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1 Monday, 2 November 2009

2 [Open session]

3 [The accused entered court]

4 [The witness entered court]

5 --- Upon commencing at 2.16 p.m.

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

8 THE REGISTRAR: Good afternoon, Your Honours. Good afternoon,
9 everyone in and around the courtroom.

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

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

13 It's Monday, November 2009 [as interpreted]. I'd like to greet
14 the accused present in the courtroom, the Defence counsel, the
15 Prosecution, the expert witness.

16 I'd like to make a short administrative announcement to the
17 Petkovic Defence. We have seen your schedule for the upcoming witnesses.
18 Thank you for providing that. I'd simply like to point out that on the
19 10th of December -- Thursday, the 10th of December, there's a plenary of
20 the Judges on that day, and as a result the Chamber will not be able to
21 hold a hearing. But when I have a look at the schedule, as I note that
22 the witness for the previous week, Mr. Filip Filipovic, is supposed to

23 testify for four hours over six days, Peric, Bozo, the witness Peric,
24 Bozo, could be called on the Monday, as early as Monday, so if we finish
25 with Mr. Filipovic, we could then continue with Mr. Peric, and we could

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1 conclude with him on the 9th of December, Wednesday the 9th.

2 Ms. Alaburic.

3 MS. ALABURIC: [Interpretation] Your Honours, good afternoon to
4 you and everybody in the courtroom.

5 Thank you for your suggestion. We were, indeed, going to bring
6 Mr. Peric earlier than we'd planned, and we wanted to prepare him to
7 enter the courtroom one or two days before it was originally scheduled.
8 We expect that General Filipovic will not testify for six days, as has
9 been planned. It will all depend on the other Defence teams, whether
10 they will need to cross-examine or not. In any case, we will respect
11 your suggestion.

12 JUDGE ANTONETTI: [Interpretation] Fine. Thank you, Ms. Alaburic.

13 I believe that there is something that Mr. Pusic would like to
14 inform the Chamber of. Would you like to do that in open session or in
15 private session?

16 THE ACCUSED PUSIC: [Interpretation] In open session, Your Honour.

17 I would like to thank the Trial Chamber and the OTP for the
18 understanding they showed on the occasion of the death of my father.

19 Thank you very much.

20 JUDGE ANTONETTI: [Interpretation] Mr. Pusic, as you know, we
21 found out about this last week, and the Chamber does what is necessary so

22 that you can leave immediately for Mostar to attend your father's
23 funeral. We express our condolences. I've already informed your counsel
24 that they should convey our condolences to you.

25 We will now continue with the Prosecution cross-examination.

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1 So that it is in the transcript, I would like to state the
2 following: I committed a slip of the tongue last week and I mentioned
3 the name of Colonel Merdan, whereas, in fact, I had Colonel Siber in
4 mind. And Mr. Praljak intervened with that respect. So the name I had
5 in mind was Colonel Siber.

6 Madam West, I greet you once more, and I will give you the floor
7 you now.

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

10 WITNESS: MILAN GORJANC [Resumed]

11 [The witness answered through interpreter]

12 Cross-examination by Mr. West: [Continued]

13 Q. Good afternoon, Mr. Gorjanc. I hope you are well. Today, I'm
14 going to continue asking some more questions of you, and hopefully we'll
15 finish today. I want to back up, though, and talk about some of the
16 testimony you gave on the first day of your direct, and that would be
17 testimony you gave on Tuesday, and I'll read part of it so we can all go
18 back to the same place.

19 You were asked a question about three documents, and Ms. Alaburic
20 said:

21 "It should be an example of acts of sabotage that were carried
22 out."

23 And she noted document 4D462, which was an interview with
24 Salko Alihodzic, and she said that it described actions taken by the
25 population and organised by the BH Army, the Dubravaska Plateau in

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1 mid-July of 1993, and she asked you to look at the document. And your
2 answer was:

3 "I happen to be familiar with this area. I know for a fact that
4 the area was HVO controlled at the time. There were no BH Army units
5 around. This is not a textbook act of sabotage, in terms of penetrating
6 behind enemy lines in order to carry out sabotage. It is my conviction
7 that this gentleman was probably keeping a rifle at his home. Someone
8 then simply called him up and he joined this action. But it wasn't the
9 unit, as such, in this case that was organised to perform this."

10 Mr. Gorjanc, my question for you -- excuse me. She then asked
11 you whether it was consistent with All-People's Defence, and your answer
12 was:

13 "Yes, it is fully consistent with the most salient premises of
14 the doctrine."

15 Mr. Gorjanc, for you this document that Ms. Alaburic showed you
16 last week, this evidenced that the ABiH were employing a key component
17 about the All-People's Defence, correct, and that would be sabotage
18 operations?

19 A. The expression "sabotage" does not completely reflect the nature

20 of that operation. That was basically an action behind the enemy lines
21 among the deployment of the lines of the HVO troops, and this is in
22 keeping with the doctrine of All-People's Defence.

23 MS. WEST: Thank you.

24 May we go into private session.

25 JUDGE ANTONETTI: [Interpretation] Mr. Registrar.

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1 [Private session]

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11 Pages 46331-46356 redacted. Private session.

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19 (redacted)

20 (redacted)

21 [Open session]

22 THE REGISTRAR: Your Honours, we're back in open session. Thank
23 you.

24 MS. ALABURIC: [Interpretation] Your Honour, I would like to avoid
25 any confusion when we are talking about at the level of the former

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1 Yugoslavia and the level of Bosnia and Herzegovina. In connection with
2 this latest conclusion, are we talking about a doctrine that was a
3 Yugoslav doctrine or are we talking about something else? I can put this
4 question in the redirect, if necessary.

5 JUDGE TRECHSEL: Exactly, I think that's a very good suggestion.
6 We should not really continue interrupting and standing up for things
7 that can be done later.

8 Please, Ms. West.

9 MS. WEST:

10 Q. Mr. Gorjanc, we're going to move on from the All-People's
11 Defence, and now we're going to talk about the part of your report where
12 you write about wartime armies.

13 And in paragraph 14 of your report, you said that a wartime army
14 is formed in a completely different way when there is no state peacetime
15 core army, and then you write about the difficult challenges of facing a

16 wartime army. Do you remember this part of your report?

17 A. Yes, I do.

18 Q. And is it your position that the HVO was formed under these same
19 conditions?

20 A. The HVO was formed under extremely unfavorable conditions. I
21 said the HVO, the ABiH, and the Army of Kosovo have roughly equally
22 unfavorable conditions for their establishment.

23 Q. Is it your opinion that the HVO was formed from scratch, for lack
24 of a better term?

25 A. More or less, one could say that. The HVO didn't have any basis,

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1 not in the TO of Herzegovina **Or** Central Bosnia, as it was then called,
2 nor in the JNA or what remained of the JNA, nor from any other army; let
3 us say, for example, the Croatian Army.

4 Q. Sir, in paragraph 15 you write about insufficient training. Is
5 it your opinion that the HVO was insufficiently trained?

6 A. No. Most of the soldiers of the HVO -- or, rather, all the
7 members of the former armies of the former Yugoslavia did complete basic
8 military training during their military service in the JNA and during
9 military exercises. I have to point out, however, that in the area of
10 Western Herzegovina, there were very few military exercises organised by
11 the JNA, especially in the second half of the 1980s, for well-known
12 reasons; the lack of confidence in the Croats and a lack of large units
13 in that area.

14 Q. Sir, assuming that the HVO, when it began and into its first year

15 and a half of existence, received a number of trained soldiers from
16 Croatia, would you agree with me that at least for these soldiers --
17 these soldiers from the HV in Croatia, would have been very well trained
18 and experienced?

19 A. Probably they were trained, because many of them had taken part
20 in the war against the Serbs and the JNA in Croatia.

21 Q. So the answer to that question is, Yes; correct?

22 A. Yes, yes.

23 Q. Now I'd like to move to paragraph 17 of your report, and here you
24 talk about --

25 JUDGE TRECHSEL: May I --

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1 MS. WEST: Yes.

2 JUDGE TRECHSEL: There has been one element, Mr. Gorjanc, that
3 struck me.

4 You have stated that there was a, I quote from line 9, page 33
5 "lack of confidence in the Croats." Does that mean that there was a
6 view, in government circles, military defence circles of the SFRY, about
7 any maybe separatist or otherwise unruly, rebellious tendency in Western
8 Herzegovina?

9 THE WITNESS: [Interpretation] Your Honour, lack of confidence was
10 not based on the conviction that there might be a rebellion or something
11 like that. The attitude of the military leadership, which was mostly
12 composed of Serbs, was based on some experiences from the Second World

13 War, and this remained in their minds. In formal and legal terms, not in
14 any document was any mention made of -- that would go against the Croats
15 in Western Herzegovina. However, JNA units were not developed there.
16 Military conscripts were called up -- all called to join military units
17 in -- mostly in Dalmatia **and Mostar, and a large number of military**
18 conscripts were not reachable, as many people from that area were
19 temporarily working in Western Europe, so they were not included in
20 military units.

21 JUDGE TRECHSEL: Thank you very much.

22 I thought I understood something which I will put directly to be
23 sure whether it is true or not. Is it the case that the Serbs more or
24 less had a tendency of considering Croats as Ustashas?

25 THE WITNESS: [Interpretation] No. Only extreme Croatian

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1 nationalists were referred to as Ustashas.

