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1 Thursday, 29 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] Registrar, could you please  
8 call the case.

9 THE REGISTRAR: Good morning, Your Honours. Good morning to  
10 everyone in and around the courtroom.

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

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

14 This is Thursday, October 29, 2009. I would like to first greet  
15 all the accused, as well as all the counsels, the Prosecutor, who will  
16 carry on her cross-examination, as well as all of the other members of  
17 the OTP, as well as all those assisting us.

18 I understand Mr. Karnavas has something to say.

19 MR. KARNAVAS: Good morning, Mr. President. Good morning, Your  
20 Honours. Good morning to everyone in and around the courtroom.

21 Just a brief matter, and I'm speaking on behalf of the Defence  
22 teams that have to respond to the 92 bis documentary evidence motions

23 filed by the Praljak team. We are seeking a 15-day extension to respond  
24 to that.

25 I did mention it to the Prosecution. I don't know what the exact

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1 position is that the Prosecution will take. I understand they may wish  
2 to have some additional time as well, but I thought I would raise it at  
3 this point because I believe the dead-line is somewhat -- at the end of  
4 this week. The documents are rather voluminous, and we want to be rather  
5 careful to err on the side of caution, hence this request.

6 JUDGE ANTONETTI: [Interpretation] Mr. Scott.

7 MR. SCOTT: Good morning, Mr. President, Your Honours, all those  
8 in and around the courtroom. Good morning.

9 Your Honour, we don't -- the Prosecution has no objection to the  
10 request. In fact, I was going to raise this later today. But since  
11 Mr. Karnavas is on his feet this morning, let me say, in terms of the  
12 92 bis -- Mr. Praljak's 92 bis filing, the Prosecution has filed its  
13 response as of, I believe, yesterday, so that's been filed. However, as  
14 to the document motion, the 89(C) motion for the admission of documentary  
15 evidence, as Mr. Karnavas has indicated, it's rather voluminous. They're  
16 tendering approximately 390 documents, which obviously will take all the  
17 parties -- all the other parties some time to review. We would ask to  
18 have -- the Prosecution asks to have until the 16th of November to file  
19 its response to the 89(C) document motion, but we have no objection to  
20 Mr. Karnavas' request.

21           And while I'm on my feet, Your Honour, the other thing -- again,  
22 we were going to do this later today, but might as well do it all at one  
23 time. In the event that we might, it appears, finish the current witness  
24 earlier than perhaps might have been anticipated next week, it would be  
25 helpful for scheduling, presumably for the Chamber as well as for all

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1 parties, if the Petkovic Defence might indicate whether they would  
2 possibly then move the next witness up or if the next witness would still  
3 be coming a week from Monday. It would assist everyone in scheduling.  
4 If that could be clarified.

5           Thank you, Your Honour.

6           JUDGE ANTONETTI: [Interpretation] Ms. Alaburic.

7           MS. ALABURIC: [Interpretation] Your Honours, good morning to you  
8 and everybody in the courtroom.

9           Our next witness is General Ivan Beneta, an active officer. He  
10 has a lot of commitments. He was planned to be here on Thursday and be  
11 in the courtroom next Monday. We cannot change our plans, because only  
12 yesterday we realised that we might be finished with this witness today.  
13 So even if we wanted to very hard, we couldn't bring our next witness any  
14 earlier.

15           JUDGE ANTONETTI: [Interpretation] All right. First I'll consult  
16 my colleagues for a 92 bis and 89(C) --

17           JUDGE TRECHSEL: Ms. Alaburic, you have been translated as  
18 speaking about next Monday. I take it that you think a week after next

19 Monday; is that correct?

20 MS. ALABURIC: [Interpretation] Yes, that is correct. I was  
21 indeed talking about the week after next, and I believe that the date is  
22 6 November.

23 JUDGE TRECHSEL: Thank you.

24 MR. STEWART: Your Honours -- oh, fine.

25 [Trial Chamber confers]

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1 JUDGE ANTONETTI: [Interpretation] As regards the 92 bis motion,  
2 of course the Chamber has heard everyone, and authorises the request for  
3 the extension of the dead-line, in light of the voluminous documentation  
4 to be reviewed.

5 As to the Prosecution's request regarding 89(C), and taking into  
6 account the fact that there are 390 documents, the Chamber also  
7 authorises the extension of the dead-line and grants the time requested  
8 to the Prosecution.

9 The Chamber also notes that General Beneta, who is scheduled for  
10 Monday, the week of 9th November, will appear as scheduled on account of  
11 his numerous commitments. So no change with respect to the  
12 already-indicated Petkovic Defence planning.

13 Mr. Stewart, you're looking at me. Did you want to say  
14 something?

15 MR. STEWART: Yes, Your Honour. It's just that we've got a  
16 general problem here. There are several of us, I don't know how

17 widespread it is, who are simply not getting LiveNote. We've got it on  
18 this non-terminal, whatever you call it, but we're not -- we're not  
19 getting. So -- and it's that --

20 JUDGE TRECHSEL: No discrimination. Same here.

21 MR. STEWART: Well, I'm so very glad to hear it. I'm very sorry  
22 to hear that Your Honour is inflicted in the same way, but nevertheless  
23 relieved.

24 JUDGE ANTONETTI: [Interpretation] The technicians are taking the  
25 necessary steps.

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1 Mr. Kovacic.

2 MR. KOVACIC: [Interpretation] Good morning, Your Honours, and  
3 everybody in the courtroom.

4 Your Honours, I would like to seek clarification. I believe that  
5 there is a mistake in the record. In your decision, you are talking  
6 about extending the dead-line at the request of the parties for  
7 submitting a reply to Praljak's submission according to Rule 92 bis. The  
8 dead-line was yesterday, if I'm not mistaken, and the replies were  
9 already filed yesterday by the OTP, and the Prlic Defence filed theirs  
10 two or three days ago. I believe that this should not be part of that  
11 decision. We're only talking about extending the dead-line on the  
12 documentary motion. Maybe this should be clarified at this point, before  
13 we go any further.

14 MR. KARNAVAS: This is the motion from 15th of October. We have

15 filed something to the previous 92 bis statements, motions filed by  
16 Praljak, so this is related to that particular motion, and I don't see  
17 any concern or prejudice to the Praljak team.

18 JUDGE ANTONETTI: [Interpretation] For the Chamber, we're talking  
19 about the 15th of October motion.

20 Prosecutor, my greetings to you again. I give you the floor for  
21 the remained of your cross-examination. I would also like to welcome the  
22 expert witness.

23 WITNESS: MILAN GORJANC [Resumed]

24 [The witness answered through interpreter]

25 MS. WEST: Good morning, Mr. President, Your Honours,

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1 Ms. Alaburic, everyone in and around the courtroom.

2 Cross-examination by Ms. West: [Continued]

3 Q. Good morning, Mr. Gorjanc. Do you have your report with you  
4 still? Very good.

5 I just want to review a little bit of what we did yesterday just  
6 to make sure that we're all starting on the same page.

7 Yesterday, towards the end of the day, I asked you whether, by  
8 your analysis, in the war in the former Yugoslavia no one was a civilian  
9 as it related to the All-People's Defence, and your answer was, yes, but  
10 there were some caveats for children under 12 and the elderly, with some  
11 exceptions; is that right?

12 A. Yes.

13 Q. And then the second thing that I asked you, which is most  
14 relevant, is -- the question was:

15 "So by application, when the HVO made arrests or detained people  
16 or isolated people, whether it was a soldier in the field with a gun or,  
17 say, a woman in her 20s in her home, it is your opinion that the arrests  
18 would have been justified under the All-People's Defence?"

19 And to that, your answer was:

20 "Yes, they would have been justified."

21 Is that correct?

22 A. Yes.

23 JUDGE TRECHSEL: Excuse me, Ms. West. You said, and it's written  
24 like this, "by application." You didn't, per chance, "implication"?

25 MS. WEST: No, I meant "by application," but I suppose

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1 "by implication" would mean the same thing. Thank you, Judge Trechsel.

2 JUDGE TRECHSEL: Thank you.

3 MS. WEST:

4 Q. So what I would like to do this morning is look at the documents  
5 that support the opinion you gave in your report, and so I'd like to  
6 start at the group of people who would be men from 16 to 60. And in your  
7 report, at paragraph 14 -- I don't know -- you can go to this if you'd  
8 like, but in paragraph 14 you wrote that:

9 "All men liable for military service from ages of 16 to 60 were  
10 members of active or reserve forces of the armed forces."

11 Mr. Gorjanc, my question is: What is the source of 16-year-old  
12 boys being members of the armed forces?

13 A. In legal documents, it -- the age of 16 is not mentioned  
14 expressly anywhere in the documents. However, following the common  
15 practice, for example, in Slovenia, a person could volunteer as a member  
16 of the TO once he reached the age of 16. They had to undergo a certain  
17 form of training within the TO, and that would have been before they  
18 started their compulsory military service. Such practice did not exist  
19 in other republics. However, in secondary schools there was a subject  
20 called "Defence and Protection" or "Pre-Military Education," for some  
21 students even at the age of 16, and for a majority it started at the age  
22 of 17 and it was compulsory for everybody.

23 Q. Okay, so that's -- you wrote part of that in paragraph 59 about  
24 16-year-olds in Slovenia, but am I to understand, then, that you don't  
25 cite any article of the BiH documents, you don't cite any SFRY article,

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1 either, to support the notion that a 16-year-old would be a members of  
2 the armed forces?

3 A. It is not provided for by the law. However, all citizens who put  
4 up armed resistance or any other form of resistance are members of the  
5 armed forces, and a 16-year-old could also put up armed -- or, rather,  
6 any other resistance.

7 Q. Okay. So just to be clear, I understand that the way you're  
8 coming to the conclusion that a 16-year-old could be a member of the



9 armed forces is the fact that anyone, in any way, could participate to  
10 those purposes; it's not because you saw a document that said so?

11 A. You're right.

12 Q. Okay. But let's now look at a document. We're going to look at  
13 4D0 --

14 JUDGE TRECHSEL: Excuse me. If I may just ask a question to be  
15 more complete.

16 Do you have any document, any article, any source which says that  
17 a 15-year-old or a 12-year-old, who puts up resistance, that is to say,  
18 throws stones, for instance, therefore would not be also a member of the  
19 armed forces?

20 THE WITNESS: [Interpretation] There is no explicit legal norm to  
21 that effect. That was a constitutional provision pursuant to which  
22 anybody who puts up armed or other forms of resistance are members of the  
23 armed forces. I must admit that this was more for the political and  
24 propaganda purposes than real. That was within the context of the  
25 introductory video-clip that depicted Josip Bros Tito, who said that

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1 Yugoslavia could arm 8 million people at any one time, could have  
2 8 million people under arms at any one time.

3 JUDGE TRECHSEL: Thank you very much.

4 JUDGE ANTONETTI: [Interpretation] Witness, in paragraph 59, which  
5 you were questioned by the Prosecutor, there is a footnote 25 which I've  
6 just read, and you mentioned the case of a Slovenian politician - sorry

7 for the pronunciation - Jansa, who has had the rank of corporal as a  
8 young volunteer. Is this an example that you mention showing that this  
9 man, who had been a young volunteer, so less than an 18-year-old at the  
10 time, would have had the rank of a corporal as a young volunteer? I'm  
11 just trying to understand this footnote 25. You can take a look at it,  
12 if you want to.

13 THE WITNESS: [Interpretation] He joined the voluntary units of  
14 the TO at the age of 16, in the second grade of grammar school. He was  
15 very active in that unit, and before completing secondary education he  
16 became a corporal, which would be the -- at that time a rank of an  
17 officer rather than of a non-commissioned officer.

18 JUDGE ANTONETTI: [Interpretation] So using the example of that  
19 politician, what you are saying is that he joined the Territorial Defence  
20 at the age of 16? This is the case you mention?

21 THE WITNESS: [Interpretation] Yes.

22 JUDGE ANTONETTI: [Interpretation] Maybe that should help the  
23 Prosecutor.

24 MS. WEST:

25 Q. Mr. Gorjanc, I would like to go back to the question that

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1 Judge Trechsel asked you. It was whether you had seen any document  
2 suggesting that a 15-year-old or somebody younger than 16 could be a  
3 member of the armed forces. And in your answer, you did mention a  
4 document. You mentioned the Constitution; correct?

5 A. Yes.

6 Q. And in your report, the first mention of the Constitution is at  
7 paragraph 53, and I'm just going to read the short section from that.

8 Here you write:

9 "Each citizen who participated in the resistance to the enemy  
10 with arms, or in some other way, was deemed to be a member of the armed  
11 forces of the SFR Yugoslavia."

12 Now, this is from the Constitution of the former Yugoslavia, and  
13 you cite Article 240. Now, to focus in on this, the language is "in some  
14 other way." Should we understand that the theory you espouse, that  
15 people under the age of 16 or people over the age of 60 might have been  
16 in the armed forces, is sourced from that language, "in some other way"?  
17 Is that right?

18 A. No. Those could be all people who were not members of the TO or  
19 military units. It could have also been military conscripts, women in  
20 military units, or women not assigned to military units. In any case,  
21 this could be all civilians [as interpreted] who were putting up any  
22 other form of resistance but armed resistance.

23 Q. Very good. So let's go back to where we left off, and we we're  
24 going to talk specifically about the category of people, 16 to 60 men --  
25 16 to 16 -- excuse me, 16 to 60. And here you do cite a document. You

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1 cite 4D01030. So this should be in the binders in front of you, in the  
2 small binder in front of you. That's 4D01030.

3 MS. ALABURIC: [Interpretation] Your Honours, by your leave, just  
4 one correction in the transcript. I apologise to my learned friend West.  
5 I believe that it will be useful.

6 Page 16 reads that the witness said "all civilians," and the  
7 witness said "all citizens." He did not use the term "civilians," but  
8 rather the term "citizens."

9 MS. WEST:

10 Q. Okay. Mr. Gorjanc, this is the Decree Law on Compulsory Military  
11 Service. Now, this is the source of information -- and this is for the  
12 BH, so it's dated 1992. This is a source of information for when a  
13 people would have to go into the obligatory service, and the details that  
14 go along with that; correct?

15 A. Yes.

16 Q. All right. If we can turn to Article 11. In English, it's  
17 page 4, but it's Article 11. This is the article you cite in your  
18 report, indicating that recruitment for this compulsory military service  
19 begins in the calender year where a person reaches the age of 17;  
20 correct?

21 A. Yes.

22 Q. And if we could go down to Article 13, it's a continuation of  
23 that, and it even says in the case of imminent threat of war, that person  
24 may be recruited as early as 16; correct?

25 A. Yes.

1 Q. But if we can just back up to Article 4 a few pages before, I  
2 would like to look at that.

3 Article 4, paragraph 3, talks about this recruitment of men for  
4 the compulsory military service, but paragraph 3 says:

5 "... citizens of the BH who are fit for military service shall be  
6 subject to the obligations ..."

7 Would you agree with me, then, that there's an exclusion here,  
8 and this exclusion is people who are sick or unwell or who are otherwise  
9 unsuitable for training are not required to do this?

10 A. Yes.

11 Q. And right below that, it says "Chapter 5" in English, but I  
12 believe it's Article 5, right below it, it says:

13 "Women shall not be subject to recruitment or the obligation to  
14 complete compulsory military service," as well.

15 You would agree that's another exception to this rule?

16 A. Yes.

17 Q. Now, in your report, at paragraph 102, in regard to this  
18 Article 5, you wrote that women can volunteer for training. But,  
19 Mr. Gorjanc, would you agree with me that Article 5 actually limits that  
20 volunteering? It says:

21 "In peacetime, military training may be organised for women who  
22 volunteer..."

