 THE WITNESS: [Interpretation] I wouldn't know that. I was not

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1 familiar with the curricula for the training of recruits.

2 JUDGE ANTONETTI: [Interpretation] And yourself, when you joined
3 the Slovenian Army of the young republic, young republic to be, was it
4 immediately taught to the Slovenian soldiers? Were they given a course
5 of an hour or more on the Geneva Conventions?

6 THE WITNESS: [Interpretation] As the chief of the Training and
7 Education Department in the Republican Staff or, rather, the

8 General Staff, I was the creator of a curriculum that envisaged three
9 hours of training about that. Only later, I believe in 1994, the
10 booklets were distributed among the recruits, and at the moment the
11 professional soldiers receive the booklets immediately when they join the
12 army, and they are exposed to somewhat wider training and education, and
13 all the literature has been translated.

14 JUDGE ANTONETTI: [Interpretation] Why have you tripled the time
15 of training in Slovenia? In the JNA, you said it was one hour. Why did
16 you deem it necessary to move to three hours for the training or the
17 teaching on the Geneva Conventions? Is it because you think it's very
18 important?

19 THE WITNESS: [Interpretation] One of the basic reasons was the
20 fact that we wanted, from the very outset, to join the international
21 military integrations, primarily the Partnerships For Peace and NATO, and
22 that's why, even before the formal inclusion into those organisations, we
23 adopted their standards. The second reason was the fact that our
24 soldiers were familiar with the developments in the territories of the
25 former Yugoslavia. We wanted to dedicate more time to that subject.

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1 JUDGE ANTONETTI: [Interpretation] Thank you.

2 MS. WEST:

3 Q. Mr. Gorjanc, now let's turn to your report, and specifically the
4 part of the report where you write about All-People's Defence. And
5 that's paragraph 40 to 130.

6 You give your conclusion, I think the most succinct conclusion,
7 in paragraph 113, and there you wrote that:

8 "In practice, the entire population served the purposes of armed
9 combat."

10 So, Mr. Gorjanc, by your analysis of the war in the former
11 Yugoslavia, no one was a civilian as it related to All-People's Defence;
12 is that right?

13 A. Well, more or less, you're right. Only children were not
14 civilians -- or, rather, I mean they were the only ones that were not
15 considered soldiers, they were not.

16 Q. So the exception is children, then; right?

17 A. Yes.

18 Q. And what do you consider a child? Can you give me the age?

19 A. From the legal point of view, that would be the age of 16, which
20 was also regulated. However, in practical terms, when it came to
21 propaganda activities, that training also involved younger children,
22 children between the ages of 12 and 16. They were part of some form of
23 resistance. They didn't carry arms, but they were trained how to inflict
24 damage on the opposition's side in one way or another.

25 Q. So by application, when the HVO made arrests or detained people

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1 or isolated people, whether it was a soldier in the field with a gun or,
2 say, a woman in her 20s in her home, is it your opinion that the arrests
3 would have been justified under the All-People's Defence?

4 A. Well, yes, that would have been justified.

5 Q. Okay. So let's look at the documents upon which --

6 JUDGE TRECHSEL: Excuse me. I would like to complete your
7 question or to solicit an answer to -- what about old people? Is there
8 not an age limit and even men above that age limit would be exempt, would
9 not be regarded as -- could become civilians, to put it that way?

10 THE WITNESS: [Interpretation] Yes. Above the age of 65, in
11 formal and legal terms, they were civilians. However, some would still
12 take part in resistance.

13 JUDGE TRECHSEL: Thank you.

14 JUDGE ANTONETTI: [Interpretation] Expert witness, if my
15 recollection serves me right, there was a question asked to a witness
16 here on school. In the former Yugoslavia, during classes in primary or
17 secondary school, there would be military classes; that is, there was
18 awareness-raising among schoolboys or students on military issues. Can
19 you confirm this? On the basis of your experience in Slovenia, as a
20 child, were there gatherings or meetings during which you were told about
21 the army or given a wooden gun, you had to march, et cetera?

22 THE WITNESS: [Interpretation] While I attended grammar school, in
23 the seventh and eighth grades of grammar school, I had twice a week a
24 special subject, which was called "Pre-Military Training," and we also
25 studied the use of arms. Later on, when the curricula changed, that

1 subject was renamed and became "Defence and Protection." That subject

2 involved more theory, less practice, and a broader range of subjects.
3 And at all universities, an obligatory, compulsory subject, was also
4 Defence and Protection, but there was no practical training.

5 Moreover, in the mid-1970s we realised -- or, rather, the top
6 echelons of the power realised that young people who became students,
7 remained students for five or six years, were not best trained for armed
8 combat, and that's why we organised camps in the duration of two weeks
9 for all students after their first year at university, and in those camps
10 they received fundamental training as future soldiers.

11 Moreover, once a year in all companies, schools, local communes,
12 municipalities, and even at the level of a good part of the republic, we
13 had a manoeuvre or a military exercise that was known under the name
14 "Nothing Can Surprise Us." The basic goal of that exercise was the
15 protection of the population in case of attack, and it was also a good
16 way to check the preparedness of the units of the Civilian Protection,
17 the units of work obligation. However, the military units of the JNA did
18 not take part in that particular exercise or the string of exercises.

19 JUDGE ANTONETTI: [Interpretation] If I get it right, in the
20 Nothing Can Surprise Us programme, once a year there would be an
21 exercise. At university, the first year, there was a two-week training
22 for all students, but I suppose that in universities those students have
23 already come of age, they're over 18.

24 But I'm interested in minors at school, and you say that there
25 was this Defence and Protection programme in schools. Can we infer from

1 what you say that at school, minors had to attend this programme which
2 made them aware of military issues?

3 THE WITNESS: [Interpretation] Your Honours, no. Minors received
4 only some information about protecting themselves in case of an air
5 attack, a shelling, or similar things. The primary goal was protection.

6 JUDGE ANTONETTI: [Interpretation] So what you are saying is that
7 minors did not really have training? They just had advice in case of air
8 attacks, et cetera, but they would not take part in military activities,
9 military training?

10 THE WITNESS: [Interpretation] No.

11 JUDGE ANTONETTI: [Interpretation] Very well. Thank you. It is
12 important.

13 We only have a few minutes before we have to wrap up, two and a
14 half minutes, so I'm not sure you'll be able to ask a question in two
15 minutes and a half or if you prefer to proceed tomorrow. For once, we
16 have time.

17 MS. WEST: Mr. President, I would prefer to proceed tomorrow.

18 JUDGE ANTONETTI: [Interpretation] Very well. This is a wise
19 position.

20 Expert witness, as you know, you'll come back to the courtroom
21 tomorrow at 9.00 a.m. No contact with anyone in the meanwhile. I wish
22 you a very good remainder of the day, and I'll have the pleasure to be
23 seeing you tomorrow morning.

24 [The witness stands down]

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1 to be reconvened on Thursday, the 29th day of
2 October, 2009, at 9.00 a.m.

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