2 JUDGE TRECHSEL: Thank you.

3 JUDGE ANTONETTI: [Interpretation] A short question.

4 We know, because there were witnesses who told us, that before
5 the 1990s, under the regime of Marshal Tito, there were political
6 opponents who were in prison; for example, Tudjman. According to your
7 own knowledge, those opponents, were they put on this list purely for
8 political reasons, that is, because they wanted a different system that
9 would differ from the Soviet system, or for other reasons linked to a
10 form of autonomy of the republics, or for purely ethnic reasons?

11 THE WITNESS: [Interpretation] It is hard for me to answer that

12 question, as I wasn't employed in the police, or in the military, or
13 public security systems. Why those people were listed, these persons
14 had, in public, advocated certain national ideas. In those days, as far
15 as I know, at least, the late President Tudjman was not in favour of
16 secession of Croatia, but he did advocate greater autonomy of Croatia
17 within Yugoslavia. This applied also to some Slovenian leaderships, like
18 President Vlado Kavcic, to whom a monument was unveiled recently, and
19 there were such leaders in Bosnia and Herzegovina as well.

20 On the other side, there were people who advocated a firm line,
21 an autocratic, a unified Yugoslavia, and after a certain period of time
22 they dropped out of politics, and they were black-listed too. Many were
23 also arrested. But this was at the end of the 1940s, to be quite honest,
24 so it is hard to say that the reason was exclusively certain nationalist
25 tendencies or separatist tendencies. That -- it couldn't be said that

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1 those people were persecuted for such reasons under that system.

2 MS. WEST:

3 Q. Mr. Gorjanc, I want to talk to you now about your paragraph 17,
4 which talks about chain of command, and you write there that:

5 "Before the outbreak of an armed conflict, there is no command
6 system which could integrate individual armed groups."

7 You write:

8 "Command over armed groups is mostly based on personal relations
9 and common political or terrorist activities before the armed conflict."

10 Mr. Gorjanc, is it your position that the HVO lacked effective
11 command and control?

12 A. Yes, the HVO at the beginning did not have an effective system --
13 integrated system of command and control.

14 Q. What documents were you shown in support of that opinion?

15 A. Well, specifically, there is a host of documents which show that
16 the municipal presidents had greater control over brigades than zone
17 commanders did. At least that was the case at the beginning. Also,
18 individual commanders were forced to beg for units to be sent to the
19 front-line, and so on. I didn't refer to those documents in my report,
20 believing that this was common knowledge, because any armies that have
21 been formed ad hoc, local government is stronger than the central
22 government.

23 Q. All right. Just so that we're clear, it is your position that
24 the HVO lacked effective command and control, but you did not cite any
25 HVO documents in your report; is that right?

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1 A. Yes.

2 MS. ALABURIC: [Interpretation] Your Honour, just an objection on
3 my part.

4 The witness, in his expert report, did not analyse the HVO and
5 the control and command system in the HVO, but he spoke about the
6 principle of forming wartime armies. And, Judge Trechsel, I want my
7 objection to be recorded in the transcript because my learned friend is
8 going outside --

9 JUDGE TRECHSEL: This is technically not an objection, it is
10 commentary, and you have done so a number of times now. Yes.

11 MS. ALABURIC: [Interpretation] No.

12 JUDGE ANTONETTI: [Interpretation] Madam Alaburic, a moment,
13 please.

14 As my colleague has told you just now, it is a question of
15 re-examination. You come from the civil law system, and it is true that
16 there this is possible, but we are now in a different system. The
17 Prosecutor presents her ideas through her questions, and then you wait
18 quietly for your turn to re-examine. By intervening, surely you see that
19 you're irritating the Judges, who are forced to tell you that this is a
20 matter for re-examination. I've already told you we are not a jury,
21 we're not farmers. We are professional judges. Therefore, we know. We
22 don't have to be reminded every time. Every time you get up to tell us
23 something, we have a feeling that we don't know anything. Let the
24 Prosecutor say what she wishes to say, and then you will have your chance
25 during the re-examination.

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1 MS. ALABURIC: [Interpretation] Your Honour, I want my objection
2 to go down in the transcript because one day I will not have any rights
3 to protect my client if I did not react on time. I did not react to my
4 learned friend's questions about the command and control in the HVO, but
5 I do object to whether he wrote something in his report or not and
6 whether he supported that with documents or not, and that is why I wish
7 to point out that this report is not a report on the HVO, but it is a

8 report about the formation of wartime armies, as such. This report can
9 be valid in any case, be it in Chinese or Japanese, and that is why I am
10 saying that my learned friend is not referring to the contents of the
11 report, because the report is not an analysis of the HVO.

12 JUDGE ANTONETTI: [Interpretation] Witness, this prompts me to ask
13 you a question which has been at the tip of my tongue for some time.

14 When you prepared your report, did you read the report of the
15 expert witness of the Prosecution, regarding the subject of control and
16 command, by Mr. Pringle? Had you read it? Did you read that report?

17 THE WITNESS: [Interpretation] No, Your Honours. I received that
18 only when my report was already finished.

19 JUDGE ANTONETTI: [Interpretation] Very well, because in
20 paragraph 17, when you're talking about the system of command and
21 control - I suppose it was also about control - so you did not read the
22 report provided by the expert witness for the OTP?

23 THE WITNESS: [Interpretation] No.

24 JUDGE ANTONETTI: [Interpretation] Very well.

25 MS. WEST: I think it might be time for the break.

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1 JUDGE ANTONETTI: [Interpretation] Yes, it is time.

2 We'll take 20 minutes.

3 --- Recess taken at 3.46 p.m.

4 --- On resuming at 4.09 p.m.

5 JUDGE ANTONETTI: [Interpretation] Madam Prosecutor, you have the
6 floor.

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

8 Q. Mr. Gorjanc, before the break my question to you had been whether
9 it was your position that the HVO lacked effective command and control,
10 and your answer was:

11 "Yes, the HVO at the beginning did not have an effective system,
12 an integrated system of command and control."

13 Sir, when you say "at the beginning," can you give me a
14 time-frame?

15 A. That was not a subject of my expert report. However, as I
16 studied a host of documents, and as I read the descriptions of many
17 events, I can conclude that the HVO did not have effective control from
18 the moment the conflict broke out in 1992 until the end of 1993, or maybe
19 a month longer, spilling into 1994. However, I did not go on studying
20 the year 1994, so I can't be sure of that.

21 Q. Okay. And I understand that you say that you've seen a number of
22 those -- and other documents that would support that notion, but we don't
23 have those documents here. Can you remember, offhand, any of those
24 documents?

25 A. It would be very difficult for me to remember any of them. I

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1 have already emphasised in my previous answer that I didn't deal with the
2 issue of the functioning of command and control in the HVO. I just have
3 some information about that.

4 Q. Okay. Well, I would like to give you some different information.
5 And for the purposes of these questions, again, I'm going to show you

6 some documents -- some material to you, and I'd like you to assume it to
7 be true, and then we'll talk about whether the HVO had effective command
8 and control.

9 The first document is P10029, and this will shortly come up on
10 the screen for you. This is a -- some of the testimony from the Kordic
11 case, and it's at page 26861 where Mr. Petkovic is giving testimony. And
12 the attorney says -- he shows him a document, and the document is dated
13 April 18th, 1993, so April of 1993. He says:

14 "General, if I may suggest to you that the chain of command was
15 well identified, that it did what it was supposed to do, and that it
16 operated in the manner that you would expect a military chain of command
17 to operate in April of 1993. Would you agree with that?"

18 Mr. Petkovic's answer is:

19 "Your Honours, I have always claimed that the chain of command
20 had been put in place and that it was in working order. I continue to
21 affirm that."

22 Sir, assuming that is correct, Mr. Gorjanc, would you agree with
23 me that at least in April of 1993, a chain of command for the HVO was
24 working well?

25 A. I wouldn't agree with that. It may have functioned between the

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1 Main Staff, the commands of the zones, and some brigades. However, when
2 it came to the level of brigades, battalions, companies, platoons,
3 individual foot-soldiers, I believe that chain of command was very weak.
4 You have to bear in mind that in the higher positions, in the Main Staff,

5 and in the commands of zones and brigades, you had the former active
6 officers of the JNA or, alternatively, the reserve officers of the JNA
7 who had undergone the JNA schools. However, at lower levels there were
8 people without any particular military education, nor training,
9 especially when it comes to command and control. One might say that at
10 the operational level, the command functioned rather well, whereas at the
11 tactical level, especially at lower tactical levels, it left a lot to be
12 desired.

13 Q. So just to make sure I understand what you're saying,
14 notwithstanding General Petkovic's answer that: "I have always claimed
15 that the chain of command was has been put in place and that it was in
16 working order," where he does not distinguish between the higher chain of
17 command and the lower chain of command, it is your testimony that at the
18 lower levels it was not in working order; is that right?

19 A. Yes.

20 Q. Let's go to August of 1993, P04131, P04131. And we can wait for
21 the screen, and I would just say that this is from August 12th, 1993.
22 This is an order from General Praljak. And the first part says:

23 "The Main Staff shall be directly subordinated to the supreme
24 commander ..."

25 Do you have that in front of you?

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1 A. Yes.

2 Q. So you can review this, and it goes -- it's 1 through 8, and it
3 talks about the chain of command. Number 1 talks about the indirectly

4 subordinated to supreme commander. Number 2 talks about the operational
5 zones and then the professional units. Number 3 talks about logistical
6 support, and it goes on about communications, and finally in 6 he says --
7 not "finally": "I prohibit any violation of this command system." And,
8 number 8: "This order becomes effective immediately."