23 So it's only during peacetime that they can volunteer, not during  
24 wartime?

25 A. Yes.

1 Q. Okay. So at least from this document, we've now seen that with  
2 regard to your conclusion in the report that in practice the entire  
3 population served the purposes of armed combat, now at least has some  
4 exceptions, and those exceptions, and you can tell me if I'm wrong about  
5 this, those exceptions would exclude, for purposes of this document,  
6 anyone under the age of 16, it would exclude, for the purposes of this  
7 document, anyone older than 60, it would exclude the unfit, and it would  
8 also exclude women unless they volunteered during peacetime; is that  
9 right?

10 A. Yes.

11 JUDGE TRECHSEL: Excuse me. Mr. Gorjanc, I seem to detect a  
12 contradiction between Article 4, second subparagraph, and Chapter 5,  
13 which is probably also Article 5, the first subparagraph.

14 In Article 4, it says that:

15 "Female citizens shall be subject to compulsory military service,  
16 under the conditions set out in the decree."

17 And then in Chapter 5 or Article 5, it says:

18 "Women shall not be subject to recruitment or the obligation to  
19 complete compulsory military service."

20 I wonder whether there is a difference between "women" and  
21 "female citizens," or some other explanation.

22 THE WITNESS: [Interpretation] Women were subject to military  
23 obligation, but not to the obligation of being recruited, which was the

24 first level of military obligation. They didn't have to serve in the  
25 army as a compulsory service, but they were subject to military

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1 obligation from the age of 19 to 50, in keeping with their capability of  
2 performing tasks that would have a bearing on the preparation for defence  
3 and defence. We have to make a distinction between the obligation to be  
4 recruited and a military obligation as a whole.

5 JUDGE TRECHSEL: Thank you.

6 MS. WEST:

7 Q. Mr. Gorjanc, I want to talk to you about a principle of  
8 international war of which I'm sure you're familiar, and it's closely  
9 related to this idea of being unfit or unsuitable for fighting, and the  
10 term is "hors de combat." Are you familiar with that term?

11 A. Yes.

12 Q. Can you tell the Trial Chamber what that is? What does it mean?

13 A. As I understand the term, it means that the people it refers to  
14 are people who are not directly included in combat on the battle-field or  
15 up at the front-line facing the adversary.

16 Q. If we can look at P11072. That is in --

17 JUDGE ANTONETTI: [Interpretation] Expert, before we talk about  
18 "hors de combat," I would like to come back to the following issue  
19 because it's very relevant, in my view, to the issue of minors aged  
20 between 16 and 18. I must recognise that until now I had failed to grasp  
21 the scope of Article 13 and paragraph 3, and the Prosecutor asked you the

22 question -- a question about it.

23 When you look at Article 13(3), in case of war or the imminent  
24 threat of war, the Presidency, and I stress "the Presidency," not "the  
25 president," the Presidency of the Republic of Bosnia-Herzegovina may

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1 order the recruiting of persons aged 16.

2 Now, expert witness, can one say that in a particular wartime  
3 situation or in the case of an imminent threat of war in the BiH, the  
4 Republic of Bosnia-Herzegovina, a minor aged 16 or 16 and 1 week or half  
5 a year could be integrated into the army?

6 THE WITNESS: [Interpretation] Yes, by a special decision of the  
7 Presidency of the Republic of Bosnia-Herzegovina.

8 JUDGE ANTONETTI: [Interpretation] Very well. By this answer, I  
9 now ask a new question.

10 From your own point of view, your own point of view, a  
11 belligerent party who sees that a soldier from the other party and who is  
12 16 years old and, say, a fortnight, a week, is likely to present a  
13 threat, may he arrest him or isolate him in order to protect himself?

14 THE WITNESS: [Interpretation] Yes.

15 JUDGE ANTONETTI: [Interpretation] You are affirmative, you are  
16 positive?

17 THE WITNESS: [Interpretation] Yes.

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

19 JUDGE TRECHSEL: Excuse me. I would like to add a question to



20 this.

21 Do you know, Witness, whether a decision to that effect has been  
22 taken by the Presidency of Bosnia and Herzegovina; namely, a decision  
23 that young boys, adolescents of 16 years, have to do compulsory military  
24 service?

25 THE WITNESS: [Interpretation] I'm not aware of that, nor was I

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1 ever shown a document like that by the Defence team.

2 JUDGE TRECHSEL: In view of the answer you have just given to the  
3 President, do you think it makes a difference for the enemy, in view of  
4 boys of 16 years, whether this special possibility to call them to arms  
5 has been put into force or not?

6 THE WITNESS: [Interpretation] I think that the opposite side was  
7 aware of that, because the document was published in the official media,  
8 official government papers and gazettes.

9 JUDGE TRECHSEL: Excuse me. I find that a bit contradictory,  
10 because on line 19-20, you have said you are not aware that such a  
11 decision was taken. Now you presume that it is published. How does that  
12 go together?

13 THE WITNESS: [Interpretation] Your Honour, I think we  
14 misunderstood each other. I -- what I was saying was that I think that  
15 this provision was common knowledge, that it could be taken, a decision  
16 like that could be taken, not that it was actually taken. I can't say  
17 that it was taken. I don't know.

18 JUDGE TRECHSEL: And would you then say that the fact that this  
19 possibility existed justified the enemy in regarding any way boys of 16  
20 as members of the armed forces?

21 THE WITNESS: [Interpretation] Yes, referring to the provisions of  
22 the Constitution whereby each citizen has the right and duty to put up  
23 resistance.

24 JUDGE TRECHSEL: I'm not going to discuss this further, but thank  
25 you for the answer.

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1 JUDGE ANTONETTI: [Interpretation] Witness, we shall try and  
2 conclude on this.

3 During the 10 days' war, Slovenia and -- between Slovenia and the  
4 JNA, I shall not get into details, which you know better than I do, but  
5 do you know whether the Territorial Defence, which had become the Army of  
6 the Republic of Slovenia, had incorporated young boys of 16 or 18 years  
7 old -- from 16 to fight against the JNA during these 10 days?

8 THE WITNESS: [Interpretation] No, and the soldiers who were doing  
9 their military service at the time, that is to say, young boys who were  
10 19, did not take part in the war operations. They were removed from the  
11 theatre of operations.

12 JUDGE ANTONETTI: [Interpretation] And for what reason were they  
13 set aside?

14 THE WITNESS: [Interpretation] Because on the JNA side in  
15 Slovenia, some 2.000 soldiers took part, and on the TO side, there were

16 35.000 soldiers, well armed and very well trained and highly capable.

17 JUDGE ANTONETTI: [Interpretation] All right, I understand.

18 Madam Prosecutor.

19 MS. WEST:

20 Q. Mr. Gorjanc, just picking up on --

21 [French interpretation on English channel]

22 MS. WEST: We had the French translation.

23 Q. Mr. Gorjanc, picking up on the question posed by the President,

24 during the fighting in Slovenia did the JNA ever make any arrests of

25 people, other than the 35.000 soldiers you mentioned, other people who

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1 were in some way -- rather, in an unarmed way supporting the purposes of  
2 the Slovenian TO?

3 A. I have to put something right. The 35.000 soldiers were not  
4 captured by the JNA. On the TO, there were 35.000 people taking part,  
5 and the JNA did not capture a single civilian or soldier. Over 1.500  
6 members of the JNA were arrested, whereas the others were blocked and  
7 held in the barracks.

8 Q. Thank you, Mr. Gorjanc, and that's my mistake. I didn't intend  
9 that understanding.

10 What I'd like to know is whether the JNA ever arrested anyone who  
11 wasn't one of those 35.000 soldiers. Did they apply the theory of  
12 All-People's Defence, and did they -- in your opinion, would they have  
13 been -- would it have been legitimate for them to arrest, again, a young

14 woman in her home who is 20 years old and didn't carry a gun?

15 A. No.

16 Q. Okay. Let's go back --

17 MR. KOVACIC: [Interpretation] Your Honour, I do apologise, but I  
18 really think that when examining the witness, we should stick to some  
19 sort of order.

20 This is a hypothetical question. It's just like if you asked  
21 whether Eskimos need fridges or not. The situation during the war in  
22 Slovenia was quite different. The characteristics of that war was quite  
23 different from Bosnia-Herzegovina. In Slovenia, there weren't three  
24 sides, there were just two sides, and the war went on for two days, so  
25 this is nonsensical and just a waste of time. It's as if I were to ask

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1 the witness what he thinks about a Ferrari, is the back axis too short or  
2 whatever, and whether he could apply that to Bosnia. It's a completely  
3 unrealistic comparison, and I'm sure you know at least the basics of the  
4 disintegration of Yugoslavia within that framework, what the war in  
5 Slovenia was like and what its characteristics were, and you cannot  
6 compare it to Bosnia-Herzegovina. So to put forward a hypothesis of that  
7 nature is absurd.

8 Thank you. I said this to make it easier to relieve my thoughts.

9 Well, General Praljak can suggest something, and why not compare  
10 the conduct of the JNA in Vukovar and put forward that hypothesis?

11 But I apologise for taking the floor, but it's just nonsensical.

12 JUDGE ANTONETTI: [Interpretation] I think myself and my  
13 colleagues may disagree or not agree with you on everything you've said  
14 then; that political situations are different, we agree on that. But  
15 Madam Prosecutor, as I have understood, is trying to ask questions on the  
16 military plane, and she is starting from an assumption would the JNA, in  
17 the fighting situation opposing it to the Slovenian Army, did they arrest  
18 people, for instance, women, or not. But the question, which was as -- I  
19 asked it myself yesterday. Therefore, it's not a new question.

20 Therefore, it is in military terms that it is asked. The witness  
21 has answered, No, so there we are. We don't need to ask for the floor  
22 and spend five minutes on this matter, since Madam Prosecutor is asking  
23 the military expert a question which is military and which has to do with  
24 the behaviour of the JNA. And he is in a position of speaking about the  
25 JNA.

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1 Ms. Alaburic.

2 MS. ALABURIC: [Interpretation] I apologise to my learned  
3 colleague, but since we're dealing with the Slovenian example, and we  
4 know a lot of details about the war in Slovenia and that is why it is  
5 impossible for us to get to grips with the situation, the basic question  
6 was: Did the JNA, in the war in Slovenia, leave the barracks? That's  
7 the essential question. Perhaps the witness could tell us something  
8 about that, and then --

9 JUDGE ANTONETTI: [Interpretation] Ms. Alaburic, you have now

10 added to what has been said by Mr. Kovacic, but I don't agree with you.

11 Please continue, Madam Prosecutor.

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

13 Q. Sir, let's go to P11072. It's a small binder.

14 MR. STEWART: Your Honour, could I ask -- this doesn't seem to be  
15 in e-court because not all of us have been given binders. We only ever  
16 get one set of binders per team, so those of us that don't have the  
17 binders are reliant upon the stuff that comes up in e-court. I'm not  
18 getting this exhibit. We also still don't have LiveNote, so it's not the  
19 easiest morning.

20 MS. WEST: My apologies to Mr. Stewart. I'm sure it's being  
21 up-loaded right now.

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

23 MR. STEWART: Now my microphone is not working. This is a good  
24 day.

25 MS. WEST: I believe it's in e-court.

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1 MR. STEWART: I give up for the moment. It's on now.

2 No, I was going to say I don't know whether I'm the only person  
3 who has the handicap on the access to exhibits. I've got a hard copy, so  
4 my immediate problem is solved. If nobody else has the problem, we'll  
5 end the story, apart from the LiveNote and et cetera, et cetera.

6 MR. KOVACIC: Your Honour, since there was interruption anyway,  
7 I think it is not fair that we are now in trial without transcript in

8 e-court, and this example which my dear colleague Mr. Stewart mentioned  
9 also, it doesn't make for us possible to go into the e-court and see the  
10 document by ourselves. I mean, it is really difficult. No, we don't  
11 have it. No, we don't have it, Your Honour. Nobody here have it.

12 MR. STEWART: Sorry, if I could just say it -- to help --

13 MR. KOVACIC: Ms. Tomanovic, Ms. Pinter, I don't have it. She  
14 doesn't have it. Nobody has it.

15 MR. STEWART: Just trying to help, Mr. Kovacic. I've found that  
16 although the LiveNote is not working, the exhibits could be brought up in  
17 the normal way, but this particular exhibit is not there -- oh, it is  
18 now, is it? Ms. Winter is very quick with these things, so she's  
19 repaired that particular problem. Thank you very much.

20 MS. ALABURIC: [Interpretation] Your Honour, my associate has just  
21 told me that the document that Ms. West called up is on e-court, but  
22 under another number. 11073 is the number it's under in e-court.

23 MR. STEWART: That's an obvious solution, then, yes, thank you.  
24 Right. Not surprisingly, I went for the number that we were given.

25 MS. WEST: So, in fact, it is the number that they were given.

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1 There are two documents, 11072 and 11073, that look similar. So if we  
2 can go to 11072.

3 MR. STEWART: Sorry, that's the one I can't get. So 1173 is  
4 sufficiently similar, is it, that I can work from there?

5 MS. WEST: No.

6 MR. STEWART: Well, if it's not then I've still got the problem.

7 But I've got the hard copy. I don't know about others.

8 JUDGE TRECHSEL: The -- in fact, Ms. West, the document under  
9 number 11072 that we have in our file here bears, at the bottom, the  
10 number P11073, so there is a discrepancy. The paper has a different  
11 number, it seems, as compared to the electronic one. But I think  
12 everyone has it and we should go forward now.

13 MS. WEST: So if we can all just focus on the ICRC document  
14 regarding "hors de combat", regardless of whether it's 72 or 73. Do we  
15 all have that? There we go.

16 Q. So, Mr. Gorjanc, if we could go back to what we were speaking  
17 about earlier, which is the principle of "hors de combat," if you look at  
18 this document that you have in front of you, this is the Additional  
19 Protocol number 1, and it's Article 41, and it says, under number 2:

20 "A person is an hors de combat if: A, he is in the power of an  
21 adverse party; B, he clearly expresses an intention to surrender; or, C,  
22 he has been rendered unconscious or is otherwise incapacitated by wounds  
23 or sickness and is, therefore, incapable of defending himself."

24 Sir, would you agree that a person who is incapacitated by wounds  
25 or sickness, and is therefore incapable of fighting, cannot therefore be

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1 considered a member of the armed forces, even for the purposes of  
2 All-People's Defence?

3 A. Yes.



4 Q. So we've spoken about, so far, one group of members of the  
5 All-People's Defence who appear to be 16 to 60, they're men, and  
6 conventionally they would be soldiers on the field, but you write about  
7 other groups as well, and you write about five other groups. And let me  
8 list those, and tell me if this is correct. These other groups include:  
9 People involved in work obligation; secondly, people involved in the  
10 civil protection; thirdly, people involved in monitoring or information  
11 regarding enemy aircraft; fourth, people who had military training, and,  
12 fifth, people who are involved with intelligence, getting intelligence on  
13 the other side; is that right?

14 A. Yes.

15 Q. And so if we were to organise your notion of All-People's  
16 Defence, the first group would be the soldiers on the field, and these  
17 other people that I've just listed would be those who are unarmed and  
18 support the armed forces in other ways; is that right?

19 A. Yes.

20 Q. All right. I'd like to talk about each of those groups because  
21 I think those groups are the key for the purposes here. And the first  
22 are those involved in work obligation, and this is paragraph 72 of your  
23 report. You don't need to look at this, but there you wrote:

24 "All citizens capable of working who have turned 15 were subject  
25 to compulsory labour service."

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1 So under this first group, this would go as young as 15? This is

2 even below 16; correct?