9 Sir, would you agree with me that in August of 1993,
10 General Praljak is overseeing what appears to be a very effective chain
11 of command?

12 A. I wouldn't agree with that. If that chain of command had
13 functioned properly, then this order would certainly not have been
14 necessary.

15 Q. And notwithstanding this order, can you cite for me any document
16 that would suggest the chain of command in August of 1993 was not
17 functioning properly?

18 A. I have to emphasise once again that I did not particularly deal
19 with the system of command in the HVO, or in the BH Army, for that
20 matter. Therefore, I believe that I am not qualified enough to provide
21 some very firm statements in respect of either one or the other.

22 Q. I'd like to look at a document coming from December of 1993.
23 This is P07044, P07044. It's, I believe, in the first big binder, but
24 you can also wait for the screen. This is December 6, 1993. Okay,
25 December 6, 1993. It's an order signed by General Petkovic, and it's to

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1 all the military districts and headquarter support units of the HVO. And
2 it says, number 1:

3 "Send regular daily combat reports twice a day as follows:"

4 It says:

5 "The morning report by 0800, with the situation at 0600, evening
6 report by 2200."

7 Then it says on number 2:

8 "Use a list of questions from the guide-lines for daily combat
9 report ..."

10 Number 3:

11 "ZP commands shall forward this order to their immediately
12 subordinate units ..."

13 Number 4:

14 "This order shall take effect ... on December 13th."

15 And then it appears to be sent to a number of units under his
16 signature.

17 Sir, would you agree with me that by December of 1993, so even by
18 your standards, we're getting towards the end of the time-frame you spoke
19 about earlier, and that by December of 1993 would you agree that the
20 chain of command looks like it's operating well?

21 A. Again, I could say no to that. One of the elements of command is
22 also reporting, and if people needed a warning about the need to report
23 back, that means that the chain of command is not functioning.

24 I can say that the wording of this order is identical to the
25 wording that could be heard in the JNA. All officers knew that they had

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1 to report back with the situation as at 1800 hours. Those were regular

2 daily reports. And morning reports were sent with the situation as at
3 6.00 in the morning. Everybody had -- knew that they had to send
4 reports. I assume that they did. But obviously they needed an
5 additional order to that effect, which was issued in December of that
6 year, which corroborates my claims.

7 Q. I think it might be a good idea to actually look at a string, a
8 string of orders, and then we can ask some questions as to whether you
9 think it was effective. And this string comes from January of 1993, so
10 almost a year before this December document we just looked at.

11 The first will be P01146, and this is a document January 15th,
12 1993, P01146. And this is a decision, and it will give you some
13 background as to this set of orders. It's signed by Dr. Prlic. It's a
14 decision, and this would be subsequent to the Vance-Owen Peace Plan.

15 Sir, are you familiar with the Vance-Owen Peace Plan?

16 A. [No interpretation]

17 Q. Okay. So 15 of January, number 1:

18 "All units of the ABiH which at this moment are stationed in
19 provinces 3, 8, and 10, which have been declared Croatian provinces in
20 the Geneva Accords, shall be subordinated to the Command of the
21 Main Staff of the HVO ...:"

22 "2. All units of the HVO armed forces which at this moment are
23 stationed in provinces 1, 5, and 9, which have been declared Muslim
24 provinces in the Geneva Accords, shall be subordinated to the Command of
25 the Main Staff of the ABiH."

1 And number 3 talks about other groups and provinces that are not
2 at issue here. Number 4 says this should be temporary, but then number 5
3 says:

4 "The deadline for implementing this decision is hereby set at
5 five days, starting from today."

6 So this is the first order I want you to take a look at. And the
7 next one is P01140. And you'll note on 1146, if they haven't changed it
8 yet, there's a number on top of the date, you'll see that there's a
9 number there. So if we go to P01140, which is dated 15 January, which is
10 the same date, we'll see that this is an order from Bruno Stojic, and in
11 it, in number 1, it says:

12 "The Main Staff of the Armed Forces of the HVO shall immediately
13 establish direct contact with all operations zones and commands of the
14 Army of Bosnia and Herzegovina in the territories of provinces 3, 8, and
15 10, and 1, 5 and 9, and in order to make the decision of the HVO HZ-HB
16 number --" and then it gives a number, "number 01-I-32/93 of the 15
17 January 1993 specific reports implementation."

18 And I just -- on this order I want you to note that the number I
19 just read out is the same number on top of the Prlic decision.

20 It indicates towards the bottom, number 7:

21 "The dead-line for implementing this order is 1900 hours on 20
22 January 1993."

23 Now, if we can go to the next document, P01139, again it's the
24 same date, 15 of January, and this is an order from General Petkovic. It
25 says, on the top of it:

1 "Pursuant to the decision of the HZ-HB HVO number ...," and it
2 lists the same number, 01-1-32/93, that is listed on the Prlic decision,
3 and then it says:

4 " ... and the order of the chief of Defence Department number,"
5 and it gives "02-1/1-9," which is the same number on the Stojic order,
6 "15 January 1993, and pursuant to the Geneva agreement on the structure
7 of Bosnia and Herzegovina, as well as the jurisdiction of the
8 Armed Forces Command in provinces, I order --"

9 And then you'll read the order.

10 And number 1, by now you're familiar with this. It says that:

11 "All units of the HVO ... in 3, 8, and 10, should be placed under
12 the HVO.

13 And number 2 is:

14 "All HVO units in 1, 5, and 9 ... shall be placed under the
15 ABiH."

16 And then number 4 says:

17 "Members and units of the HVO armed forces and that the BH Army,
18 who do not submit to the commands in 1 and 2 --"

19 JUDGE PRANDLER: Dear Ms. West, please slow down. Thank you.

20 MS. WEST: Thank you, Your Honour. I promise to try.

21 Q. Number 4:

22 "Members and units of the HVO Armed Forces and of the BH Army,
23 who do not submit to the commands in items 1 and 2 herein, leave the
24 province where they do not belong, and otherwise they will be treated as

25 paramilitary units and disarmed."

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1 Now I'd like to go to P01135. This is dated 15 January as well.

2 This is signed by Petkovic. It's entitled "Full combat readiness of all

3 HVO units," and it's an order. And it says:

4 "Due to the open treacherous aggression by Muslim forces
5 throughout the HZ-HB territory, which has already resulted in tens of
6 deaths and a large number of injuries among HVO members and which
7 includes the burning of Croatian houses and the expulsion of the Croatian
8 population, and with the aim of self-defence of the people and the
9 territory of the HZ-HB, I hereby issue the following:"

10 The first thing he says is:

11 "Raise the combat readiness of the HVO units ..."

12 And what follows are a number of items that all go to this
13 expectation of fighting. And finally, at least in 14 -- he gives a
14 number of details, but in 14 he says:

15 "Regular reports shall be submitted to me for the situation as of
16 7.00, 12.00, 1900 and 24 hours, and interim reports shall be submitted
17 immediately."

18 I'll just stop here for a moment, sir.

19 When you were talking about reports earlier, reportings, is this
20 what you had in mind.

21 A. Yes.

22 Q. And so we'll move on to P01186. This is an ABiH document, so
23 it's -- I'll note for you at the start it's not within the chain -- the

24 same chain of command of the HVO, but it's in response to the HVO's
25 orders, and it's signed by Pasalic, 18 January:

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1 "I have thoroughly analysed and understood your order," and then
2 it gives a reference number, which is 01-70-93, and for the purposes of
3 this just know that that is the same reference number on the Petkovic
4 order of 15 January, and then he tells him -- he gives him some
5 background information, but then he says, under number 5:

6 "I cannot carry out item 2 of your order due to the fact that the
7 4th Corps of the Bosnian Army and its units are not under your command
8 regarding such decisions and their execution."

9 And then I'm going to look at another document, which is P01163.
10 Again I'll forewarn you this is not within the chain of command, but this
11 comments on the events at the time. P01163, January 16th, 1993. This is
12 a BritBat report, and on page 3 of the English, the last full paragraph,
13 it says:

14 "The HVO ops zone commander read the following message," and this
15 is from the HVO commander, the general in Mostar:

16 "At the Geneva **Conference it was agreed that all provinces would**
17 be administrated by the leading ethnic group, in this area the Croats.
18 The HVO and Croats fully attend to abide by this agreement. The HVO
19 formally requests that all BiH units return to their normal locations and
20 that all BiH units from Jajce are removed from the area.

21 "In return, the Croats and HVO guarantee nothing will happen to
22 the Muslim population, lest those suspected of or accused of war crimes.

23 The Muslim population will be given full equality, but the BiH must be
24 subordinate to the HVO. All troops must leave and fill in their trenches
25 and all barricades are to be dismantled. Adzic, Topic, and the police

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1 command are to be removed from command. The replacements may be picked
2 by 3rd Corps BiH Zenica, and all CPs are to be mixed, as are all police
3 patrols. GV is to be demilitarised, and no one is to carry weapons in
4 the town. The Bosnian media is to report the following in its bulletin:
5 A list of demands that it should be reported that the HVO shelled no one,
6 shot no one, and did not burn any houses, and that all these actions were
7 carried out by the Muslims. With the media effect, the land border with
8 Croatia is closed. There are two HVO brigades in Prozor, supported by
9 tanks and artillery, ready to advance on Gornji Vakuf. You have until
10 tomorrow to agree to all the demands and put them into action or face the
11 consequences. You are to send your reply via the UNPROFOR."

12 And then there's a comment. It says:

13 "This is not from the HVO commander," this, I think, looks like a
14 separate comment:

15 "The BiH have stated that they cannot agree to all the demands.
16 The HVO do not appear to be willing to negotiate their demands, and
17 therefore an escalation of the conflict seems inevitable."

18 Sir, my first question in regard to these orders that we just
19 looked at regards the actual events at the time.

20 Before I started this, you said you were familiar with the
21 Vance-Owen Peace Plan; correct?

22 A. Yes.

23 Q. And were you familiar -- did you know of these orders, this --
24 these demands by the HVO?

25 A. I was familiar with the general request in that sense, i.e., that

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1 the BiH Army unit, in the territory of the HVO, to be re-subordinated,
2 but I'm not familiar with the document, and the territory I'm talking
3 about as belonging to the HVO was pursuant to the Vance-Owen Plan.

4 Q. Okay. So now that you've seen these documents and you see --
5 assuming them to be true, that the HVO demanded that certain provinces be
6 subordinated to HVO command and that other -- other HVO units and other
7 provinces would be subordinated to the BH -- ABiH command, assuming, in
8 fact, that the ABiH did not do that, as you saw from other documents,
9 they refused to subordinate their own units to the BH [sic] command, and
10 that subsequent to their refusal, subsequent to the expiration of the
11 dead-line, that the escalation of the conflict did, in fact, increase,
12 would you agree with me, then, that as it regards chain of command, the
13 lower levels of the HVO, when the escalation of the conflict increased,
14 were aware of the orders from the top, they were aware of this chain of
15 command and this ultimatum that was issued by first Prlic, then Stojic,
16 then Petkovic?

17 MS. TOMANOVIC: [Interpretation] I apologise. I have to object to
18 the question. The facts are not in evidence. First of all, the
19 document, signed by Dr. Prlic, is not an ultimatum, but, rather, a
20 decision. Secondly, after three and a half years, the Prosecutor needs

21 to know that this decision was not made by Prlic, but rather the
22 Executive Board of the HZ-HB, and I believe it is high time for the facts
23 to be represented the way they are in the OTP questions.

24 JUDGE ANTONETTI: [Interpretation] Your objection has been
25 recorded.

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1 Madam Prosecutor, please continue.

2 MS. WEST:

3 Q. Sir, as I said, again, I want you to assume these facts to be
4 true. Would you agree with me that these orders that I just showed you,
5 and the subsequent events resulting from the BH's refusal to agree to the
6 HVO demands, resulting in an escalation of the conflict, in fact, is a
7 good example of HVO efficient chain of command?

8 A. I can't say that this was a functioning chain of command.
9 Issuing an order and sending it down to the lowest individual is one
10 thing, and implementing such an order is an entirely different thing.

11 MS. TOMANOVIC: [Interpretation] Your Honours, I apologise. We
12 have a mistake in the transcript which is very important. Now it has
13 been corrected. I apologise.

14 MS. NOZICA: [Interpretation] Your Honours, just for the
15 transcript, I would like to say that my learned friend from the
16 Prosecution did not lay any grounds to claim that Mr. Stojic was part of
17 the chain of command. Therefore, I let the witness answer. I did not
18 want to influence his answer. That would be my objection.

19 And my second intervention is a request. I would kindly ask my

20 learned friend, when she moves from one binder to another, could she
21 please indicate the location of the document. We have a problem with the
22 five binders, and we cannot rely on the e-court only.

23 Thank you very much.

24 JUDGE ANTONETTI: [Interpretation] Witness, I would like to put a
25 question to you.

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1 Madam Prosecutor has started reviewing all the documents from the
2 15th of January. My question was prompted by the response by
3 Arif Pasalic, who was the commander of the 4th Corps of the BiH Army, and
4 the HVO, that was later sent on the 18th of January, 1993. The document
5 number is -- and when I read the document, I can see that Mr. Pasalic
6 does not object to the letters that were sent saying that the units of
7 the BiH Army in the zones 3, 8, and 10 have to be subordinated to the
8 HVO, but he raises a big problem in paragraph 6, which seems to have
9 escaped the attention of the diplomats and the representatives of the
10 military and the international community in Geneva.

11 General Pasalic says that there is a problem which concerns the
12 soldiers who live in these areas in the south of Mostar because those
13 people did not want to leave those territories, the regions 3, 8, and 10,
14 and that those people didn't -- if they were not integrated into the HVO,
15 they would be considered paramilitaries, and General Pasalic says that
16 that shouldn't happen. Now we are in a situation which was present in
17 mid-January, that everybody was in agreement that there should be an
18 integrated command, but nobody took into account the specific nature of

19 the soldiers.

20 You say, yourself, that most brigades were territorial brigades.
21 You are a military expert. Could you please tell us, how could all this
22 evolve with soldiers or non-soldiers who were territorially affiliated,
23 who wanted to stay in their own communities and municipalities, and who
24 certainly didn't have the desire to be moved or to place themselves under
25 the command of somebody that they were not used to or, in this case, the

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1 commanders or the command of the municipalities? Were you aware of this
2 problem or not?

3 THE WITNESS: [Interpretation] Yes, Your Honour. All these units,
4 the HVO and ABiH units, in the area of Northern Herzegovina were
5 municipal units exclusively, and they were linked to a narrow stretch of
6 territory, to their villages, and that's how they conducted warfare.
7 When they were in the battle-field or when they went away on leave, they
8 went home on leave, so it's quite logical to draw the conclusion
9 Arif Pasalic drew, according to which some soldiers weren't willing. But
10 as far as I have understood the HVO orders, they had the possibility that
11 those Muslim units could be subordinated to the HVO. This means that
12 they would become part of the HVO, but they could maintain their national
13 characteristics, and that was subsequently the case. However, if they
14 were not willing to subordinate to the HVO as Muslim units, then they
15 were ordered to leave that area. So there were two possibilities they
16 could opt for.

17 I, personally, don't see why this should give rise to

18 difficulties of any kind, especially in that that agreement or system was
19 in place right up until May 1993, when large-scale conflicts, in fact,
20 broke out.

21 JUDGE ANTONETTI: [Interpretation] One last question.

22 A minute ago we saw two documents from Mr. Petkovic, dated the
23 15th of January. I had a look at the numbers carefully. They are
24 successive numbers. When we have a look at these documents, one has the
25 impression that General Petkovic made two types of statement. In the

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1 first document, he said it's necessary to put into place -- to implement
2 what was decided in Geneva. **All units must be subordinated either to the**
3 **HVO or to the ABiH.** So in his opinion, he's implementing the decisions
4 taken in Geneva. **But on the very same day, he has another document in**
5 **which he's requesting that his units conduct military operations against**
6 **the ABiH, and I fail to understand this change of position in this case.**
7 How would you explain it?

8 MS. ALABURIC: [Interpretation] Your Honours, if I may, with
9 regard to the second order, it's not an order to conduct combat
10 operations. It's an order to raise the level of combat readiness. No
11 operations are being ordered. It is only a matter of combat readiness.
12 I think it is important to bear this in mind.

13 JUDGE ANTONETTI: [Interpretation] How do you explain the fact
14 that there are two documents, one of which encourages a return to peace,
15 in a certain sense, and the other one is trying to prepare everyone for
16 combat? For example, item 4 document of the 15th of January, it says:

17 Position the artillery and two or three tanks for intervention in Vakuf
18 and Prozor. This might seem a little perplexing. How would you analyse
19 this, General? The document is number 66/93.

20 THE WITNESS: [Interpretation] Your Honours, I don't think there
21 is anything unusual about this. If ABiH units are prevented from leaving
22 the territory under the control of the HVO, according to the
23 Vance-Owen Plan, well, at the same time one can expect that in areas
24 where conflict had broken out previously at the end of October of 1992 in
25 Prozor or Gornji Vakuf, at key points, it is reasonable to expect that

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1 one would raise the combat -- the level of combat readiness for HVO
2 units, because one could expect the ABiH in that area won't accept the
3 HVO request, they won't subordinate themselves to the HVO and they won't
4 leave that territory. As a result, an armed conflict could break out, so
5 it's quite logical that an order was issued to raise the HVO units' level
6 of combat readiness. That does not mean, as far as I can see from the
7 document, that an order was issued for military operations of any kind
8 against the ABiH army.

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

10 THE ACCUSED PRLIC: I didn't want to intervene after your
11 question, Mr. President, but it is obvious, and you mentioned that, that
12 a number of this document is 01/66, and this so-called subordination
13 order has a number 01/70. It is obvious that this order was issued later
14 on, so this one doesn't -- didn't take place before this one relating to
15 increasing of combat readiness. So from my point, if it is obvious that

16 there is a -- Prosecutor use that in different -- in different order,
17 which may create a different opinion about it. This is just my remark.

18 MS. WEST: Mr. President, I object to --

19 JUDGE ANTONETTI: [Interpretation] Just a minute, Ms. West.

20 Yes. I, in fact, saw that the order on tension rising was
21 number 66 and the order to implement the Geneva agreements was number 70,
22 so the second document comes later, it's true, and the Prosecution
23 proceeded in the reverse order. But all those who have seen the
24 documents understood the fact.

25 General, the explanation you provide us with for those two orders

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1 is that, in your opinion, the HVO thought that the ABiH would not agree
2 to the terms and that there was going to be a conflict. That's what
3 you're saying? Would that summarise what you have said?