3 A. Yes.

4 Q. And for these questions, I'd like to look at 4D00408. I believe  
5 that's in the second binder, the binder in front of you. And this is the  
6 decree that you cite in your report regarding work obligation, 4D00408.

7 Would you agree with me, when we're talking about these people --  
8 strike that. If you can go to Article 48, Article 48 of the decree.

9 A. May I see the Croatian text up on my screen, please.

10 Q. Do you have Article 48?

11 A. Yes.

12 Q. This is the article to which one would cite when they were  
13 looking for information about how young you could be for work obligation,  
14 and this article says:

15 "All able-bodied citizens older than 15 are subject to work  
16 obligation."

17 So, Mr. Gorjanc, would you agree with me this article  
18 specifically excludes those who are not fit; correct?

19 A. Yes.

20 Q. So when you spoke earlier about -- that in practice the entire  
21 population serves the purposes of the armed forces, this particular work  
22 obligation category is limited to fit people over 15; correct?

23 A. It does not refer to that in the sense of a work obligation --  
24 well, in the sense of work obligation, not in the sense of putting up  
25 resistance.

1 Q. Right. Right now we're speaking just of work obligation. So if  
2 we go to your report, in paragraph 72 you list a number of examples of  
3 what might be considered work obligation. You list building trenches,  
4 building shelters, building obstacles on the battle-fields, building  
5 fortifications, building roads. In this paragraph, you don't cite  
6 anything. Is this one of those examples of where your knowledge  
7 supporting your statement is based on your experience and not based on a  
8 document?

9 A. My assertions are based on experience and also on documents, the  
10 documents that I received from the BH Army when the population was  
11 engaged on trench-building and fortification-building for the needs of  
12 the army, and I attach that to my report.

13 Q. Yes, you did attach some BH documents regarding this, and we'll  
14 talk about those. But in regard to the list, you put a very fulsome list  
15 of things and tasks that work obligation would include. You didn't --  
16 you didn't also include a document that supported every one of those  
17 tasks that you listed; correct?

18 A. No.

19 Q. So now I want to go to your experience in Slovenia, because  
20 I think that is relevant here in regard to the All-People's Defence.

21 In the course of your experience during the war with the JNA, was  
22 the work obligation under the All-People's Defence ever employed?

23 A. Yes. Civil engineering firms, for example, were given the  
24 obligation to put up obstructions on the roads against the JNA, and for

25 fortification and other obstructions, but I don't think that there was

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1 any strict obligation by which citizens should be rallied together and  
2 taken off for work, such as in Bosnia, because there was no need for  
3 that.

4 Q. And is that because the war was so short?

5 A. [No verbal response]

6 Q. So just going to the next paragraph in your report, it's  
7 paragraph 73, and you further expand on the types of tasks that somebody  
8 in work obligation might do. Specifically, you talk about a delivering  
9 and distributing food, providing medical treatment, clearing up the  
10 terrain, and then you indicate that work obligation systems could also  
11 deliver ammunition and ordnance directly to combat positions on the  
12 battle-field. You specifically follow up with:

13 "This task was mostly performed by young or elderly men."

14 Mr. Gorjanc, there's no cite for this, so are we to assume that  
15 you've not seen a physical document that would indicate that the young  
16 and the elderly were to bring up ordnance to the front-line?

17 A. No, I have not seen such a document.

18 Q. Now, let's move on to the second group. We've just talked about  
19 the first of five, work obligation. If we move to civil defence or civil  
20 protection, which is the second group. It's at paragraph 77 of your  
21 report. But you still cite the document in front of you, which is  
22 4D00408, so let's stay with that. But if we can move to Article 71 of

23 4D00408. It's Article 71 that you cite describing what civil defence is,  
24 and this article says:

25 "Civil defence is an all-encompassing organisation, preparing and

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1 training citizens, administration bodies, businesses, and other legal  
2 entities for participation in non-armed resistance and for protection,  
3 rescue, and salvage of people and property from consequences of war,  
4 natural disasters, and other calamities."

5 In your report, you indicate that this civil defence in  
6 Article 70 applies to citizens between the ages of 18 to 60 for men and  
7 18 and 55 for women; is that correct?

8 JUDGE PRANDLER: Ms. West, it is only a question of having the  
9 article properly put here. You mentioned Article 71 twice, but actually  
10 what you quoted, it is from Article 70, 7-0.

11 MS. WEST: Judge Prandler, thank you for that correction.

12 JUDGE PRANDLER: Thank you.

13 MS. WEST:

14 Q. If we can move on to the ages, you indicated that it's 18 to 60  
15 for men, 18 to 55 for women, and for that you cite Article 50. So my  
16 apologies for making you move around this document, but if we could do  
17 that and go to Article 50 of the same document.

18 We see here, under Article 50, it does say men and women, between  
19 18 to 60 for men, and then it says -- at least in my English version it  
20 65 for women, and I assume that's gotta be a typo. But what I'd like to

21 focus on is the beginning of Article 50, it says "all able-bodied men and  
22 women."

23 Mr. Gorjanc, would you agree with me that this group, too, just  
24 like work obligation and just like compulsory military service, also has  
25 a limitation? It requires that the person be fit in order to be a member

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1 of the civil protection; right?

2 A. Yes.

3 Q. Did you see any ABiH documents supporting the theory that they  
4 were employing 18-year-olds and 16-year-olds for this type of civil  
5 protection?

6 A. No.

7 Q. Did you see any ABiH documents that support the notion that they  
8 were employing civil protection at all?

9 A. I did not see any such concrete documents. However, I could see  
10 in the media that fire brigades were active, as well as some other  
11 services of the civilian defence were also active.

12 JUDGE ANTONETTI: [Interpretation] Expert witness, I would like to  
13 tell you that I'm puzzled, not by what you're saying or the questions,  
14 but on the topic of civil protection units. Rightly, the Prosecutor  
15 stated that in civil protection there could be men and women. All right,  
16 this is what Article 50 states. But as far as you're concerned, these  
17 civilians in the civilian protection, can they be considered as members  
18 of the armed forces under the command of the army, or are we talking

19 about a civil entity under a civilian command; for example, the mayor of  
20 the municipality? Could you tell us, these civil protection units, which  
21 command authority -- which was their command authority?

22 THE WITNESS: [Interpretation] Civil protection units were under  
23 the command of the civil protection staff that was subordinated to the  
24 executive authorities in the territory, either the Assembly or the  
25 Executive Board of the Assembly. I can't tell you anything else about

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1 the rest of that system.

2 JUDGE ANTONETTI: [Interpretation] Which means that, in a  
3 particular location, women were asked to collect stones and put them on  
4 the road - this is just an example - this was not requested by the  
5 military authority but by the civilian authority, the municipality or --  
6 requesting this?

7 THE WITNESS: [Interpretation] Work obligation units were  
8 activated as part of the authority of the civilian authorities, at the  
9 request of the military bodies.

10 JUDGE ANTONETTI: [Interpretation] Let me specify the question.

11 Let's take a theoretical example. Let's imagine -- it must have  
12 happened, but I do not have a specific case to mention, but let's imagine  
13 there is a group of women placing stones on the road, and they are shot  
14 at by the enemy, and a few women get killed. Now, under Slovene law,  
15 would these women be eligible for military pension, hence they would be  
16 considered as military, or were they considered as civilians and placed

17 under a civilian social security scheme?

18 THE WITNESS: [Interpretation] As a matter of fact, they were  
19 civilians under work obligation, and their responsibility falls onto  
20 those who placed them as a work unit within the reach of the enemy fire,  
21 within the fire range.

22 JUDGE ANTONETTI: [Interpretation] All right.

23 Go ahead, Prosecutor.

24 MS. WEST:

25 Q. I'd like to move on now to the third group that you wrote about,

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1 and this would be the group for monitoring and -- the Monitoring and  
2 Information Service. It's paragraph 80 of your report, and here you  
3 specify that the primary task of this service is monitoring the  
4 air-space. And in regard to the decree in front of us, you cite  
5 Article 91. At this point, we don't need to go to that, but my question  
6 for you is: In this group of your report, you don't cite any ABiH  
7 document evidencing that the ABiH were utilising this form of  
8 All-People's Defence. Is that because you did not see a document like  
9 that?

10 A. No, I've not seen any such thing in any of the documents.

11 Q. And if we look specifically to your paragraph 81, and I'll just  
12 read this out:

13 "These monitoring crews consist of elderly or young persons of  
14 both sexes who are not assigned to units of the armed forces or civilian



15 protection units."

16 Mr. Gorjanc, what is your source for that information?

17 A. The source for that information are several BiH Army documents  
18 whereby the local population was ordered to provide security for the  
19 villages, whereas the local population that was not armed could only  
20 carry out the task by way of observing the situation. So they could act  
21 as observers.

22 Q. Mr. Gorjanc, you don't even footnote this entire section. It  
23 consists of two paragraphs, and there's not one footnote. So these  
24 documents that you wrote -- excuse me, you just said the source of that  
25 information are several ABiH documents. You don't note them here, do

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1 you?

2 A. Not in this part. However, they exist in some other parts within  
3 that context.

4 Q. Just so I understand, do you mean they exist in some other parts  
5 of the report or they otherwise exist?

6 A. Yes, they exist, and I have noted them in my report.

7 Q. Sir, I don't want to belabour this, but can you tell me where in  
8 your report you noted those documents?

9 A. Well, you'd have to bear with me while I search.

10 One such document is on the following page, 4D01475. You have it  
11 as well.

12 Q. And, in fact, we're going to speak specifically about that

13 document, so we can wait a few minutes and we'll get there. But besides  
14 that document, is there another one that supports this notion of  
15 Monitoring and Information Services?

16 A. No, I don't have any such documents, but I base my claim on the  
17 fact that the BiH Army engaged population to provide security for the  
18 units in the settled areas, and the settled areas themselves.

19 Q. And is that something you took from the media, or how do you know  
20 that?

21 A. Well, I would say it's more from the documents of the BiH Army,  
22 reports, orders, and the reports of particular commanders.

23 Q. Let's move on to the fourth group, and you entitled it "Training  
24 and Acquiring Skills for Defence." And that's paragraph 82 of your  
25 report. Mr. Gorjanc, I was a little bit confused about this group,

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1 because this -- this group talks about people who had training. Are you  
2 specifically suggesting that the fact that a group of people had  
3 training, but didn't do anything else, was somehow supportive for the  
4 purposes of the armed defence?

5 A. Yes.

6 Q. Can you explain that to us?

7 A. Well, training for putting up resistance, and not only for  
8 putting up resistance, but also for protection, for logistics and supply  
9 of both armed forces and the population in a war zone, in my view, all  
10 that is instrumental to the organisation and putting up resistance.

11 Q. All right. But if somebody is just trained and they do nothing  
12 else than, in fact, just be trained, how is that instrumental to the  
13 organisation and putting up resistance?

14 A. Well, amongst other things, they also are trained to put up  
15 resistance.

16 Q. Mr. Gorjanc, this part of your report is one paragraph long.  
17 It's paragraph 82. There are no cites. Did you see any ABiH documents  
18 evidencing that they were employing this part of the All-People's  
19 Defence?

20 A. I saw only the decree law, according to which the right and duty  
21 for training for defence is something that has to be done by everybody  
22 from the ages of 15 and 65 in order to acquire skills for defence and  
23 military training. And when it says "military training," I also imply  
24 training for putting up resistance.

25 Q. Let's move to the last category of these unarmed forms of

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1 resistance, and this is your paragraph 83, 84, and 85. It's the  
2 intelligence activity by citizens. And I'll just summarise, and you tell  
3 me if this is right.

4 This is an obligation to provide any information or importance  
5 for defence that the citizen might observe or see? It's basically  
6 intelligence information; correct?

7 A. Yes.

8 Q. And in paragraph 84, you wrote that the special obligation to

9       which all citizens are subject, regardless of age and sex, so this was  
10       sort of like a catch-all group; correct?

11       A.    Yes, that would be everybody.  Everybody could have intelligence.  
12       A child could become aware of the imminent approach of the enemy and  
13       inform about that.

14                JUDGE ANTONETTI: [Interpretation] Witness, I'm listening to you,  
15       and you're saying that even a seven-year-old can provide information.  
16       Listening to you, I wonder if, on that basis when there is a war, there  
17       are no civilians any longer, only military people, because what can  
18       happen?  If a warring party realises that the civilian are providing  
19       intelligence to the other party, they will deem them or consider them  
20       spies and arrest them or even execute them right away.  So under that  
21       theory, there are no civilians any longer, everyone's a military man; yes  
22       or no?

23                THE WITNESS: [Interpretation] Yes.  I've claimed that all the  
24       while.  All citizens have the right and obligation to put up resistance.

25                JUDGE ANTONETTI: [Interpretation] All right.

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1                JUDGE TRECHSEL:  Just to add, that would also apply to disabled  
2       persons?

3                THE WITNESS: [Interpretation] No.

4                JUDGE TRECHSEL:  I do not understand.  Why can't someone who has  
5       lost a leg and is walking with a limp and makes observations on enemy  
6       movement, why should he not be under an obligation to inform?  I see no

7 logic in that limitation.

8 THE WITNESS: [Interpretation] Your Honour, you're absolutely  
9 right. It was my mistake. My answer was hasty. I spoke too soon.

10 JUDGE TRECHSEL: You probably thought that the blind man is not  
11 obliged to tell what he sees.

12 MR. STEWART: Your Honour, may I observe -- please don't take  
13 this too critically, but it happened yesterday. This is an example of  
14 what we mentioned yesterday, that, in fact, Your Honour's question was  
15 leading. And I'm not objecting to it being leading, I'm just observing  
16 that it is. So when you said, "Just to add that would also apply to  
17 disabled persons," it's another example of what we had yesterday. Of  
18 course, a witness is going to inclined very readily to agree with such a  
19 suggestion put in that form from a learned Judge. It's been cleared up  
20 here, but it's just a feature of the way in which witnesses do respond to  
21 Judges' questions. But it's not an objection to the form of the  
22 question. It's just an observation of the way it works between Judges  
23 and witnesses.

24 JUDGE TRECHSEL: Yes. It's not the first time, of course, that  
25 this comes up, and so far Judges have not accepted that their questions

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1 must be in a particular form. We take the liberty and ask the questions  
2 the way we think is most expedient.

3 MR. STEWART: It's not for me to deprive Your Honours of any such  
4 liberty.

5 MS. ALABURIC: [Interpretation] Your Honours, as we are discussing  
6 the further course of the cross-examination, I would like to draw your  
7 attention to the fact that there is a difference between the category of  
8 an armed soldier and the category of another member of the armed forces  
9 who will put up resistance in a different way. The two categories,  
10 again, are distinguished from civilians. We all the time are saying that  
11 civilians and a member of the armed forces are one and the same, and I  
12 believe that this could lead to a major confusion and that at the end of  
13 the day we'll not be able to understand what the witness is saying.  
14 Let's be very precise, both in the questions and the answers, when we are  
15 talking about the categories of the members of the armed forces, whether  
16 they are soldiers or other members of the armed forces.

17 That would be all, and that would be by way of explanation.

18 JUDGE ANTONETTI: [Interpretation] All right.

19 Witness, I wanted to say this to you: When you're asked a  
20 question by a Judge, if -- there are five Judges. If I say to you, for  
21 example -- if I put to you, There are five of us, don't hesitate to  
22 answer, No, no, there's not five of us, there's four of you. So please  
23 try and remain independent when asked a questioned by a Judge. I invite  
24 you to say "no." It's not because a Judge asked you questions I have to  
25 say, Yes, because we really need a contradictory debate.

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1 Have you understood my point?

2 THE WITNESS: [Interpretation] Yes.

3 MS. WEST: Your Honours, if I could --

4 JUDGE ANTONETTI: [Interpretation] All right.

5 MS. WEST: If I may take a moment here as well.

6 I am certain that Ms. Alaburic's comments were only to make  
7 things more understandable and expedient, but I would just caution the  
8 Court that any time counsel makes statements of a factual nature, that is  
9 not evidence in this case. Now, this is a perfect example where this  
10 witness is a military expert about this very question. If there is any  
11 confusion, it should be coming from his mouth.

12 Thank you, I'll proceed.

13 Q. Sir, before we stopped, we were talking about intel information  
14 or intelligence information, and paragraph 84 is where you wrote that  
15 there is a special obligation to which all citizens are subject,  
16 regardless of their age and sex. Now, you do not cite that. Have you  
17 ever seen an ABiH document indicating that they employed this part of the  
18 All-People's Defence?

19 A. My conclusion is again based on a general constitutional  
20 provisional that all citizens participate in resistance.

21 Q. Okay. At the bottom of this section, it's paragraph 85 where you  
22 talk about -- in this case, you talk about neighbours, relatives, elderly  
23 persons, women, and even children for information-gathering. You include  
24 those groups. You then do cite at this point an ABiH document, and this  
25 is the document to which you have referred a couple of minutes ago. So

1 I'd like to go to that document. It's 4D01475. It's in that same  
2 binder, the small binder. And you're familiar with this document, sir.

3 This is an order -- an ABiH order to intensify intelligence  
4 activities in the 3rd Corps. And if we look at that document, I think  
5 what you were focused on was number 2, which is:

6 "Engage the intelligence organs primarily in organising and  
7 gathering of information on the aggressor's forces, activities, and  
8 intentions. And as a special task, maintain connections with our  
9 structures and sympathisers in temporarily occupied territory."

10 Mr. Gorjanc, this word "sympathisers," is this the source of your  
11 information that neighbours, relatives, elderly persons, women, and even  
12 children were used for information-gathering? Are those the people that  
13 you would consider sympathisers?

14 A. No, not only on that. That's just one of the documents. This  
15 document doesn't specifically talk about sympathisers, it doesn't say  
16 whether it is men, women, younger or older people. I base my conclusions  
17 on that.

18 Q. Mr. Gorjanc, I want to make sure I understand. You just said  
19 that it's not only that document, that's just one of the documents. So  
20 presumably you mean that there are other documents, but when you look at  
21 this section of your report, you only cite that document. Are you  
22 suggesting to the Trial Chamber that you base your opinion on other  
23 documents that you do not cite in your report?

24 A. I cited almost all documents that the Defence had made available  
25 to me. However, I did not deem it relevant to cite all the documents in



1 every place. I am not a legal professional and I didn't know that I  
2 should corroborate each and every claim of mine by a document. I believe  
3 that most of the claims are widely known, at least to us in the former  
4 Yugoslavia, and that most of them do not require any particular  
5 additional explanations.

6 Q. And so let's just look at your answer. You just said:

7 "I cited almost all documents that the Defence made available to  
8 me."

9 So are we to understand, when we look at your report and we look  
10 at the footnotes, almost all the documents that the Defence gave you to  
11 review in support of your theory are cited?

12 A. Yes.

13 Q. So, therefore, the only document in this entire section of these  
14 five -- these five groups that we've been talking about, the work  
15 obligation, civilian protection, training, monitoring of aircraft, and  
16 intelligence work, the only document that I can see from your report that  
17 could involve elderly or women or children is this document, 491475? So  
18 is this the document upon which you base your theory that women,  
19 children, elderly are part of the All-People's Defence ?

20 A. No. That document confirms only the fact that all citizens were  
21 duty-bound -- or, rather, that they were reckoned with when it came to  
22 intelligence activities on behalf of the armed forces or, rather, the BiH  
23 Army. Other claims are corroborated by other documents which I cited

24 elsewhere when I spoke about other things.

25 As far as I know, the engagement of work obligation units, as one

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1 part of this chapter, has been confirmed by two different documents.

2 MS. WEST: Mr. President, this might be a good place to stop.

3 JUDGE TRECHSEL: In connection with the issue of documents that  
4 you have based your report upon, I would like to know whether you had  
5 documents from other sources than the Defence or whether you, yourself,  
6 went out to investigate documents that you thought might be useful for  
7 the fulfillment of your task.

8 THE WITNESS: [Interpretation] For the first part, or especially  
9 All-People's Defence in the former Yugoslavia, I had my own documents.  
10 However, when I was asked about the doctrine of All-People's Defence in  
11 the territory in the war in Bosnia-Herzegovina, I asked for additional  
12 documents, which the Defence provided. Other documents, reports, orders,  
13 and other such documents is something that I was able to find on the web  
14 pages of General Praljak.

15 JUDGE TRECHSEL: Thank you.

16 MS. ALABURIC: [Interpretation] Maybe it would be useful for the  
17 witness to tell us how many documents there are on General Praljak's web  
18 pages. This would give you an insight into that database, and you would  
19 then be able to qualify this statement about the source of documents.

20 THE WITNESS: [Interpretation] I can't answer. I did not count  
21 them, but I know that I was perusing the site for weeks. I was maybe

22 even -- I would maybe glance at some of them to see whether they were  
23 relevant and move on. I believe that there were over 20.000 documents,  
24 all in all.

25 JUDGE ANTONETTI: [Interpretation] It's time for the break. Let's

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1 have a 20-minute break.

2 --- Recess taken at 10.30 a.m.

3 --- On resuming at 10.53 a.m.

4 JUDGE ANTONETTI: [Interpretation] We resume.

5 Mr. Scott, a specific point. A while ago, when you asked  
6 extending the time for the motions, 92 bis, in fact there have been three  
7 motions. The first concerns the admission of 155 declarations, and this  
8 is dated 14 September 2009. We have also 22 -- we had given an extension  
9 on 22 September for until the 28th October. And concerning this motion,  
10 which Petkovic, Prlic and Pusic Defence also filed their motions, and  
11 apparently yourself too, this is the first motion. The second has to do  
12 with the admission of four statements, 92 quater, and the time to answer  
13 was 28 October, and you have filed your response yesterday. And the  
14 third one is the request from the Praljak Defence concerning the  
15 admission of evidence -- documentary evidence, instead of the deposition  
16 of Vlado Djuric under 92 bis, and this is a motion of the 16th of  
17 October, with the possibility of answering the 30th of October. And to  
18 date, only yourself have filed a response.

19 So, Mr. Scott, when you requested an extension, for which motion

20 was that?

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

22 The request that we made was in response to the documentary  
23 motion. Mr. Praljak's Defence has recently filed a motion to admit 390  
24 documents by motion. That is the document -- excuse me, the motion upon  
25 which we request an extension to the 16th of November. The Prosecution

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1 has responded, so far as we know, to all pending 92 bis motions.

2 Thank you, Your Honour.

3 JUDGE ANTONETTI: [Interpretation] Very well. So this was a  
4 request for extension concerning the motion concerning Directive L-9.  
5 That's it, very well. So now everybody's understood.

6 MR. KOVACIC: Thank you, Your Honour. Now everything is clear.

7 And if I may so, as a moving party in the case of documentary  
8 motion, we do not certainly object on the Prosecution request to  
9 response, because we were in the similar situation in the Prosecution  
10 case and we were also granted a longer time. I don't remember how much,  
11 but considerably, but it is work -- it is a lot of work. Thank you so  
12 much.

13 JUDGE ANTONETTI: [Interpretation] Very well. Now we have  
14 clarified this problem.

15 Therefore, we shall now proceed, and, Ms. West, the floor is  
16 yours.

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

18 Q. Mr. Gorjanc, before we stopped, we were -- you had mentioned that  
19 you took about two weeks and you looked at the Praljak web site and there  
20 was 20.000 documents, so you have perused --

21 MS. ALABURIC: [Interpretation] Your Honour, just a correction.  
22 The witness didn't say "two weeks." He said "for weeks and weeks," which  
23 in our language means many weeks.

24 MS. WEST: Very good. So many weeks, lots of documents. Okay.

25 Q. So my question is: Of all the documents you saw, would you agree

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1 with me that it would make sense to put the best documents that you saw,  
2 the best documents that supported your theory, in your report? It would  
3 make sense to put the most persuasive documents in your report; is that  
4 right?

5 A. Yes.

6 Q. And, in fact, you did that; correct?

7 A. I did do that.

8 Q. And so just so that we're clear, as to these five groups we  
9 talked about of unarmed resistance, as far as I can see, there are four  
10 documents that you cite, four ABiH documents. I'm not talking about  
11 decrees or anything, but factual ABiH documents; is that correct?

12 A. Yes.

13 Q. So let's move on, Mr. Gorjanc. I want to turn our attention to  
14 some HVO documents, because I understand that in your report you did not  
15 include any HVO documents. And I want to look at them to understand

16 whether -- whether they may -- whether they relate or they don't relate  
17 to the theory that you've presented to the Court.

18 So the first document is P03133, and I believe it's probably in  
19 the bigger binder, the first big binder. 3133.

20 And, sir, this is a July 3rd, 1993, document. It's a report  
21 about the Heliodrom, and it talks about the people at the Heliodrom and  
22 what was going on there. But specifically if we go to the second page in  
23 English, and for B/C/S it's the one page, it's the paragraph that begins  
24 with:

25 "Checklists of persons younger than 18 and older than 60 have

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1 been made. They will be sent home with the consent of the Department of  
2 Defence."

3 And then it indicates that this is 82 people.

4 Mr. Gorjanc, would you agree with me that if these 82 people were  
5 sent home, just assume this document to be factually correct, they were  
6 sent home, they were likely not supporting the BH armed forces and were  
7 civilians, because otherwise they would not have been sent home; is that  
8 correct?

9 A. Yes.

10 Q. So we'll move to the next document. It's P03344.

11 JUDGE TRECHSEL: I'm sorry.

12 Witness, this document says these persons will be sent home. You  
13 have been asked whether they actually were sent home, and you said,

14 "Yes." How do you know that they actually were sent home? Do you?

15 MR. KARNAVAS: Your Honour, if you look at the answer, the answer  
16 was not whether they were sent home. He's not validating that. He's  
17 validating the reasons why they would have been sent home, if I'm -- if  
18 I'm correct.

19 JUDGE TRECHSEL: Well, "otherwise they would not have been sent  
20 home," is what I read. This clearly implies that they were, doesn't it?

21 MS. WEST: Your Honour, I'm sure that this is my inelegant  
22 question. I think Mr. Gorjanc and I understood each other, but my  
23 question was: Assuming they were sent home, so assuming that factual  
24 premise, they were sent home because they were civilians and not  
25 otherwise supporting the armed forces? And the answer was, "Yes." And

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1 so let's just do that again.

2 Q. Is your answer supporting my conclusion that they were sent home  
3 because they were civilians and not otherwise supporting the armed  
4 forces, not that they were sent home?

5 A. Yes.

6 MS. WEST: Judge Trechsel might --

7 JUDGE TRECHSEL: Excuse me for being meticulous. I sometimes am.

8 MS. WEST: Of course.

9 So if we could move to 3344, P03344. This is a July 9th  
10 document.

11 Q. And just to be clear, what I'm going to do is the same thing that

12 Ms. Alaburic did. I'm going to show you a number of documents. I want  
13 you to assume them to be correct, and then I will ask your opinion about  
14 them. So I'm not asking you factual questions. Just assume factually  
15 this is the correct information. I'm only asking for your opinion about  
16 these documents.

17 In this document, this is a list of persons detained at the  
18 Heliodrom who were interrogated, and there's several people listed here.  
19 And as you go through them, for example, number 2, at the bottom of  
20 number 2, it says -- whoever wrote this, this HVO person who wrote it,  
21 labelled them a civilian. Number 4, that person was born in 1932, so is  
22 fairly old; also labelled that person, at the end of the sentence, as  
23 civilian. Number 5 is labelled as civilian. Go to the next page. I can  
24 quickly see that 7 is a civilian, 10 is a civilian, 11 is a civilian, 12  
25 is a civilian. We get to 15; civilian as well; 16, civilian; 17,

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1 civilian. I'm going to stop there for a moment and focus in on 15 and  
2 17.

3 In these two cases, it indicates that these people -- 15 is --  
4 had work obligation in the mine of a dark -- in the mine -- a coal mine,  
5 "was a civilian," and 17, the last sentence is:

6 "He fulfilled his work obligation in the project, was a  
7 civilian."

8 My question, Mr. Gorjanc: Is it possible to be both, to be  
9 somebody who has a work obligation but also to be a civilian?



10           A.    This is a matter of interpretation, because if a person has a  
11 work obligation and is subject to work obligation, it's included in one  
12 way or another into the defence system. He's not a classical civilian,  
13 whereas here these people are being classified as civilians. Probably  
14 the notion of civilian here applies to somebody without weapons and not  
15 having been deployed in a unit, whether it be a BH Army unit or an HVO  
16 unit. So in that context, he would be a civilian. That's the  
17 understanding of "civilian" here, and that's how we understood it.

18           However, in legal terms, once again, following the constitutional  
19 provision and legal provisions on All-People's Defence, in actual fact  
20 every member is subject to work organisations and, as such, was a member  
21 of the armed forces; not a member of the army, the HVO or whatever, but a  
22 member of the term "the armed forces." That is what the laws dictate.

23           JUDGE ANTONETTI: [Interpretation] Expert witness, you are now  
24 putting us in a form of confusion. It's difficult to follow you, and I'm  
25 going to explain why things are getting confused.

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1           Starting from the document we have here, where one sees some  
2 people who are considered as civilians, let's say number 17, who had a  
3 work obligation in the Projektant, you say that since he has a work  
4 obligation, he is in the armed forces, because you refer to the concept  
5 of All-People's Defence.

6           Now, let's consider a civilian, a plain civilian, whoever, a  
7 lady, a woman, and under the terms of civilian protection she's going to

8 be asked, after a battle, to go and get the corpses, because the  
9 battle-field has to be cleared, and also, therefore, to take the killed  
10 soldiers, and she does so. She takes the bodies away, which are going to  
11 be transferred to the morgue and to a cemetery and so on. Is she a part  
12 of the armed forces? Because at the end of this work she is going to go  
13 back home and look after her children, and you say, no, she is within the  
14 armed forces, and there I just don't understand. What do you mean,  
15 exactly?

16 THE WITNESS: [Interpretation] Your Honour, the law deems  
17 everybody who puts up an armed resistance or resistance in any other way  
18 to be a member of the armed forces, but not a member of a unit. So  
19 following on from that legal provision, we can consider everybody who  
20 contributes to the defence is a member of the armed forces. The law also  
21 stipulates that all members of the civilian protection system have equal  
22 rights as are enjoyed by members of the armed forces, that is to say,  
23 members of the army, and all conscripts of work organisations, while  
24 they're doing their work assignment, enjoy the same rights that soldiers  
25 do in their units. So in that context, too, we consider those civilians

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1 to be, in a way, members of the armed forces, as a broad term.

2 JUDGE ANTONETTI: [Interpretation] Let me take an example.  
3 Imagine, in Mostar, that the wife of a military of the HVO, who is a  
4 mother with four children. Then the municipal authority tells her,  
5 Madam, you're going to retrieve bodies because there have been artillery

6 shelling and we need people to go to mop up the battle-field. So this  
7 lady leaves her children and goes to get the bodies. Then she comes home  
8 and she starts looking after her children. If I understand what you say,  
9 you consider that this woman is integrated in the armed forces?

10 THE WITNESS: [Interpretation] In principle, yes. However, I have  
11 to say that women with children under the age of seven were not subject  
12 to military obligations, and these were the bylaws. This was stipulated  
13 in the bylaws.