4 THE WITNESS: [Interpretation] Yes.

5 MS. WEST: Mr. President, one comment from the Prosecution.

6 I don't think the comments of Mr. Prlic or Ms. Alaburic are
7 pivotal in any way to the issues here, but my comment regards the
8 procedure. Both of them have made factual statements, and although they
9 may have been in response to your questions, with the hope of moving this
10 along, under the common law process this is not something that should be
11 considered evidence by the Trial Chamber. The only person in this room
12 that gives evidence is the person who's in the witness stand. Even my
13 questions are not evidence. And the Trial Chamber should be certain to
14 only consider the statements coming from here [indicates] in its

15 estimation. When we constantly hear comments coming from the other side,
16 it slows down the process.

17 Q. Sir, I'd like to move on to the issue of logistics, and I believe
18 this is list 3 -- yes.

19 JUDGE ANTONETTI: [Interpretation] Ms. West, perhaps there is an
20 interpretation error. Perhaps I've understood something incorrectly, or
21 if I've understood this correctly, in that case I don't agree with you.
22 You're saying that the questions that you put are not part of the
23 evidence, but when the witness answers a question, when the Judges
24 deliberate, they'll have a look at the transcript, they'll have a look at
25 the witness's answers, and they will also have a look at the question,

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1 because the answer is provided in response to the question. We have to
2 take into consideration your question as well. The response is a
3 reaction to the question. And you're saying, No, you just have to take
4 into consideration the answer, but perhaps I have misunderstood you,
5 Ms. West.

6 MS. WEST: Perhaps I was not very articulate in the way I said
7 that. Of course, if I ask a question and his answer is, Yes, then you
8 have to understand what my question was and to understand what -- the
9 evidence that he gives, but any question asked in this courtroom is not
10 affirmative until evidence until you hear the answer. So when attorneys
11 make comments in here, when the accused make comments in here, this is
12 not evidence for your consideration.

13 JUDGE ANTONETTI: [Interpretation] Very well, thank you.

14 MS. WEST: I'd like to move on to the next documents, which I
15 believe are in the binder that says "List 3" on the side, and it says
16 "Binder 1 of 2."

17 Q. Sir, this paragraph 28 of your report. This is about a
18 logistical support, and in your report you wrote:

19 "Logistical support in a wartime army which is formed without
20 peacetime preparations is significantly different. In the initial
21 period, replenishment with combat supplies, ammunition, weapons, spare
22 parts, is organised from equipment and reserves captured from the enemy,
23 improvised production in secret workshops, and secret procurement from
24 abroad."

25 You go on to write:

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1 "With the creation of free territories and captured enemy
2 manufacturing facilities, regular production and organised distribution
3 is organised. With political recognition, channels for logistical
4 support from third countries are created. Such a wartime army mostly
5 obtains food and other quarter-master necessities from local sources.
6 Military/territorial commands have a significant role in this."

7 Sir, my question is: Are you of the opinion that the HVO
8 suffered from logistical difficulties?

9 A. Once again, I have to emphasise the fact that I wasn't involved
10 in the details of the HVO organisation, but as far as I know, I believe
11 that at the beginning the HVO had significant logistical problems.

12 Q. And when you say "at the beginning," specifically, can I have the

13 time-frame, please?

14 A. That would be from 1992 up until the autumn of 1993. One should
15 bear in mind the blockade in Central Bosnia, when supplies could only
16 come in via helicopter.

17 Q. And have you seen any documents in support of this notion?

18 A. No, I didn't have access to such documents, nor did I request
19 that the Defence provide them. I know about this from the media and from
20 other recordings from other sources that I followed.

21 Q. I'm going to show you some documents. I'm going to ask that you
22 assume them to be true, and then we'll talk about them. The first is
23 P00506. It should be in the binder in front of you, P00506, and it's on
24 the screen now.

25 This is a document dated September 19th, 1992. It's signed

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1 from -- by Tihomir Blaskic, and it says, number 1:

2 "On checking the records, the check-point commander may give his
3 approval for unobstructed transportation of weapons, ammunition, and
4 military equipment, provided ..."

5 Under A: "The weapons, ammunition, and military equipment being
6 transported from the Republic of Croatia and the western part of the
7 HZ-HB to Central Bosnia ..., " and then it lists the zones, "are
8 accompanied by a seal ..."

9 And it goes on. My question is focused on the first part of
10 this. Would you agree with me, if this document is -- we assume that
11 it's true, that this suggests that weapons, ammunition, and military

12 equipment is being transported from Croatia to Herceg-Bosna?

13 A. Yes.

14 Q. So that's September of 1992. Let's move on to February of 1993.

15 This is P01506, P01506. It should be in the same binder. This is from

16 February 17th, 1993, signed by Slobodan Praljak. It says a "Request for

17 unobstructed transportation of MTS ...," and then it says:

18 "In agreement with the Ministry of Defence of the Republic of

19 Croatia, the transport of MTS has been approved for the units of HVO in

20 Gornji Vakuf. There are 50 MRUDs," which are mines, "in the shipment."

21 Would you agree with me, sir, that if this is true this would

22 suggest that the Ministry of Defence in Croatia was in agreement with the

23 HVO to transport MTS?

24 A. Yes.

25 Q. We'll move to P02510, P02510. This is May 25th, 1993, so we're

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1 going ahead a couple months. This is a security report, and it's talking

2 about, in the very beginning --

3 MS. NOZICA: [Interpretation] I apologise. I apologise to my

4 learned friend.

5 With regard to the previous document, we have the translation,

6 and the translation, signed by Mr. Praljak, says that it is a contract,

7 and the translation is "agreement." But in the original document, it

8 says that an agreement is at stake. There's a big difference between an

9 agreement and a contract. There's a significant legal difference between

10 these two terms.

11 Could the witness read out P011506 [as interpreted]? I
12 apologise, the number is incorrect. P01506. This is the document we
13 have just had a look at, the one that my colleague showed.

14 JUDGE ANTONETTI: [Interpretation] Ms. Nozica, one should
15 understand your comment as a comment relating to a translation error?

16 MS. NOZICA: [Interpretation] Yes, Your Honour, yes. According to
17 the translation, it's a contract, but the original says "agreement." The
18 term used is "agreement."

19 JUDGE ANTONETTI: [Interpretation] Witness, in the text, in the
20 document, is the term used "agreement" or "contract"?

21 THE WITNESS: [Interpretation] I can't see the document on the
22 screen right now, Your Honour, but I do remember that the term used was
23 "agreement." If you show the document to me again, I can read it out, if
24 you show the document to me again.

25 JUDGE ANTONETTI: [Interpretation] Mr. Registrar, could we have

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1 P1000 -- the previous document, P1506, on the screen.

2 THE WITNESS: [Interpretation] I have the document on the screen,
3 a request for unobstructed transportation of materiel and technical
4 equipment:

5 "In agreement with the Ministry of Defence of the Republic of
6 Croatia, the transport of MTS has been approved for the units of HVO in
7 Gornji Vakuf."

8 It says "in agreement."

9 MS. NOZICA: [Interpretation] Your Honours, I do apologise. In

10 Croatian, there's a difference between a contract and an agreement. The
11 term used in the translation is "agreement" in the English. Is anyone
12 saying something? It's translated as --

13 JUDGE TRECHSEL: That you are repeating yourself, Ms. Nozica.
14 You had said that before, that there was a difference between "agreement"
15 and "contract," and that is -- I think we are losing time, I'm sorry. We
16 have now the correct word, and I do not see the relevance of this at all,
17 I'm sorry to say.

18 MS. NOZICA: [Interpretation] Your Honour, I believe that it is
19 very relevant because there wasn't a contract, and when the witness reads
20 this out, again we hear the word "agreement." That's why I intervened.

21 JUDGE ANTONETTI: [Interpretation] Madam Prosecutor, please
22 continue with the other document.

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

24 And just for the record, on page 59, line 4, I mistakenly said
25 "P00156." I should have said "P1506." But I will continue on to the

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1 document P02510. I believe we had it up on e-court. It's P02510, so
2 it's the next document coming.

3 In this, we will go forward in time. The last document we looked
4 at was dated February of 1993, and this new document, this one in front
5 of you now, is dated May of 1993. It's a security report. At the very
6 beginning, it talks about the security situation in the area of
7 responsibility of the 4th Brigade, which is not what we're looking at.
8 But if you go down a little bit further, it finally says:

9 "We receive frequent visits from HV Southern Front who supply
10 equipment and provide us with advice."

11 Q. Mr. Gorjanc, would you agree with me at least in May of 1993,
12 this sentence would suggest that Croatia is frequently supplying
13 equipment and advice to the HVO?

14 A. I can't see that this was frequent, but that that was the case is
15 true. In a Sefer Halilovic order, it is stated that in co-operation with
16 the HVO Army, they should operate in Southern Herzegovina, so I
17 personally don't see any problems with regard to the co-operation. But
18 as to the frequency, I can't say anything about that.

19 Q. And perhaps that's a translation problem/issue. The English, as
20 I read it, mentioned the word "frequency." Do you not see that in the
21 Croatian?

22 JUDGE PRANDLER: Excuse me, may I interrupt both of you.

23 Mr. Gorjanc has said previously that it is stated that in
24 co-operation with the HVO Army, they should operate in Southern
25 Herzegovina. I would like to ask you, Mr. Gorjanc, if, when you

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1 mentioned "they," then you meant HV, that is, the Croatian Army, because
2 then it would be clear for us -- for me that they -- that even Halilovic
3 agreed that there should be a co-operation between the HVO and the HV
4 armies? It is my question.