14 JUDGE ANTONETTI: [Interpretation] Right. Therefore, for you,  
15 everybody is in the armed forces. This is the conclusion which you give  
16 us?

17 THE WITNESS: [Interpretation] Yes.

18 JUDGE ANTONETTI: [Interpretation] Right.

19 JUDGE MINDUA: [Interpretation] Expert witness, you just said also  
20 that any person who opposes an armed resistance or any form of  
21 resistance, in English, "any other manner," a member of the armed forces.  
22 Could you give me an example of any form of resistance, other than armed  
23 resistance?

24 THE WITNESS: [Interpretation] That might entail putting up  
25 obstacles along roads used by the enemy, by cutting down trees and

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1 placing logs across a road or large stones, and so on and so forth, or  
2 inflicting direct harm and damage to military installations or vehicles.  
3 It can also be propaganda activity, for example, by handing out pamphlets

4 against the enemy, or any other form of activity, for that matter, which  
5 will affect the combat readiness of the adversary, of the enemy, and will  
6 affect the enemy's morale, designed to undermine enemy morale.

7 JUDGE ANTONETTI: [Interpretation] Sir, several times you use the  
8 word "resistance," because you start from a premise which is that all  
9 citizens are resistance -- are resisting. But in the case of the woman  
10 which I gave you as an example a while ago, whose husband may be in the  
11 HVO, it would be the same for the ABiH. Her  
12 only problem is to look after her children in her own life, but she's  
13 being requested to do this job, and then after that, once it's done, she  
14 goes to look after her children. Military or political problems, she's  
15 not concerned. And despite this, you consider that she's a resistant,  
16 unwilling resistant?

17 THE WITNESS: [Interpretation] In a way, that particular woman  
18 would be supporting the armed forces because, as the task you've quoted,  
19 otherwise they would have to involve soldiers from the front-line and  
20 take them away from the front-line to perform the tasks she was given.

21 JUDGE ANTONETTI: [Interpretation] Right. We're going to reflect  
22 on all this.

23 MS. TOMASEGOVIC TOMIC: [Interpretation] Your Honour, I apologise,  
24 and I apologise to my colleague, as soon as this document came up,  
25 because I would like to indicate something that is illogical in this

1 document, which would take us down the wrong path.

2           At the beginning of the document, and this was read out by my  
3           colleague, it says that this is a list of persons who were interviewed on  
4           the 9th of July, 1993. Now, if we take a look at the person under  
5           number 17 that we looked at just now, in that particular paragraph it  
6           says that he was included in the Rama Brigade until the date stipulated  
7           here, and then at the end of the text it says "civilian." From this, we  
8           can conclude the following: That this document was compiled not on the  
9           9th of July, but after November 1993, at all events, and that this  
10          particular person, by November 1993 -- until 1993, November, was a member  
11          of the HVO Rama. And so we can conclude that the person who compiled  
12          this document, and we don't see from the document when that was, this  
13          person was considered a civilian, but until November 1993 he was not a  
14          civilian. There are other examples like that. I tried to find them on  
15          e-court because this is a Prosecution piece, and the 9th of July is just  
16          the date stipulated. But obviously the document contains data which go  
17          to the end of the year. So the person who compiled this document on the  
18          9th of July could not have known that. So we started out from the wrong  
19          premise, in actual fact.

20                 MS. WEST: Your Honours, I appreciate those comments from  
21                 counsel. However, I will point out that those are the type of questions  
22                 that can be dealt with on redirect or can be dealt with on the trial  
23                 brief, and they are not appropriately placed here.

24                 MS. ALABURIC: [Interpretation] Your Honours, I also wanted to  
25                 draw the Trial Chamber's attention to the fact that the information under

1 person number 7 were not put to the witness in extenso and the assertion  
2 that it is a civilian who is linked to the work obligation, but a few  
3 lines above that it says it's a person who had an operation on his  
4 intestines and now he feels pain. So there are more criteria there, and  
5 therefore we must take care in suggesting somebody's status.

6 MR. KARNAVAS: If I may be briefly heard concerning the objection  
7 that was raised by my colleague from the Coric Defence and the response  
8 that we heard from the Prosecution.

9 I do think that there is an obligation at this stage of the  
10 proceedings to be fair to the witness. Granted, some issues can be dealt  
11 with on redirect examination. However, to be fair to the gentleman, you  
12 have to show the passages that are good, the bad, and the ugly that may  
13 be relevant to a particular issue, as opposed to cherry-picking and then  
14 asking the gentleman to give an answer in the dark. So in that respect,  
15 I would take exception to what Madam Prosecutor has indicated, and I do  
16 think that the objection was merely to point out that there may be other  
17 passages that, when shown to the gentleman, and given an opportunity to  
18 look and reflect on them, would provide the Trial Chamber with a much  
19 more meaningful explanation contemporaneous to the issue, as opposed to  
20 having to deal with it later on as a mop-up operation.

21 Thank you.

22 MR. STEWART: Your Honour, could I observe to support Counsel for  
23 Mr. Coric that Ms. West, obviously inadvertently, but at page 43, line  
24 23, she said, "If we could move to 3344, this is a July the 9th

25 document," it's put in those terms, and what was being pointed out was

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1 that it is not a July the 9th document. It is a document recording the  
2 consequences of interrogation on the 9th of July, and as it's been  
3 pointed out, it's much later. So that is not the sort of point that can  
4 await or should await re-direct. It's exactly the sort of point which  
5 ought to be raised straight right away and has been so that it  
6 clarifies -- obviously, it's inadvertent, we understand that, but the  
7 correction is required.

8 MS. WEST: Of course. And I will accept Mr. --

9 JUDGE ANTONETTI: [Interpretation] The list we have is a list of  
10 persons which have been detained at the Heliostrom which have been  
11 interrogated on the 9th of July, 1993, the list having been established.  
12 Number 17 is mentioned as being a soldier of the HVO in November 1993,  
13 which means, therefore, that the document was made after November,  
14 perhaps December 1993 or January 1994, we don't know this, so this is the  
15 important point, and that there is a contradiction between the fact that  
16 he was a soldier of the HVO with the designation of a civilian. That's  
17 the only thing we can say about this.

18 Madam West.

19 JUDGE TRECHSEL: For one, of course, it cannot be excluded.  
20 There is a misprint in the date of 73 instead of 72. That cannot be  
21 completely be excluded. At the first hand, we have this figure, but  
22 mistakes arise everywhere.

23           And a bit more serious is that this document has no signature and  
24           it seems to have no date, and it comes from the archives. That's all we  
25           have on it.

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1           Does the Prosecution have any indication what kind of document  
2           this is? By whom was it established? We have the police -- the Military  
3           Police Administration, but I think we are a bit in the dark there.

4           MS. WEST: Thank you, Your Honour, for your comments, and at this  
5           moment I'm trying to get that information for you. But to -- while I do  
6           that, if I can just continue on this document.

7           Q. Sir, I want to focus on not factually these people and their  
8           ages, or anything like that, but I want to focus on the word "civilian"  
9           each time it's mentioned here. Would you agree with me that whoever  
10          wrote this document, typed this document out, when they typed out  
11          "civilian," it is because, in their head, they had a notion between the  
12          difference of "civilian" and combatant"? In their head, there's a  
13          difference, and that's why they wrote "civilian" down; is that correct?

14          A. Yes.

15          Q. Very good. And a few minutes ago, Mr. President asked you some  
16          questions. It was the beginning of this break, in which he asked you  
17          some questions about this document. And in your answer, you spoke about  
18          the difference between in practice versus -- you even said the word  
19          "constitution." And I can't find the quote right now, but you had  
20          indicated that in the Constitution, legally, the All-People's Defence



21 means everyone is a member of the armed forces, but I think what you are  
22 saying is maybe in practice here, this person wasn't employing the  
23 All-People's Defence when he wrote "civilian." Is that understanding  
24 correct?

25 A. Yes.

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1 THE ACCUSED PETKOVIC: [Interpretation] Your Honours.

2 JUDGE ANTONETTI: [Interpretation] Mr. Petkovic.

3 THE ACCUSED PETKOVIC: [Interpretation] Your Honours, with your  
4 permission, a technical intervention here.

5 This word "civilian" wasn't written by the person because they  
6 wanted to do so. They were recording and taking note of the statement  
7 given by the person. The person, himself, said, I'm a civilian. It's  
8 not a conclusion made by the person writing this document, it's this  
9 person saying that they were a civilian, and the person recorded that  
10 "civilian" as told by the individual.

11 JUDGE ANTONETTI: [No interpretation]

12 MS. WEST: I didn't get the translation. There was no English  
13 translation.

14 Judge Trechsel, in answer to your question in regard to this  
15 document, the information I have now is that it was seized from the  
16 Croatian State Archive in December of 2000. It was emitted by written  
17 decision in December of 2007. At this moment, that's the only  
18 information I have, and if I have more, I will supplement it.

19 JUDGE TRECHSEL: Thank you.

20 MS. WEST:

21 Q. Mr. Gorjanc, if we can go to P03328. It's probably very close  
22 by, P03328. I think you have it. Very good.

23 This is a document -- this date is -- it's dated July 9th, 1993.  
24 It's about Dretelj. And if you -- it focuses on the number of people  
25 taken into custody at Dretelj by that date, and it's 2.000 plus. But if

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1 we go down to 3, 4 and 5, it says:

2 "Persons with disabilities, 33."

3 "Persons under 18, 38."

4 And: "Persons over 60, 129."

5 Sir, would you agree with me that those with disabilities,  
6 understanding that we don't know what the disability is here, but those  
7 with disabilities potentially makes them ineligible for being a member of  
8 the armed forces?

9 A. No, but I'd like a brief explanation. When this disability was  
10 established, then the conclusion made was that they couldn't be members  
11 of the armed forces and, thus, do damage.

12 Q. Sir, if a disability was established and they're not members of  
13 the armed forces, you'll agree with me that they're civilians; correct?

14 A. Yes.

15 Q. If we can go to 3971, P03971. This is a report from August 5th,  
16 1993, and in this report, if we go to the second paragraph - it's quite

17 short - it says:

18 "However, there were isolated cases that persons older than 60,  
19 younger than 16, and those who were seriously ill were brought in.

20 "We request from the brigade command to say what is to be done  
21 with people who are over 60 or under 16 years of age and those who are  
22 seriously ill because they are not military conscripts but civilians, and  
23 we therefore stress to the civilian authorities in particular that they  
24 make a decision about them."

25 Mr. Gorjanc, would you agree with me that it appears here that

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1 the -- there is making an inquiry -- the person who wrote this is making  
2 inquiry into the status of these individuals and affirmatively seeking  
3 out whether they're civilians or members of the armed forces? Would you  
4 agree with that?

5 A. Yes.

6 Q. And it would follow that who -- the author of this report would  
7 separate this situation -- or strike that. The author of this report,  
8 his mindset would not follow the All-People's Defence; correct?

9 A. Yes, thinking like a human being, in the spirit of -- well, the  
10 Security and Information Service and the military police probably ordered  
11 all Muslims to be rallied up from 16 to 60. Now, if any younger people  
12 or older people were being brought in, that was just a specific instance.  
13 But obviously this person wanted to receive explanation as to what to do  
14 with those older and younger, although the order wasn't to take them into

15 custody.

16 Q. And so is it fair to say that this situation would represent an  
17 occasion where the HVO did not apply the All-People's Defence?

18 A. Yes.

19 Q. We'll go to one more document. It's P02266, 2266. It's a long  
20 listing of people. I think you have it. It's 2266. This is persons  
21 arrested on May 10th, 1993. It's a total of 351 people. I'm getting  
22 that from the last page of it, in which it separates them. It indicates  
23 that there were 216 women, 104 children, and 31 elderly.

24 These people, sir, assume this to be true, that they were  
25 arrested on May 10th. Would you agree with me that this is a very clear

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1 example of the HVO's actions being inconsistent with the theory of  
2 All-People's Defence?

3 A. It is not consistent with the international rules of war, but it  
4 was consistent with the doctrine of All-People's Defence. All those  
5 people, save for the children, were potentially, in one way or another,  
6 capable of putting up resistance.

7 Q. Very good. So would it follow that the doctrine of All-People's  
8 Defence is also not consistent with the international rules of war?

9 A. No. When I explained, in answers to Ms. Alaburic's question, I  
10 said that -- because the expert on international law, Dr. Perazic,  
11 allowed for the possibility that in such a case an enemy could apply some  
12 measures of isolation of those people who were not carrying arms. Within

13 that context, the doctrine of All-People's Defence was not fully  
14 consistent with the provisions of the convention on the protection of  
15 civilians and other persons, including the troops in case of a war. Many  
16 people in the former Yugoslavia had problems with that, but the political  
17 and propaganda effects always spoke louder than any of our words.

18 MS. TOMANOVIC: [Interpretation] I apologise. I believe that we  
19 have to correct the transcript because this is very important.

20 On page 55 -- line 19 and 20, the witness said that many people  
21 in the former Yugoslavia were drawing everybody's attention to that  
22 problem. I believe that the interpretation is entirely different. Maybe  
23 the witness could confirm my correction of the transcript.

24 THE WITNESS: [Interpretation] Yes.

25 JUDGE ANTONETTI: [Interpretation] Witness, we know that you

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1 attended several training courses in the Military Academy in Belgrade and  
2 elsewhere. As regards this problem of the consistency of the doctrine of  
3 All-People's Defence with the Geneva Conventions, specifically the one  
4 dealing with the status of civilians, as regards that, were you told  
5 about this and were you told you have to arrest all civilians because  
6 they may pose a threat, or was there an academic discussion on this  
7 issue, or was the question just never raised?

8 THE WITNESS: [Interpretation] We drew everybody's attention to  
9 that. However, as you say, Your Honour, there was no academic discussion  
10 about that. Even the paragraph before that sentence that Dr. Perazic put

11 in there, in view of the fact that he well versed in international law,  
12 suffered criticism, and as a result of that Dr. Perazic never made it to  
13 the rank of general.

14 MS. ALABURIC: [Interpretation] Your Honours, just one  
15 clarification. Now you've just put a question and sought clarification  
16 about the alleged view that, according to the doctrine of All-People's  
17 Defence, it was possible to arrest all civilians. If I understood the  
18 testimony well, that was not the essence of All-People's Defence, and I  
19 believe that the witness did not refer to that part. What the witness  
20 was trying to say, that all civilians, under certain circumstances, were  
21 actually considered members of the armed forces. At the moment when  
22 somebody is considered a member of an armed force, they lose the civilian  
23 status. Maybe the witness could explain whether, indeed, according to  
24 the doctrine of All-People's Defence, all civilians in Yugoslavia could  
25 be arrested.

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1 THE WITNESS: [Interpretation] No, not civilians.

2 MS. WEST: Excuse me. Mr. President, if I can again just comment  
3 on comments from counsel.

4 This comment, although not entirely factual, does give an answer  
5 for which she wants the witness to comment on. I think it's entirely  
6 unfair, it's inappropriate, and it should be dealt with on redirect, and  
7 the answer to the question should come from the witness.

8 May I proceed?

9 JUDGE ANTONETTI: [Interpretation] Yes, you're quite right,  
10 Ms. West.  
11 Witness, we have a document. I'm going to deal with the crux of  
12 the matter because we're spending a lot of time on this, but this is  
13 quite a simple problem. We have a document which talks about people who  
14 have been arrested, detained, or isolated, and I'm not going into the  
15 problem of the classification of their exact status, but these people are  
16 not at home, they're not in their own residence. They're elsewhere, at  
17 the Heliodrom or elsewhere. And among these people, there are women, as  
18 you can see, elderly people, and children. There are three categories.  
19 The only question from the Judges is the following: We would like to  
20 know, on the basis of what you say, if the army, who has placed these  
21 people in a situation which is different from their daily situation,  
22 could do this under the doctrine of All-People's Defence. This is the  
23 essential question. What is your answer?