5 THE WITNESS: [Interpretation] I was shown a document a few days
6 ago, and to the extent that I have understood it, Halilovic thought that
7 the ABiH, the Muslim side, would be cooperating, would take joint combat

8 action with the Croatian Army in the southern battle-field, and that also
9 means that the HVO participated in that, because the ABiH and the HVO
10 were allies at the time. In other words, they were fighting against the
11 Serbian aggression together.

12 JUDGE PRANDLER: So if I understood you correctly, when you said
13 "they," it referred to ABiH army and not to HV army, not to the Croatian
14 Army; isn't it so? Thank you.

15 THE WITNESS: [Interpretation] Your Honour, that is what I had in
16 mind.

17 JUDGE PRANDLER: Thank you.

18 Thank you, Ms. West.

19 MS. WEST: Thank you.

20 Q. And just to finish up on this document, to clarify, we're back to
21 P02510, I'm looking at the English sentence which reads - this is about
22 the fourth or fifth sentence down -:

23 "We receive frequent visits from HV Southern Front, who supply
24 equipment and provide us with advice."

25 Mr. Gorjanc, do you understand that to mean that the HV, Croatia,

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1 supplied equipment and advice frequently?

2 A. Here it says "quite often." That's not quite as frequent as when
3 you use the term "frequently," to the extent that I understand Croatian.

4 Q. Thank you, "quite often" is fine.

5 We move on to P02975, P02975. We're moving ahead in time to June
6 27th, 1993, and this is a -- it looks like it's a receipt. It says:

7 "The Special Purpose Unit of the GSHV gives the following
8 materiel and technical equipment to the Mostar HVO for temporary use:"

9 And then number 1 -- do you have this document in front of you,
10 sir? Okay, so you see number 1. It says:

11 "A ULM White Hopper," and then it gives a number and a motor
12 number. Number 2 is:

13 "Additional equipment: A parachute for the launching rocket, one
14 GPS with a serial number, two radios, two headphones with microphones and
15 adapters."

16 Sir, would you agree with me that this is -- this illustrates
17 that at least by June 27th 1993, the Croatian government was still giving
18 material to the HVO?

19 A. I'm not familiar with these products, but obviously the Croatian
20 government gave them to the HVO.

21 Q. Okay, sir, thank you. We'll move forward in --

22 JUDGE ANTONETTI: [Interpretation] General Praljak.

23 THE ACCUSED PRALJAK: [Interpretation] Really, Your Honours, I do
24 apologise, but it never mentions the Croatian government here. Surely,
25 at such a lofty international court, we should read the text as it is

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1 written. This is a private correspondence. There's no Croatian
2 government, or army, or anything like that.

3 JUDGE ANTONETTI: [Interpretation] Your intervention has been
4 recorded in the transcript, and I ask the English booth to press the
5 buttons properly so I can hear you.

6 MS. WEST: We'll move on to P04930, P04930. This is
7 September 10th, 1993, **and this is the** Republic of Croatia Command of the
8 Southern Front letterhead.

9 JUDGE PRANDLER: I'm sorry to interrupt you again. I'm sorry to
10 interrupt you, Ms. West, but I have to come back to what we have heard
11 from Mr. Praljak. He referred to the fact that, referring to that kind
12 of letter, that the letter never mentions the Croatian government here:

13 "Surely --" I continue to quote him:

14 "Surely at such a lofty international court, we should read the
15 text as it is written. This is a private correspondence. There is no
16 Croatian government, or army, or anything like that."

17 Of course, it is not my role to make comments on what Mr. Praljak
18 here stated, but, of course, this one is coming -- I mean, the letter,
19 what we have before us, it is from the Croatian Army Main Staff, from the
20 Croatian Army Main Staff, and it cannot be, of course, meant and cannot
21 be qualified as a private correspondence. Thank you.

22 MS. WEST: Thank you.

23 JUDGE ANTONETTI: [Interpretation] Madam West.

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

25 Q. P04930, which is September 10th, and this is on the letterhead of

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1 the Republic of Croatia, **Command of the Southern Front, and the subject**
2 **is: "Replenishing units with technical equipment and materiel."**

3 If you go to the second page in English, the substance of the
4 letter is:

5 "Pursuant to the request for replenishment of technical
6 equipment," and then I think there's supposed to be a number there, "of
7 September 10th, 1993, with a view to resupplying HVO units (Mr. Tole)
8 with approved quantities of technical equipment and materiel, on
9 September 10th, issued from the reserves -- the auxiliary logistics base,
10 the depot, the following quantities of technical equipment and materiel:"

11 And then it lists them. The first is 122-millimetre shells for a
12 self-propelled gun, 100 pieces, and the second is for the auxiliary
13 logistics base, the HVO vehicle has already started out and will report.
14 At the bottom, it says:

15 "The equipment can be issued to an authorised individual from an
16 HVO unit."

17 Sir, would you agree with me that this -- at least September 10th
18 would suggest that the Republic of Croatia **continues to supply the HVO**
19 with the technical equipment and materiel?

20 A. Yes.

21 Q. And we'll do one more document, which is P03071, P03071. This is
22 dated July 1, 1993. **It's from Bruno Stojic and it's to -- at the top, it**
23 says "ROJS." I won't pronounce that, but assume for the facts of this
24 question that that person is a general in the Croatian Army. It's a
25 request for artillery ammunition:

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1 "Since we are left with no artillery ammunition for
2 203-millimetre Howitzers and 152-millimetre Howitzers, please deliver to

3 us whatever quantity may be possible."

4 Would you agree with me again, sir, that in this letter or this
5 document, we see that Mr. Stojic is making a request from the Croatian
6 Army for MTS?

7 A. Yes.

8 Q. I'm going to read four facts to you. These are adjudicated
9 facts, but for the purposes of my question just assume these facts to be
10 true.

11 The first is: Apart from providing manpower, Croatia also lent
12 substantial material assistance to the HVO in the form of financial and
13 logistical support. That's the Blaskic trial judgement, paragraph 120.
14 The second fact is: The Republic of Croatia financed and provided
15 military equipment to the HVO in the course of its conflict with the
16 ABiH. The provision of assistance, in terms of military equipment, was
17 considerable. The presence of large numbers of HV vehicles and weaponry
18 was reported on many occasions. It's Tuta Stela trial judgement
19 paragraph 199. And the third fact is Croatia supplied the HVO with large
20 quantities of arms and materiel in 1992, 1993, 1994. It's the Blaskic
21 trial judgement, paragraph 120. And, lastly, HVO commanders would
22 address requests for ammunition to Susak directly. It's Tuta Stela trial
23 judgement paragraph 199.

24 Now, assuming all the facts -- those four facts that I just read
25 to you are true, would you agree with me that unlike the wartime army

1 that you write about in paragraph 28, the HVO appears to be logistically

2 funded by the Republic of Croatia?

3 A. Yes.

4 MS. WEST: Mr. President, if I can just have a moment.

5 JUDGE ANTONETTI: [Interpretation] I take advantage of the time to
6 ask the witness: Did you also know that the Republic of Croatia **sent**
7 arms to the HVO so that a part of those arms should also go to the ABiH?

8 THE WITNESS: [Interpretation] It is obvious from these documents,
9 and there were reports in the media to that effect also.

10 Your Honour, I didn't quite understand your question. Could you
11 please repeat it?

12 JUDGE ANTONETTI: [Interpretation] Did you know that the Republic
13 of Croatia **sent weapons and materiel to the HVO, but that a part of those**
14 weapons and materiel were intended for the ABiH?

15 THE WITNESS: [Interpretation] Yes.

16 MS. WEST: Thank you, sir.

17 Q. And following up on that: Have you ever seen any documents or
18 have you ever heard any media reports suggesting that the Republic of
19 Croatia **was sending weapons and materials to the ABiH, subsequent to**
20 March 1993, in areas within Herceg-Bosna?

21 A. No, for that period, no, but for the period before that, I found
22 many documents on General Praljak's web site.

23 Q. Thank you. I want to move to paragraph 88 of your report, and
24 it's in this part of your report you talk about the composition of the
25 armed forces. And in 88, you write:

1 "With the decree law on amendments to the decree law on the
2 Armed Forces of RBH of 18 July 1992, the RBH Presidency expanded the
3 concept of armed forces of the RBH so that self-organised armed
4 formations or those organised into illegal military units under different
5 names as part of the forces resisting the fascist occupation of the BiH
6 by the so-called ...," and then you talk about who was attacking.

7 In regard to this particular part of your report, sir, you cite
8 document 1D01230, and we don't have to look at that at this moment, and
9 you indicate that it was dated 18 July of 1992.

10 Just so I understand, in paragraph 88 you suggested that in July
11 of 1992, the BiH Presidency was expanding its notion of armed forces; is
12 that right?

13 A. Yes.

14 Q. And then the following paragraph, you write that:

15 " In August of 1992," now this is just a month later, "the BH
16 Presidency again changed the definition of the concept of armed forces in
17 the decree law on the armed forces, so from that moment on, the armed
18 forces consisted of the army of the republic, and its components were HVO
19 units and other armed groups, which put themselves under the unified
20 command of the army."

21 So here is it your position that in the summer of 1992, the
22 Bosnian-Herzegovinian Presidency was of the practice of expanding its
23 notion of its armed forces?

24 A. Yes.

25 Q. Okay. So you indicate that this happened twice in the summer of

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1 1992. The first is July 18th, 1992, and for you that's -- you cite it in
2 your footnote, and you cite 1D01240, which will be in the second binder.
3 It says "List 3" on the side, and it's the second binder, but you're
4 going to see it in front of you in a moment. That's 1D01240.

5 And, sir, I just really want to focus on the date of this
6 document, because it seems -- from the English, I'll read the date on the
7 second page. It says "18 July 1993." And I believe the B/C/S also says
8 "18 July 1993." Can you see that in front of you? Maybe you can go to
9 the second page of the B/C/S and tell me the date.

10 A. Yes, the 18th of July, 1993.

11 Q. Okay. So in your report, in paragraph 88, you indicate that it
12 was 1992. Is that just -- I assume that that's just a mistake.

13 A. Yes.

14 Q. The reason I focused on that is because in paragraph 89, you
15 wrote:

16 "In August 1992, the BH Presidency again changed its definition
17 ."

18 So, in fact, it shouldn't be "again" in this case, it just should
19 be "changed its definition"; correct?

20 A. I agree with you.

21 MS. ALABURIC: [Interpretation] Your Honour, I think that if I
22 have been following properly, confusion may arise.

23 In the text written by Mr. Gorjanc, in the Croatian version we
24 don't find the year 1993 anywhere, and the document we have on the screen
25 just now is one document, and a second document are the changes in August

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1 1992, which is document 4D410. And if we show the witness the report and
2 these documents -- unless we do that, I think it is difficult, even for a
3 lawyer, to respond, not to mention a military man.

4 MS. WEST: I think I can do that fairly quickly, just to simplify
5 this.

6 Q. Sir, if you're looking at the screen in front of you, this is the
7 document upon which you based your paragraph 88. Now, just to be quick
8 about this, I'm going to hand you your paragraph 88.

9 Now, the document in front of you is dated July of 1993; correct?

10 A. Yes.

11 Q. But when you wrote it in paragraph 88, you actually wrote "July
12 of 1992"; correct?

13 A. Yes.

14 Q. And so in paragraph 89, when you wrote that the BH Presidency
15 expanded again its notion of armed forces, in fact, this is not "again,"
16 this is -- from your perspective, it would be the first time, in the
17 summer of 1992, that they expanded their notion; correct?

18 A. Yes.

19 Q. So let's focus on your paragraph 89. In that paragraph, you cite
20 document 4D00410, and I believe that's going to be in binder 2 of list 3.
21 It's 4D00410, and this is the paragraph where you wrote:

22 "In August of 1992, the BH Presidency," and we'll get rid of the
23 word "again," "the RBH Presidency changed the definition of the concept
24 of armed forces in the decree law on the armed forces so that from that
25 moment on the armed forces consisted of the army of the republic, and its

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1 components were HVO units and other armed groups which put themselves
2 under the unified command of the army."

3 You then wrote:

4 "During a state of war, in addition to the army, the armed forces
5 consist of the police, physical security units, of companies, and other
6 legal entities, customs/service units, and other border organs who
7 re-subordinate themselves under the unified command of the armed forces."

8 And that's when you cite this document, so let's focus on this
9 document.

10 Looking at Article 1, second paragraph:

11 "The republic's armed forces shall comprise the Army of the
12 Republic of Bosnia and Herzegovina (hereinafter the army), a constituent
13 part of the army shall comprise the Croatian Defence Council, as well as
14 other armed compositions which place themselves under the single command
15 of the army."

16 Mr. Gorjanc, when you were writing paragraph 89 in your report,
17 at least the first part of it, it was to this part of the article that
18 you were referring; correct?

19 A. Yes.

20 Q. Sir, I'd like to look at P00339.

21 JUDGE ANTONETTI: [Interpretation] Before you move on to the next
22 document, the document that we have in front of us, which is signed by
23 Mr. Izetbegovic, it is dated August 1992 and it says, in Article 1, that
24 the HVO is a component part of the Army of the Republic of
25 Bosnia-Herzegovina. Do you agree with that or not?

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1 THE WITNESS: [Interpretation] That is what is written here,
2 Your Honour, but in fact -- in fact, it was different.

3 JUDGE ANTONETTI: [Interpretation] Why was it different, in fact?

4 THE WITNESS: [Interpretation] To the best of my knowledge, the
5 HVO was independent in relation to the army. It was an independent,
6 autonomous partner which only acted together with it or cooperated once
7 the conflict ceased.

8 JUDGE ANTONETTI: [Interpretation] Very well. Madam West.

9 MS. WEST:

10 Q. Sir, we're going to look at P00339. It's the first binder,
11 excuse me. Mr. Gorjanc, it's the first binder of these two, but you
12 should see it on the screen shortly, P00339.

13 This is the agreement on friendship and co-operation between the
14 Republic of Bosnia and Herzegovina and the Republic of Croatia, **and it is**
15 this agreement which was the impetus for the constitutional amendment
16 that you cite, 4D004110 [sic]. Have you seen this agreement before?

17 A. Yes.

18 Q. So you'll be familiar with number 6 of the agreement,
19 paragraph 6? It says:

20 "The armed component of the Croatian Defence Council is an
21 integral part of the united armed forces of the Republic of Bosnia and
22 Herzegovina."

23 So let's just focus on that very first sentence. Would you agree
24 with me that that language would suggest that the armed forces of the
25 Republic BiH, as you described, consisted of the HVO, and you also wrote

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1 some other groups?

2 A. From the previous document, we saw that the armed forces of the
3 Republic of Bosnia and Herzegovina consist of the Army of the BH, HVO,
4 and other armed units that placed themselves under a unified command.
5 Here, it says that the armed component of the Croatian Defence Council is
6 a component part of the unified armed forces of the Republic of Bosnia,
7 which means that it is on an equal footing with the army and it has the
8 same status.

9 Q. Sir, let's go into -- let's look at that a little bit closer.
10 We're still on P00339, number 6, and I want to focus solely on this
11 language, because you know, as I'm sure you do, the amendment came after
12 the fact. So let's focus on the July 21 language. It says:

13 "The armed component of the Croatian Defence Council is an
14 integral part of the united armed forces of the Republic of Bosnia and
15 Herzegovina."

16 Stop. Where in there tells us that the HVO is on equal footing
17 with the ABiH and it has the same status? Where do you see that?

18 A. In this wording, no, but -- in this wording, you don't find that,
19 but bearing in mind the document that came later, one can conclude that
20 when the Presidency of Bosnia and Herzegovina established that the armed
21 forces consist of the army, the HVO, and other units, then from this I
22 conclude that the HVO was an equal partner to the Army of ABiH.

23 Q. Okay. First let's go back to what you based your report on,
24 which is 4D00410, and I suspect it will be on the screen in a moment. As
25 you said, you don't find the wording there, but bearing in the document

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1 that came later, and I think you're talking about this amendment, that's
2 where you suggest you find the word "equality," so let's have a look at
3 that.

4 And Article 1 says:

5 "The republic's armed forces shall comprise the Army of the
6 Republic of Bosnia and Herzegovina. A constituent part of the army shall
7 comprise the Croatian Defence Council as well as other armed compositions
8 which place themselves under the single command of the army."

9 So, sir, doesn't that mean that the HVO and the other armed
10 compositions, "place --" and I'll quote here, "place themselves under the
11 single command of the" ABiH army? Isn't that what that means?

12 A. Yes, that is what it says, but I'm not an expert on
13 constitutional law and my personal opinion is that this was speculation.

14 Q. Okay. But your answer earlier is that in regard to this
15 document, one can conclude that when the Presidency of Bosnia-Herzegovina
16 established that the armed forces consists of the army, the HVO, and

17 other units, then from this, so this document we're talking about, "I
18 conclude that the HVO was an equal partner to the Army of the BiH."

19 Sir, do you see the word "equal" in here? How do you come to
20 that conclusion, based on this document?

21 A. It doesn't say that. But bearing in mind the actual state of
22 affairs in Bosnia **at the time, I assumed they were equal partners.**

23 JUDGE TRECHSEL: May I --

24 THE WITNESS: Pardon.

25 JUDGE TRECHSEL: I must apologise. I didn't want to interrupt

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1 you. Please finish your sentence, and then I have a small question.

2 THE WITNESS: [Interpretation] I am sorry, Your Honour. I lost
3 the thread of my thought.

4 JUDGE TRECHSEL: It could happen to me as well.

5 I was going to ask you about a part of this definition which we
6 have not yet approached, but -- I'm sorry, Ms. West, if I'm doing what
7 you were about to do. This does not simply say the HVO armed component
8 is part of the ABiH, but it is limited to the armed compositions of the
9 HVO which place themselves under the single command of the army. Does
10 that refer, in your view, to the HVO Army or to the Army of the Republic
11 of Bosnia and Herzegovina?

12 THE WITNESS: [Interpretation] I believe that the reference here
13 is made to the HVO.

14 JUDGE TRECHSEL: I'm surprised, because the Army of the Republic
15 of Bosnia and Herzegovina, in the first sentence, is followed by

16 "(hereinafter the army)." Would that not indicate that when later on,
17 without qualifications, the words "the army" come up, that it refers to
18 the Army of the Republic of Bosnia and Herzegovina?

19 THE WITNESS: [Interpretation] Yes.

20 JUDGE TRECHSEL: Thank you. Now the question arises: Can you
21 tell the Chamber which, if any, components of the HVO have, in fact, at
22 the moment of this document, 15 November 1992, placed themselves under
23 the single command of the ABiH?