24 THE WITNESS: [Interpretation] Your Honour, they did that based on  
25 the general understanding of All-People's Defence, and it was not

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1 justified from the humane point of view, from the human point of view.  
2 Actually, not "human," but rather "moral point of view." I apologise. I  
3 misspoke. The word that I used was wrong.

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

5 Q. Mr. Gorjanc, yesterday I asked you basically that question, and I  
6 said:

7 "When the HVO made arrests or detained people or isolated people,  
8 whether it was a soldier in the field with a gun or a woman in her 20s in  
9 her home, is it your opinion that the arrest would have been justified  
10 under the All-People's Defence?"

11 And you said:

12 "Yes, that would have been justified."

13 So you've just reiterated that, and my question is: By the same  
14 token, then, the ABiH and the JNA, in the Muslim-Croat war, would have  
15 been fully entitled to arrest and imprison all Croats as All-People's  
16 Defence combatants as well; isn't that true?

17 A. Yes.

18 Q. And isn't it also true, sir, that you, to date, have not seen an  
19 ABiH document where they employed the All-People's Defence and arrested  
20 Croat civilians?

21 A. In this concrete case, no, but I saw documents pertaining to  
22 other cases, and I also learned all that from the media.

23 Q. Very good. Let's change --

24 JUDGE ANTONETTI: [Interpretation] Witness, the ABiH has  
25 already -- has also arrested Croatian civilians. This was judged. This

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1 is a well-known fact. According to you, when they arrested them, did  
2 they arrest them on the same grounds of All-People's Defence or for other  
3 reasons? This is what Ms. West wants you to tell, but of course it's  
4 possible that you do not know.



5 THE WITNESS: [Interpretation] They did it based on their  
6 understanding of the doctrine of All-People's Defence.

7 MR. KOVACIC: [Interpretation] Your Honours, although this  
8 document is already in evidence, I would still like to draw attention to  
9 the fact that there is a mistake in translation, and that may be the  
10 reason why the witness is providing the answers as he does.

11 In the original title, in Croatian, it says that those persons  
12 listed herein are categorised in three groups: Children, women, and then  
13 there is an abbreviation, "VO," which means military conscripts, and the  
14 last category is elderly persons. We have discussed the document, and we  
15 have found a number of persons -- a number of individuals who, judging by  
16 the year of birth, might fall in the category of military conscripts.  
17 I'm not sure whether this document only deals with women, children, and  
18 the elderly. It is possible that it also deals with military conscripts.

19 In the English translation, however, and I'm looking at the title  
20 of this -- of the document, this does not transpire, because the  
21 categories mentioned in the English are children, women and the elderly.  
22 And in the Croatian, I can see another category, VOs, military  
23 conscripts. I'm saying this just to point your attention to the fact  
24 that the document is broader than we originally thought.

25 JUDGE ANTONETTI: [Interpretation] Witness, you can see the

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1 handwritten text, and I can see "VO" in it. In B/C/S, does "VO" mean  
2 "military conscript," which I cannot find in the English translation?

3 THE WITNESS: [Interpretation] Yes.

4 MS. WEST:

5 Q. Mr. Gorjanc, let's change gears for a moment and look at some of  
6 the explanations the HVO proffered as the reasons for the arrests.

7 If you can go to P08880. I think it's in the same binder,

8 P08880. Yes, I think you have it.

9 This is a -- again, these documents I'm going to show you, I want  
10 you to assume them to be correct, factually correct. I won't ask you any  
11 questions about the facts. I'll ask you your opinion on the documents.

12 This is a diary of Witness CT, who was one of the Muslim --

13 JUDGE ANTONETTI: [Interpretation] This is a confidential  
14 document. It cannot be seen outside.

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

16 Mr. President, may we go into private session? It may make more  
17 sense.

18 JUDGE ANTONETTI: [Interpretation] Yes, let's move into private  
19 session for a few moments.

20 [Private session]

21 (redacted)

22 (redacted)

23 (redacted)

24 (redacted)

25 (redacted)

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11 Pages 46285-46291 redacted. Private session.

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1 (redacted)

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11 (redacted)

12 (redacted)

13 (redacted)

14 (redacted)

15 (redacted)

16 (redacted)

17 (redacted)

18 (redacted)

19 (redacted)

20 [Open session]

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

22 JUDGE ANTONETTI: [Interpretation] In open session, I want to ask

23 you a question. I'm not referring to the document. My question is a

24 general one.

25 In military terms, a commander or some authority - I will broaden

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1 the debate - when it hears that the persons who were under his orders are  
2 willing -- trying to seek vengeance and to take revenge on a civilian  
3 population, should a military who commands a brigade or some military  
4 authority, in order to protect those civilians, may he in such  
5 circumstances, which are exceptional, take measures or steps which go as  
6 far as isolating between, in inverted commas, "civilians," in order to  
7 protect them, despite their own will? Is this a military response to a  
8 situation -- a specific situation of a potential danger which may exist  
9 towards a civilian population and which might be the object of reprisals  
10 from soldiers?

11 THE WITNESS: [Interpretation] No.

12 JUDGE ANTONETTI: [Interpretation] You say, No. So what will this  
13 authority do, then, knowing that there is this danger?

14 THE WITNESS: [Interpretation] They must caution the civilian  
15 organs in the territory concerned, that is to say, the police, the  
16 military organs on the territory, who were there to protect the village  
17 physically or in some other way. Now, if the possibility exists or if  
18 they know that this can happen, then they must prevent those soldiers  
19 from going home or from moving towards that particular village.

20 JUDGE ANTONETTI: [Interpretation] I will now make my question  
21 more specific.

22           Let us assume that the civilian police does not exist, is  
23 nonexistent, or that the civilian police is implicated in perpetrating  
24 some form of crime, and that in such an assumption the military authority  
25 does not have at its disposal the possibility of asking the civilian

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1 authority to act. What can the military authority do then?

2           THE WITNESS: [Interpretation] Well, that hypothesis is a very  
3 difficult one and assumes that the powers and authority on a given  
4 territory were inactive. Now, as a commander, in that case I would try  
5 and prevent that group, using my forces, or I would try and prevail upon  
6 them in words to try and persuade them to refrain from entering the  
7 village and carrying out reprisals.

8           JUDGE ANTONETTI: [Interpretation] I will now refer to the  
9 document without citing it, without quoting it, but I will make my  
10 question more specific.

11           When you introduce a supplementary element, those soldiers which  
12 might get into reprisals, if it appears that among these soldiers there  
13 are some gangsters, some thugs, what will the commander of the brigade do  
14 then, or the commander of the operational zone, and the supreme  
15 commander? What will they do?

16           THE WITNESS: [Interpretation] The supreme commander, to start at  
17 the top, can issue an order, decree, or whatever preventing this, or,  
18 through the Ministry of the Interior, can ask reinforcement from the  
19 civilian police. He can also issue orders through the system of command,

20 the chain of command, not to allow the soldiers to go home, that they be  
21 placed under supervision. The commander of an operations zone, in actual  
22 fact, would just be conveying what the supreme commander has ordered in  
23 that context, given that situation, and then he would ask, in this  
24 particular case, the HVO, because that was the establishment -- he would  
25 request of the HVO -- he would ask his superior, in a way, that is to

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1 say, the Ministry of Defence, to bring in more military police into the  
2 area to deal with the situation. And what he could do was to engage his  
3 own military police under his command, or some other unit, to have these  
4 people prevent it. But it would be normal that in his own unit, if there  
5 were indications that retaliation might take place, that he either  
6 isolate these soldiers or place them under supervision.

7 JUDGE ANTONETTI: [Interpretation] Your answer is rather lengthy,  
8 but I want still to make my question even more specific.

9 In a situation -- in a given situation with all parameters which  
10 I indicated already, I will add another parameter or element, which is  
11 the fact that part of the soldiers is on the front-line, and at that  
12 moment, if one touches any of these soldiers, either to come and help the  
13 others which are in difficulty because of what is going on with the  
14 civilian population, there is a risk of taking too many men away from the  
15 line and enable the enemy, in this case the Serbs - you have  
16 understood - to go through. What will then, according to you, do, the  
17 commander of the brigade who finds himself in such a situation that there

18 are some elements which are on the front-line who he can't use because of  
19 the major risk of letting the enemy take an offensive and gain something  
20 on the military plane, on the battle, but he also has soldiers, some of  
21 which are thugs, delinquents, and a population -- a civilian population  
22 who he has to protect, so what will the brigade commander do then?

23 THE WITNESS: [Interpretation] Faced with a situation of that  
24 kind, most probably those soldiers wouldn't leave the battleground and go  
25 and retaliate, because there was the threat of danger, danger of the

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1 enemy advancing and breaking through. So they would be more taken up  
2 with the enemy than they would with their own revenge or retaliation.

3 Now, in the specific case put to me by the Prosecutor, those  
4 soldiers were on their way home. They were going home, to their houses,  
5 away from the battle-front.

6 JUDGE TRECHSEL: Excuse me.

7 Mr. Gorjanc, I have listened to your recent answers, and I have  
8 in mind what you are reported as saying on page 68, lines 19 and 20. You  
9 are asked -- a question is whether you agree with the Prosecutor that, I  
10 quote:

11 " ... the Muslim people who were being detained were better  
12 placed inside the detention centre than outside the detention centre?"

13 And you answered: "Yes."

14 I had a different memory, actually. I thought you had  
15 answered -- or the question was put differently. But could you tell the



16 Court whether that is your view or whether there is something not quite  
17 in line with your view in the transcript?

18 MS. ALABURIC: [Interpretation] Your Honour, just to contribute to  
19 clarifying the issue, you said "assuming that the safety of" -- was that  
20 the first part of your question, on page 68, that is, line 17. The  
21 question was "assuming something" and then asked the question, just that  
22 we know what the assumption was just to get an answer.

23 JUDGE TRECHSEL: I was annoyed by your interference, but I  
24 confess that you're quite right. I will quote the whole sentence. The  
25 sentence of the question was:

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1 "Assuming that the 'safety' reason proffered by Dr. Prlic was  
2 true, and would you agree with me that for their own well being, the  
3 Muslim people who were detained were better placed inside the detention  
4 centre than outside the detention centre."

5 And your answer: "Yes."

6 THE WITNESS: [Interpretation] Yes, on condition that the  
7 conditions of accommodation were decent and commensurate to a normal  
8 life.

9 JUDGE TRECHSEL: Thank you.

10 THE WITNESS: [Interpretation] And we have that -- well, I beg  
11 your pardon.

12 MS. WEST: Thank you.

13 Q. Mr. Gorjanc, and just to close that loop, is the reason you said,

14 Yes, was because if they're really unsafe -- if it's really unsafe for  
15 them on the outside, then it makes more sense to keep them on the inside  
16 for their own safety?

17 A. Yes.

18 Q. If we can look at P02315, P02315. The first binder, so it's the  
19 bigger binder. My apologies, sir. It's the big binder. 2315.

20 This is dated May 11th, 1993, and this is -- this would be two  
21 days after the events on May 9th. And in the top right-hand corner, it's  
22 handwritten: "May 13th, as per the order of Brko Pusic, nobody can  
23 release persons whose names are encircled."

24 And then if you go through the document, and in the B/C/S it's  
25 easier to see this, you see a number of numbers and people's names are

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1 circled, and then next to it, it says: "Stay."

2 Now, sir, assuming we believe the safety reason proffered by the  
3 HVO that these Muslims were arrested, in other words, that it's true that  
4 they were arrested for their own safety, would you agree, then, that  
5 Mr. Pusic has either executed a very quick assessment of the relative  
6 peril these people would face on the outside, if released, or there is  
7 more to this than just keeping these people safe?

8 A. I can't actually make a conclusion in that respect, based on the  
9 document that I have in front of me.

10 Q. Okay, fair enough. Then my next question is: Would you agree  
11 with me that releasing these people is inconsistent with the notion that

12 they were at risk in the first place? Releasing these people should mean  
13 that they're, in fact, safe on the outside; is that right?

14 MR. KARNAVAS: One point of clarification. At one point in time?  
15 It might be that at one point, certain action needed to be taken, and at  
16 another point in time, because of the change of circumstances, another  
17 action needed to be taken. So at which time?

18 MS. WEST:

19 Q. Mr. Gorjanc, my question does not regard time, and that will be a  
20 good question for redirect. But in this case, this document indicates  
21 that they -- it's dated May 11th, and as I indicated in my question, this  
22 would be two days after the events in Mostar on May 9th. Would you agree  
23 with me that if they were detained for safety reasons, and then  
24 subsequently they were released, then either - and I'll give Mr. Karnavas  
25 this - they were no longer unsafe or the safety reasons proffered in the

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1 first place were false?

2 MR. STEWART: Those aren't the only possibilities, Your Honour.

3 MS. WEST: And I appreciate those comments as well, but that's  
4 not the question, and if Mr. Gorjanc can be given a moment to answer the  
5 question.

6 MR. KARNAVAS: Before he's given a --

7 JUDGE ANTONETTI: [Interpretation] Mr. Karnavas, I'll give you the  
8 floor later, but I wanted to tell you -- I would like to tell you, you  
9 and the other counsels, when the Prosecution, herself, is asking a

10 question to the witness and you don't like the question, there is a  
11 mistake on the date, et cetera, when you make an objection, well, the  
12 Judges are going to look into the probative value, so it's better to have  
13 the witness answer the question and then you respond and say, First of  
14 all, I'd like to point out to the Judges that this document is dated May  
15 11, and that's it. But if you take the floor before the witness answers,  
16 then you decrease the value of what the witness has to say. This is  
17 something you fail to understand.

18 MR. KARNAVAS: Mr. President, if I might just point out, I mean,  
19 one fact.

20 The gentleman indicated that he was only given certain documents.  
21 Given the -- given the question that is being posed, one would assume  
22 that he knows what is happening on this particular day, what has happened  
23 the previous day, what the situation was on the 9th, the 10th, and the  
24 11th. And so to ask such a question, I understand the tricks that are  
25 going behind in this particular line of questioning because we want to

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1 get a particular answer, but if we're trying to search for the truth,  
2 then let's -- and I see that Judge Trechsel is shaking his head. I take  
3 you on board, Judge Trechsel, but the fact is before somebody can answer  
4 such a question, they need to have some facts. Does he know what the  
5 situation was in Mostar on that particular day, yes, no, maybe, I don't  
6 know. If he doesn't know, then he's just purely speculating. And if the  
7 Court wants to base its decision on pure speculation, well, then have at

8 it, but that's not the way to achieve justice.

9 JUDGE TRECHSEL: I object, Mr. Karnavas, to your attacks to the  
10 other parties speaking of tricks. You do that often, and every time from  
11 whichever side. We do not like this. You should not suppose that the  
12 other party plays tricks, as the other party should not suppose that you  
13 or any other Defence does.

14 MR. KARNAVAS: Your Honour, when I say "tricks," if you look at  
15 the manner in which the questioning is going, those of us who have a lot  
16 of experience in this common-law system, the adversarial system, and on  
17 cross-examination, it is quite obvious what we're getting at, and we're  
18 not being fair to the witness by trying to cherry-pick and the witness  
19 says, Yes. Yes to what? And that's what I'm saying. And if I dare do  
20 anything that is tricky or that I'm engaging in tricks, I suspect you're  
21 going to call me on it.

22 MS. ALABURIC: [Interpretation] Your Honour, I had intended to  
23 object to this question, and the reason is the following: Thus far, I  
24 have considered that my colleague, Ms. West, is asking questions on the  
25 basis of a hypothetical situation, for which it is not important when it

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1 happened and where it happened, and that then we were answering questions  
2 and the witness was answering questions based on his knowledge and  
3 experience.

4 However, in this particular question my learned friend Ms. West  
5 has given us a date and location, and it is on page 75, line 1. She said

6 "two days after the events in Mostar of the 9th of May," therefore  
7 specifying the date. Now, if we fail to react in this change of context  
8 where the question is concerned and continue the examination of the  
9 witness, his answers will have a different importance and significance.

10 So in that respect, I agree with the objection raised by  
11 Mr. Karnavas, and I consider that if you allow questions to be asked with  
12 respect to the situation in Mostar after the 9th of May, then we have to  
13 ask the witness what he knows about that particular situation. We must  
14 know whether there were evacuations of civilians and so on and so forth,  
15 what the situation actually was, and what he knew about it.

16 JUDGE ANTONETTI: [Interpretation] Witness, just before the break,  
17 are you aware of what happened in Mostar on the 9th of May?

18 THE WITNESS: [Interpretation] I know about it from the media. I  
19 know that armed conflicts began, and both sides accused each other for  
20 the outbreak, but I know that serious armed conflicts broke out in the  
21 town of Mostar, itself, and the surrounding parts between the HVO and the  
22 BH Army.

23 MR. STEWART: Your Honour, may I say, because I was going to get  
24 to my feet before my learned leader did, and we support the objection, as  
25 indicated, but I also did, before Judge Trechsel's comment, without

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1 wanting to create too much of a skirmish, to say that we do not associate  
2 ourselves with the word "tricks." I have a long experience of the  
3 adversarial common-law system as well, and I want it to be understood

4 that there is a difference between us there. We do not and have not  
5 associated ourselves with that. But the objection we do support for the  
6 underlying reasons.

7 JUDGE ANTONETTI: [Interpretation] Witness, you know what happened  
8 on the 9th of May, and the document submitted to you by the Prosecutor is  
9 a document from May the 11th. Do you agree that this document is dated  
10 May 11?

11 THE WITNESS: [Interpretation] Yes.

12 JUDGE ANTONETTI: [Interpretation] All right. It's time for the  
13 break. We shall have a 20-minute break, and the Prosecutor will carry on  
14 after that.

15 --- Recess taken at 12.28 p.m.

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

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

18 Mr. Karnavas, I would like you to tell me exactly, because the  
19 legal officer drew my attention to this, when you said on behalf of the  
20 Defence, I thought you were talking on your behalf and on behalf of your  
21 colleagues. When you applied for an extension of the dead-line, for  
22 which -- which motion were you talking about?

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

24 I was speaking about both of them, the one which was the  
25 documentary motion, and the other one was the 92 bis from the 15th of

1 October. So those are the two, and I believe -- I'm not sure whether I

2 understood properly Mr. Scott, but I believe it was -- I believe he  
3 indicated that for that one, he had already filed his response yesterday.  
4 So to those two, those two documents.

5 And while I'm on my feet, Your Honour, I did have a word with --  
6 or I should say that the witness had a word with me during the break, and  
7 it was a poor choice of words. It should have been "technique," and I  
8 just want to draw that to everyone's attention. And I wish to apologise  
9 to Ms. West if I gave the impression that she was being less than honest  
10 in court. It is a technique. I recognise it. You know, we may at times  
11 use it, but I apologise if I inappropriately caused any embarrassment or  
12 intimated that she was anything less than a professional.

13 Thank you.

14 JUDGE ANTONETTI: [Interpretation] All right, thank you.

15 I should say that from a personal point of view, I had understood  
16 that this was a matter of technique and it wasn't aimed at anyone in  
17 particular. But it's better for it to be said for everyone.

18 Ms. West, you have the floor.

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

20 Just one procedural matter. I have spoken to Ms. Alaburic and  
21 another counsel about our binders. We, quite candidly, had not expected  
22 this cross to begin until Monday, so we have one more binder that is not  
23 completely finalised as of this moment, but we expect it will be  
24 finalised later today. So either we can e-mail everybody the numbers  
25 tomorrow, and even give them the -- put the binds in their locker, if



1 they'd like, or -- and we will also distribute the rest of them on  
2 Monday, if that is acceptable to the Chamber and to counsel.

3 JUDGE ANTONETTI: [Interpretation] So you're saying on Monday,  
4 you'll have a third binder. Well, yes, you should perhaps communicate  
5 the numbers to the counsels if you don't have the actual paper binder.  
6 But you're right, that according to the schedule you were to have started  
7 on Monday, and I'm very grateful that you could start right away.

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

9 Q. Mr. Gorjanc, just to wrap up what we were talking about before we  
10 broke, I want you to assume, for the purposes of my question, that on  
11 May 9th, 1993, in Mostar, a number of Muslim civilians were arrested,  
12 many Muslim civilians were arrested. Assume that to be a fact. And then  
13 I want you to -- in regard to the document we saw, P02315, that's dated  
14 May 11th, 1993, two days later, so my question is: Would you agree with  
15 me if those Muslims were detained for safety reasons and then  
16 subsequently they were released, then either they were no longer unsafe  
17 or the safety reasons proffered in the first place were false?

18 A. Based on the list, I can conclude that those were staff members  
19 of the hospital. I can't claim that for sure. Maybe the hospital had  
20 been relocated and those people had to be taken away. But as it says  
21 here, they were taken away from their apartments, so I wouldn't say that  
22 it was the matter of relocation. I can't confirm that they were taken  
23 away for safety reasons or whether the HVO or Croat safety was threatened  
24 in the area where those people resided. I can't say that either one or

25 the other is correct.

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1 Q. Okay, thank you. Fair enough. Let's move on.

2 Again, just to make sure everyone's acquainted with it,  
3 paragraph 113 of your report, you summarise your conclusion -- and when  
4 you wrote:

5 "In practice, the entire population served the purposes of armed  
6 combat."

7 So my question, Mr. Gorjanc, is: If this was the case and  
8 everyone served the purpose of armed combat, would you agree with me that  
9 when HVO soldiers were targeting enemy persons, there would have been no  
10 need to distinguish between who was a combatant and who was a civilian,  
11 and the reason for that would be is that every person would have to have  
12 been a combatant or a member of the armed forces? Would you agree with  
13 me?

14 A. Yes.

15 Q. So I'd like to show you some more HVO documents, and again the  
16 same principle goes. You just assume these documents to be truthful, to  
17 be the facts, and then I'll ask you a question.

18 The first is P03663, that's the first binder, the one right in  
19 front of you, 03663. This is a document that is dated July 23rd, 1993,  
20 and it's the decisions adopted at the meeting held at Ljubuski on the day  
21 before. And at this particular meeting, Mr. Coric was in attendance.

22 If we go down to the third paragraph, it's talking about the

23 people who were detained, and the second sentence -- I'll read the whole  
24 thing. It says:

25 "Consequently, all those persons who have been detained but

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1 against whom criminal proceedings have not been initiated or against whom  
2 a criminal report has not been filed are, according to the order of the  
3 chief of the Military Police Administration, unknown to our department."

4 And the next sentence says:

5 "This refers solely to the large number of Muslims who have been  
6 brought unselectively to the Central Military Remand Prison and who have  
7 been since forgotten."

8 Mr. Gorjanc, I want to focus on this word "unselectively." Does  
9 this suggest to you that when these people were arrested and brought  
10 there, that there was no amount of discretion or distinguishing that was  
11 used when they were actually arrested? Does it suggest to you that the  
12 person, in fact, who wrote this report and offered the statement  
13 recognised that there is an obligation to use discretion when making an  
14 arrest?

15 My apologies, that's two questions, but I think you can handle  
16 that.

17 A. Yes.

18 Q. Very good. If we can go to P0672 --

19 JUDGE ANTONETTI: [Interpretation] Witness, I presume that this is  
20 the first time that you've seen this document, or had you seen it before?

21 THE WITNESS: [Interpretation] I've not seen this document before.

22 JUDGE ANTONETTI: [Interpretation] You can see this is a document  
23 from the military police, and in paragraph 3, you were submitted this by  
24 the Prosecutor, but the Prosecutor hasn't read the end of the paragraph.  
25 One can see that the military police says that they had 2.000 people,

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1 that they interrogated 2.000 people, so I presume these people were heard  
2 in the framework or in the context of an investigation. And in the  
3 paragraph read out to you by the Prosecutor, the military police points  
4 out that no criminal procedures were brought or about to be brought  
5 against these people, because that's between parenthesis, so the author  
6 of that document doesn't know what the next step will be of the  
7 procedure, and obviously the author of the document is asking for further  
8 information.

9 According to you, in such a case, which is the authority which  
10 interrogates 2.000 people, and which person decides to bring charges or  
11 not?

12 THE WITNESS: [Interpretation] According to this document, Your  
13 Honours, one can see that this was done by the military police. They  
14 carried out interrogations. They didn't find any probable causes. They  
15 didn't find that individuals had committed any acts of crime. In my  
16 view, they should have either released them or transferred for further  
17 proceedings all those who might have been suspected of something to the  
18 civilian authorities. I don't see any reasons for them being detained

19 any longer.

20 JUDGE ANTONETTI: [Interpretation] Right. You said they should  
21 have been released or indicted, but who decides? Is it the military  
22 policeman carrying out or conducting the interview, or the military  
23 prosecutor, or the civilian prosecutor? Who has the power to say, I'm  
24 going to release them?

25 THE WITNESS: [Interpretation] Your Honour, this is a

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1 too-complicated question for me. I'm a soldier, and this is a legal  
2 issue.

3 JUDGE ANTONETTI: [Interpretation] All right, you cannot reply.  
4 Thank you for your answer.

5 Prosecutor.

6 MS. WEST: Thank you.

7 Q. P06729, 6729. This is a November 18th, 1993, SIS report on  
8 prisoners in Gabela and Heliodrom, and it's several pages' long. And I  
9 would like to focus in on page 2, the bottom of the English, and at B/C/S  
10 it's also page 2. It talks about the situation of prisoners of war, and  
11 it says:

12 "There are about 300 POWs in each of the said facilities (there  
13 are currently 1.268 prisoners of war). All prisoners of war are persons  
14 of Muslim nationality, male, and there are some of them (I have not been  
15 able to establish the figure precisely) who are under 18 and some who are  
16 above 60 years of age."

17 It continues:

18 "In brief personal contacts with prisoners of war, the impression  
19 is that many of them have been brought to the shelter from their homes,  
20 street, or work-places, while the rest have been captured during combat  
21 operations."

22 This is the B/C/S page 3, the first paragraph:

23 "Although there are no precise numbers for these categories, the  
24 fact is that so far nothing has been done to separate, provide  
25 accommodation, and apply all other criteria to these two so-called

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1 categories of persons housed on the premises of the shelter."

2 Mr. Gorjanc, I'd like to focus on the language of "two so-called  
3 categories of persons." From your experience, to what categories of  
4 persons do you think they refer in this document?

5 A. They refer to prisoners of war who had carried arms and engaged  
6 in combat. Those were classical prisoners of war, whereas the others  
7 were arrested based on their ability to carry arms, as potential  
8 soldiers, in keeping with the doctrine of All-People's Defence, so based  
9 on their potential and possibility.

10 Q. So if we look at this -- at these two so-called categories  
11 through the eyes of the All-People's Defence, it's your testimony that  
12 one category is the conventional soldier, and the other category could be  
13 people who aren't carrying guns but people who, in an unarmed way,  
14 support the armed forces; is that what I should understand?

15           A.    I have to correct you.  Some were caught as combatants, having  
16 participated in military operations, and others were arrested in their  
17 houses, out on the street, as potential combatants.  The first group were  
18 combatants already, and the other group were potential combatants.  When  
19 reference is made to their numbers and when it says that it is not known  
20 how many of them were under 16 and above 60, those people could have put  
21 up a non-armed resistance and also fall under the category of members of  
22 armed forces pursuant to the notions of the doctrine.

23           Q.    If we can go to page 5 of the English, and this is page 4 of the  
24 B/C/S.  It's the third paragraph from the bottom, page 5 of the English.  
25 It's under the heading "The Accommodation of Prisoners of War."

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1           JUDGE PRANDLER:  I'm sorry to interrupt you, Ms. West.  I would  
2 like to ask General Gorjanc, actually, about his very last answer, when  
3 he said, and let me quote:

4           "The first group were combatants already and the other group  
5 potential combatants.  And when reference is made to their numbers and  
6 when it says that it is not known how many of them were under 16 and  
7 above 60, those people could have put up a non-armed resistance and also  
8 fall under the category of members of armed forces pursuant to the  
9 notions of the doctrine."

10           So my question is, General Gorjanc, if according to you, judging  
11 from your answer, then you believe that those in the second category,  
12 they were arrested because they could have put up a non-armed resistance,

13 so, in other words, if you feel that their detention was legally and  
14 according to the laws of the All-People's Defence, et cetera, are legally  
15 justified? Thank you.

16 THE WITNESS: [Interpretation] Your Honour, the second category,  
17 people who were potential combatants were also, at the same time,  
18 military conscripts, which means that at any point in time they could  
19 have been called up to join a military unit. Only the third category  
20 does not fall directly into the category of combatants, but they,  
21 however, could put up non-armed resistance. All the three categories,  
22 based on the doctrine, are members of the armed forces. Therefore, they  
23 could be arrested as potential combatants or, rather, members of the  
24 armed forces rather than combatants.

25 JUDGE PRANDLER: Thank you, Mr. Gorjanc, although now I believe

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1 that you have made three categories, because up to now, if I'm not  
2 mistaken, we have spoken about two major categories of those people, and  
3 it is mentioned here in that report, second paragraph, that:

4 "Although there are no precise numbers for these categories, the  
5 fact is that so far nothing has been done to separate, provide  
6 accommodation, and apply all other criteria to these two so-called -- two  
7 so-called categories of persons housed on the premises of the shelter."

8 So now you spoke about three categories. I accept this  
9 categorisation, what you have just mentioned. Thank you.

10 Ms. West, please.



11 MS. ALABURIC: [Interpretation] Your Honour, may I contribute to  
12 this complication about the categories.

13 I would like to draw your attention to one part of this report,  
14 which is the third paragraph --

15 JUDGE ANTONETTI: [Interpretation] Ms. Alaburic, Judge Prandler  
16 has just had the witness confirm this distribution in two or three  
17 categories. The Judge has asked a question; the witness has replied.  
18 Now you are on your feet, through the back door, to change the witness's  
19 answer, but then there's a redirect for that purpose. This is where I no  
20 longer understand you, although there may be a translation problem. If  
21 so, tell us.

22 MS. ALABURIC: [Interpretation] Your Honour, I don't intend to  
23 influence the witness. The witness has, indeed, answered. I would like  
24 to draw attention to the document that is now before you, where it says  
25 that the segregation was not carried out in terms of all the other

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1 criteria with regard to the above two. So a lot of criteria were applied  
2 here.

3 JUDGE ANTONETTI: [Interpretation] Ms. West.

4 MS. WEST: Thank you.

5 Q. Mr. Gorjanc, the same document, if we can go to page 5 of the  
6 English and on page 4 of the B/C/S. It's the part of the document that  
7 begins with: "The accommodation of prisoners of war ..." In the B/C/S,  
8 it's the third paragraph, and I'll read this:

9            "In the said facilities, there are 2.600 prisoners of war who are  
10            of the same category as the prisoners of war in the previous shelter of  
11            the same category, i.e., real prisoners of war have not been  
12            separated - members of BH Army have not been separated from civilians who  
13            have been brought 'for various reasons.'"

14            Mr. Gorjanc, I'm not going to ask you to speculate about what  
15            these various reasons could be. You're not in a position to answer that.  
16            But I am going to ask you about the use of the term "civilians" here.  
17            Again, it says members of the BH Army have not been separated from  
18            civilians who have been brought for various reasons. Is it fair -- is it  
19            a fair understanding that the word "civilians" here means persons who did  
20            not participate in any way to the armed forces?

21            A. It can also be understood that those people did not participate  
22            in the armed forces. However, they were military conscripts, and as such  
23            they fell under the category of potential combatants.

24            MS. WEST: If we can go into private session, please.

25            JUDGE ANTONETTI: [Interpretation] Private session.

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1            [Private session]

2            (redacted)

3            (redacted)

4            (redacted)

5            (redacted)

6            (redacted)

7 (redacted)  
8 (redacted)  
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23 (redacted)  
24 (redacted)  
25 (redacted)

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1 (redacted)  
2 (redacted)  
3 (redacted)  
4 (redacted)

5 (redacted)

6 (redacted)

7 (redacted)

8 (redacted)

9 [Open session]

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

11 MS. WEST:

12 Q. Mr. Gorjanc, I'd like to direct your attention to 4D01492. This  
13 is your quote from the Perazic book, Professor Perazic. 4D is in the  
14 small binder. There you go, 4D01492. You'll be familiar with this  
15 because --

16 A. Yes.

17 Q. -- you cited this particular quote in your report, and it is  
18 right in the middle of the page. And on Tuesday, you indicated that  
19 Professor Gavro Perazic, a colonel in the JNA, was one of the biggest  
20 experts on international law in the former Yugoslavia, and you said he  
21 authored several books about that subject. So I want to look at the  
22 quote you gave, which is right in the middle. It says:

23 "If they are not caught in an open armed battle, the enemy can  
24 consider them as potential combatants and treat them accordingly, since  
25 in some other situation they could be caught in combat with the arms in

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1 their hands."

2 So, Mr. Gorjanc, this is another person who espouses the same

3 notion that you espouse, correct, that people who don't necessarily have  
4 a gun in their hand, and who are between the ages of 16 and 60, under the  
5 All-People's Defence could be considered potential combatants?

6 A. Yes.

7 Q. All right. But I want to -- I want to go to the next sentence,  
8 which you don't cite in your report, and it says:

9 "As a matter of fact, not having arms in hands will make possible  
10 for the enemy to assess more broadly and more safely whether or not the  
11 particular citizen is really involved in some kind of resistance, because  
12 if the weapons would be shown in an open manner, the enemy would not have  
13 any dilemma."

14 Now, Mr. Gorjanc, would you agree with me that Professor Perazic  
15 here recognises some type of obligation, upon arresting a person in war,  
16 some type of obligation to ascertain whether that person is a combatant  
17 or is, in fact, a civilian?

18 A. Yes.

19 Q. Very good. Let's go to P11073, same binder, 11073. This is from  
20 the ICRC web site, and it's the Additional Protocol 1 to the Geneva  
21 Conventions from 1977.

22 MR. STEWART: We don't have this one up-loaded, apparently.

23 MS. WEST: This is, I think, the confusion we had earlier.

24 MR. STEWART: Yes, it was. It's the same batch of documents, but  
25 is there some alternative we can go to?

1 MS. WEST: If we could just have a moment. It would appear --  
2 it's on screen. So I think it's on the screen now, at least for  
3 everybody who may not have it in hard copy.

4 MR. STEWART: Thank you.

5 MS. WEST: Yes. Okay.

6 Q. So this is the Additional Protocol 1. It's Article 48, and it's  
7 the basic rule, and it says:

8 "In order to ensure respect for and protection of the civilian  
9 population and civilian objects, the parties to the conflict shall at all  
10 times distinguish between the civilian population and combatants and  
11 between civilian objects and military objects, and accordingly shall  
12 direct their operations only against military objectives."

13 Mr. Gorjanc, are you familiar with the principle of distinction?

14 A. Yes, I am familiar with it.

15 Q. And is your understanding consistent with what I've just read?

16 A. Yes.

17 Q. Would you agree with me, in those HVO documents in which the HVO  
18 referred to the two so-called categories and in which they named  
19 civilians or said "civilians" versus "soldiers," would you agree with me  
20 that it's to this -- it's likely to this article that they're referring,  
21 this notion -- this principle of international war that they are  
22 referring?

23 A. Yes.

24 Q. And would you also agree with me that the principle -- this  
25 principle, in theory, is inconsistent with the notion of All-People's

1 Defence?

2 A. It's not.

3 Q. So is your answer that it's not consistent with the All-People's  
4 Defence?

5 A. That's right, it's not.

6 Q. And that's because in the All-People's Defence, if everyone is a  
7 potential combatant, then by that definition, an All-People's Defence  
8 culture, there are no civilians; correct?

9 A. In principle, yes.

10 Q. And so when we saw the HVO documents in which -- assuming them to  
11 be true, in which the people who wrote them, the authors of those  
12 documents, were indicating that there were -- there was a difference --  
13 there was a category -- there was a separation between combatants and  
14 between civilians, but at least those authors, in fact, recognised the  
15 principle of distinction, that it did exist?

16 A. Would you repeat that question, please? I'm not sure I  
17 understood it.

18 Q. I think it was a bad question. Let me try again.

19 Would you agree with me that the authors of those HVO documents  
20 that we saw, that talked about two so-called categories, and the  
21 civilians versus the combatants, the ones that we just looked at  
22 recently --

23 MR. STEWART: Your Honour, I'm not absolutely sure, but I -- I

24 could stand to be corrected here, but I'm not absolutely sure that the  
25 documents talked about the categories civilians versus combatants. I

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1 have a feeling the word "combatant" may have been an interpretation or an  
2 introduction to the questions. I stand to be corrected, but if this is  
3 the foundation of the question, then I think we do need to be very clear  
4 that the documents, themselves, were actually talking about those words  
5 and that specific distinction.

6 MS. WEST:

7 Q. So, Mr. Gorjanc, we'll go back to the documents. At least one of  
8 them, you'll remember, spoke about large numbers of Muslims who had been  
9 brought unselectively to the prison, and that was P03663. And then there  
10 was another document, that's specifically P06729, talked about two  
11 so-called categories. And if we were to assume this would refer to  
12 combatants versus civilians, would you agree with me that the authors of  
13 those documents recognised that the principle of distinction was  
14 something in which something -- it existed?

15 A. Yes.

16 Q. Would you also agree with me, then, that although the  
17 All-People's Defence is something that is clearly, from the documents, a  
18 theory that existed in the former Yugoslavia, and, through the documents,  
19 also was something the ABiH and the HVO may have recognised, would you  
20 agree with me that, in practice, the HVO did not apply the All-People's  
21 Defence?



22 A. I can't agree with you there. As far as I know from the  
23 documents, the HVO makes no mention in its own documents of All-People's  
24 Defence, all-people's resistance, and things like that. However, by  
25 force of inertia from the former system, in the field they did apply, in

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1 actual fact, the concept of All-People's Defence, by inertia more than  
2 anything else, because yesterday we spoke about their propaganda work,  
3 equipping men, and that this concept was applied.

4 Q. So if we can go to P00289. I believe it's probably in the -- the  
5 big binder, the first binder. You just stated that the HVO makes no  
6 mention in its own documents about the All-People's Defence, and I  
7 believe you probably have not seen this document, then, P00289. This is  
8 the decree on the Armed Forces of the Croatian Community of Herceg-Bosna.  
9 It's dated July 3rd, 1992. If you go to Article 3:

10 "Every citizen of the HZ-HB shall have the duty to protect and  
11 defend the independence and territorial integrity of HZ-HB, in  
12 particular, serve in the army, perform compulsory work service,  
13 participate in the civil defence, participate in monitoring and reporting  
14 services, and be subject to requisitioning requirements."

15 Then you go down and it says: "Compulsory work service." If you  
16 continue, then they have: "Civil Defence." It continues with other  
17 obligations.

18 I know you have not had an opportunity, sir, to really look at  
19 this, but would you agree with me that this type of language to you

20 recalls the All-People's Defence?

21 A. I have to say, first of all, that I am familiar with this  
22 document. I have it in my library. I found it on Mr. Praljak's web  
23 page. This document and Article 3 is one which can relate to any army  
24 anywhere in the world, because the first point of the All-People's  
25 Defence is that every citizen has the right and duty. All it says here

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1 is "duty," and that is something that any citizen of the world has; to be  
2 a soldier, to help in the defence, to work -- to have a work obligation,  
3 everything else. So from this article, you cannot actually claim that  
4 the HVO did act in accordance with or that it issued orders and that it  
5 was a system according to which that was done.

6 Q. Can you turn -- can you turn to Article 21. Mr. Gorjanc, can you  
7 hear me? Can you turn to Article 21. This is --

8 A. [In English] One moment, please.

9 Q. Thank you. Okay. So let's read that. It says:

10 "The Armed Forces of the HZ-HB shall constitute a form of  
11 organisation and preparation of citizens for armed struggle. The Armed  
12 Forces of the HZ-HB shall protect its sovereignty and defend its  
13 territorial integrity."

14 Then let's focus on this last sentence:

15 "Every citizen of the HZ-HB who, in an organised manner and in  
16 conformity with international law, by bearing arms or in some other way  
17 participates in resistance against the enemy, shall be considered a

18 member of the armed forces."

19 Mr. Gorjanc, isn't this language very familiar to you? Doesn't  
20 this show that the HVO, at least per this document, applied the  
21 All-People's Defence?

22 A. [Interpretation] In the language of this article, yes, the  
23 doctrine of All-People's Defence was applied. However, this is in  
24 conformity with international law, whereas in the documents of the former  
25 state there is none of that, that is to say, in conformity with

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1 international law. It doesn't say that, whereas it does here, and that  
2 means with international law, well --

3 Q. Sir, just to be absolutely clear about this, is it your position  
4 that the HVO employed the All-People's Defence or that it did not employ  
5 the All-People's Defence?

6 A. It is my position that the HVO, in its practical work, did employ  
7 the concept of All-People's Defence, in the practical implementation, but  
8 it was not prescribed in HVO documents.

9 Q. Okay. And is it your position that if the HVO, in the documents  
10 that we've reviewed, specifically going back to "unselectively," the term  
11 "unselectively," and the terms two so-called categories, if the HVO were  
12 using those principles as the principles of distinction, that that's  
13 evidence that the HVO, in practice, was not using the All-People's  
14 Defence?

15 A. I do apologise, Madam Prosecutor, but I don't understand the

16 question.

17 Q. That's okay, I'm going to ask you another question.

18 Let's assume that you're right, in the All-People's Defence  
19 everyone is a combatant or a potential combatant, would it then follow  
20 that there would be no need at all to distinguish civilians in the  
21 military doctrine of Yugoslavia? There's no need to even think about  
22 civilians; correct? If everybody's a combatant, then they don't need to  
23 even talk about civilians?

24 A. Yes.

25 Q. All right. If we can turn to P0007. I think this is loose.

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1 This is a document, I think, everyone received separately this morning.

2 Thank you.

3 Now, this is a document to which you don't refer in your report,  
4 but the Trial Chamber and the parties are very familiar with it because  
5 the Prosecution witness Andrew Pringle spoke about it extensively. In  
6 this document -- this is the application of international law in the  
7 SFRY.

8 Now, I'd like to look at paragraph 50 -- excuse me, paragraph 73.

9 So this is a document that was issued from a nation that employed the  
10 All-People's Defence, but here we see, in paragraph 73, it talks about  
11 protected facilities, and it says: "Civilian facilities."

12 Sir, if the All-People's Defence was meant to be understood that  
13 everybody is a combatant, why would this document have a paragraph about

14 civilian facilities?

15 MS. ALABURIC: [Interpretation] Your Honours, with your  
16 permission, I'd like to object to that question, because the document is  
17 not specifically defined. The document we're discussing now is called  
18 "Regulations on the Application of the Rules of International War Law,"  
19 so just so that we know that the contents of this document is  
20 International War Law.

21 MS. WEST: Very good.

22 Q. So my question, Mr. Gorjanc, is: This is a document of the  
23 former Yugoslavia, where they employed the All-People's Defence. Why are  
24 there sections in here that speak about civilians?

25 A. At the very beginning, I noticed that this document was written

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1 and published in 1988. The last volume -- or the last book that  
2 determined All-People's Defence more closely was written in 1983.

3 Now, that document arrived in the units sometime in 1990. I  
4 didn't receive it in my unit until mid-1991, and I wasn't able to  
5 distribute it further down the chain of command. This document was, in  
6 actual fact, written, and perhaps written -- taken over word for word  
7 from international conventions, copied. We processed it -- or, rather,  
8 we dealt with these international conventions and looked at the source.  
9 So we dealt with them from the source in training soldiers and in the  
10 military academies, when teaching it. So why it says "civilian"?  
11 Because that was taken over from International Law, word for word.

12 Q. And so is it your testimony, then --

13 JUDGE PRANDLER: Sorry to interrupt you, Ms. West. Actually, I  
14 believe the major issue is here that we should make a distinction between  
15 two kinds of civilians, if I may say so. The issue is that according to  
16 the laws in force in the former Federal Republic of Yugoslavia, of course  
17 they have spoken about a situation when there was a invasion, or  
18 aggression, or whatever you would like to call it, against Yugoslavia,  
19 and then of course the rules of the International Law should have been  
20 applied. And that is why if you have a look at this collection of  
21 regulations and if you have a look at page 74, you will find Chapter 9,  
22 entitled "Civilians, Enemy Nationals, Nationals of Neutral States,  
23 Stateless Persons, and Refugees," at page 74. And, of course, in those  
24 paragraphs, like 253, 254, et cetera, these rules in a way forbid any  
25 mistreatment of the civilians, because they say, like in paragraph 253,

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1 and I quote:

2 "When, in the hands of a party to a conflict, civilians shall  
3 have the right to respect of their person, honour family rights,  
4 convictions and customs," et cetera.

5 And it continues that:

6 "Women shall be especially protected against any attack on their  
7 honour, and especially against rape, forced prostitution, and such-like."

8 Now, my point is and what I'm getting at, the following: That  
9 there should be a distinction under the rules which are within the

10 All-People's Defence, which was the internal law of Yugoslavia, and of  
11 course within that framework the civilians were regarded as possible  
12 contributors to the All-People's Defence. But, frankly, the whole  
13 situation was in a way envisaged that there would have been a foreign  
14 aggression against Yugoslavia, and I believe that it is the major point  
15 which probably some of us would lose of sight sometimes.

16 And it is another question that under the law of the land, that  
17 is, in this case, the laws which have been promulgated already during the  
18 existence of the Federal Republic of Yugoslavia, but on the other hand  
19 they were also confirmed by the individual republics which have come into  
20 being, then, of course, frankly, there had been a kind of contradiction  
21 between the applications of the generally-recognised rules of  
22 International Humanitarian Law and that of the rules which had to be  
23 applied or had been applied in the former Yugoslavia.

24 It is -- I would like to ask Mr. Gorjanc if my approach  
25 yesterday -- I believe that it is now -- I have to finish because we are

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1 at the end of the sitting, but then this issue could be continued. Thank  
2 you.

3 JUDGE ANTONETTI: [Interpretation] Yes. Unfortunately, we don't  
4 have all the time we need, so Monday Judge Prandler will ask his question  
5 again. He described this text, this article, and since we're going to  
6 have another hearing in another case now, we have to stop now.

7 We will meet on Monday at a quarter past 2.00.

8 [French interpretation on English channel]

9 [The witness stands down]

10 --- Whereupon the hearing adjourned at 1.47 p.m.,

11 to be reconvened on Monday, the 2nd day of

12 November, 2009, at 2.15 p.m.

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