24 THE WITNESS: [Interpretation] I don't know, and I believe that at
25 that moment there was no single HVO unit that would have been directly

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1 under the command of the army.

2 JUDGE TRECHSEL: Thank you very much.

3 Excuse me for the interruption, Ms. West.

4 JUDGE ANTONETTI: [Interpretation] Witness, we're talking about
5 legal matters which may be beyond your knowledge. However, if you are
6 familiar with the document and its paragraph 6, there are two things
7 which seem, as my colleague has just said, that the HVO was not an
8 element either of the Army of Bosnia-Herzegovina -- **there was an**
9 integrated army, that's evident, but within that army, and it's written
10 black on white, that the HVO had its representatives in the joint
11 command, the armed forces, which means that the HVO participates in the
12 joint command of the two militaries. What does that mean for you?

13 THE WITNESS: [Interpretation] This would have been a command that
14 would have been composed of both Muslims and Croats. Its headquarters

15 would have been in Sarajevo, and at the lower levels the commands should
16 also have been composed of the representatives of both armed structures
17 in Bosnia-Herzegovina, at least at the operational level.

18 JUDGE ANTONETTI: [Interpretation] Very well.

19 It is already time for a break. We're going to take 20 minutes,
20 and then we will come back at 5 past 6.00.

21 --- Recess taken at 5.43 p.m.

22 --- On resuming at 6.07 p.m.

23 JUDGE ANTONETTI: [Interpretation] Mr. Kovacic, you wanted to have
24 the floor.

25 MR. KOVACIC: [Interpretation] I thank you, Your Honour.

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1 [In English] The Praljak Defence respectfully requests leave to
2 reply to all responses to our Rule 92 bis motion which we filed on 14
3 September, and we also ask to permit us to file this reply on or before
4 30 November.

5 To remind you, the Trial Chamber granted an extension for all
6 parties who wished to respond to our 92 bis motion, permitting them over
7 six weeks to respond. A total of five parties took advantage of that
8 extension, and one party took advantage of responding twice. We received
9 those responses starting from 26 and last one on 29 October. The
10 responses are, to say the least, extensive. I will not elaborate
11 further.

12 We made no objection to the request for the extension of time for
13 other parties to respond, since we recognised the need for a full and

14 fair airing of views.

15 The Trial Chamber invited the Praljak Defence to file a reply
16 subsequent to 28th October, following our request to reply on 23rd
17 September, since the Prosecution at that time filed provisional response.
18 In that request, we have listed in detail 11 reasons a reply was
19 required, all of which remain valid. In addition, now there are also
20 other parties responding, and we also have a lot of reasons to reply. So
21 those 11 points are precisely listed in our earlier motion -- in our
22 earlier submission filed on 23rd September. I don't think that I have to
23 read them now. We all can check that easily.

24 With the additional responses filed by the other parties, there
25 is additional material requiring a reply. The material in the responses

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1 is wide ranging, it's going from a particular issue, regarding a
2 particular document or statement, to broad legal issues. We believe the
3 Trial Chamber would best be served by having a full and considerate reply
4 to certain items in the various responses.

5 That is my submission, Your Honours. Thank you.

6 JUDGE ANTONETTI: [Interpretation] Mr. Stringer.

7 MR. STRINGER: Good afternoon, Mr. President, Your Honours.

8 Douglas Stringer appearing for the Prosecution.

9 I know that the application that's just been made is directed to
10 reply not only to the Prosecution response but to the responses filed by
11 other Defence teams as well, and so obviously the Prosecution response
12 would only apply to our own submission on that. And in respect of a

13 reply, we don't have a position. I think that it's for the Trial Chamber
14 to decide whether it believes that a reply is needed or not, and so we
15 don't have a position on that issue.

16 JUDGE ANTONETTI: [Interpretation] Very well. I will confer with
17 my colleagues now.

18 [Trial Chamber confers]

19 JUDGE ANTONETTI: [Interpretation] The Chamber, having
20 deliberated, having conferred, grants the Praljak Defence team the
21 possibility of replying to these responses by the 30th of November.

22 MR. KOVACIC: Thank you very much.

23 JUDGE ANTONETTI: [Interpretation] Thank you.

24 Ms. West.

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

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1 May we go into private session?

2 [Private session]

3 (redacted)

4 (redacted)

5 (redacted)

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11 Pages 46407-46409 redacted. Private session.

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1 (redacted)

2 (redacted)

3 (redacted)

4 (redacted)

5 (redacted)

6 [Open session]

7 THE REGISTRAR: Your Honours, we're back in open session. Thank

8 you.

9 MS. WEST:

10 Q. Mr. Gorjanc, you described the definition of "siege" as it
11 related to East Mostar in your report, beginning at paragraph 2001 [sic]
12 to 214, and your conclusion in paragraph 214 is that East Mostar was not
13 under siege; is that correct?

14 A. Yes.

15 Q. And in paragraph 203, you write about a modern military siege,
16 according to the principle of US military, and then you go on to define
17 it. What is the source of your definition?

18 A. A rule that applies to this definition is the field manual for
19 the American military called "Operations," and I quote -- I believe that
20 I have quoted that in English. I must say that the JNA did not have any
21 special provisions and categories for a siege or an encirclement around a
22 town. Towns, as such, were subject of combat activities in case of war.
23 However, we liberated our own towns, and in compliance with the doctrine
24 of All-People's Defence this was done from the inside, and that's why we
25 did not have the classical interpretation of "siege" and we did not

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1 elaborate that notion at all.

2 Q. So if we can back up, you said that a rule that applies to this
3 definition is the field manual for the American military. Now, you don't
4 cite that field manual in your report, do you?

5 A. I believe I did. I quoted it. Because I did not have it in the
6 original, in a hard copy, I downloaded that from a web page which
7 contains all American military field manuals.

8 Q. Okay. And it may be that you're referring to footnote 147, where

9 you say a siege is to surround a city or enemy army, cutting off
10 supplies, in order to force surrender; is that right?

11 A. I apologise. I cannot see the footnote, itself. Could the page
12 be scrolled up a little to display the foot page -- the footnote? No,
13 this is only an interpretation in English to show what that implies
14 according to that military rule. If I remember the whole thing well, I
15 hope that this is the FM-3 manual under the title "Operations."

16 Q. Okay. So I've looked through your report on this part, and I
17 don't see any reference to the US manual, but are you telling us that
18 footnote 147 is to the US manual, field manual?

19 A. Yes, yes.

20 Q. So --

21 A. I apologise. Your Honours, I can bring that tomorrow. I have it
22 on my laptop. And I can tell you tomorrow what manual I was quoting
23 from.

24 Q. That's not necessary. I just needed to understand where you got
25 it from, and now I do understand.

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1 But the next paragraph is paragraph 2005 [sic], in which you
2 write -- excuse me, 205, and you write that:

3 "The basic principle of a siege or blockade is complete
4 isolation."

5 And then you go on to say that in modern military theory, this
6 can be physical, electronic, psychological. Is this also -- does this
7 also come from the American field manual?

8 A. Yes, this was completely taken over from the American Army field
9 manual.

10 Q. All right. So let's separate this out, and the first one we want
11 to talk about is physical isolation. And you testified last week, in
12 regard to a question from Judge Antonetti -- he asked:

13 "All right. In this light, would you agree, as a military
14 expert, with the fact that one can say that Mostar is a city under siege,
15 like Sarajevo, or that Mostar is in a different kind of situation?"

16 And your answer was that:

17 "Mostar was in a substantially different situation."

18 He then asked: "How different?"

19 And your answer was:

20 "To the north, where the main reserves of the BH Army were, there
21 were two roads leading. One was down the Neretva River Valley, which was
22 most probably under fire, under artillery fire, HVO artillery fire, and
23 the other route took one across a mountainous area, the western slopes of
24 Mount Prenj and on towards Jablanica. That route was not under fire by
25 the HVO."

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1 So that we understand, is it your testimony that when we focus on
2 the physical, that to the north there were two roads, one along the
3 valley that's close to the HVO line and then one over the mountain to
4 Jablanica?

5 A. Both are northbound, yes.

6 Q. All right. So I think the answer to that is, Yes. And let's
7 first talk about the road to the north that's on the Neretva Valley road
8 that you said was under artillery fire. Now, the reason, Mr. Gorjanc,
9 that it was under HVO fire was that it was so close to the HVO
10 front-line; is that correct?

11 A. I assume so. I didn't see any documents, but there was a
12 plateau -- an area around the Vrđi village under the control of the HVO.
13 It's two or three kilometres from that road.

14 Q. And you'll agree with me that if one chose to travel along that
15 road, one would be subject to the artillery fire of the HVO; correct?

16 A. Yes.

17 Q. And that was both risky and dangerous; correct?

18 A. Yes.

19 Q. All right. So if we look at 4D00622, this is the map that you
20 made, which I think will come up. Is that correct, this is the map you
21 made? This is list 2 -- the binder that indicates "List 2" on the spine.

22 If you look at this map and if we focus in on where the blue
23 meets the green, you'll agree with me that's the -- that's where the HVO
24 front-line comes close to meeting the ABiH front-line; correct?

25 MS. ALABURIC: [Interpretation] With your leave, if I may just

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1 intervene briefly.

2 If I've understood the question correctly, the suggestion is
3 being made that the witness compiled this map that is on the screen,
4 drafted the map. If that's what is being suggested, I'd like to say it's

5 not correct. This document has been an exhibit for a long time now, and
6 the General Petkovic Defence, in fact, provided this document, drafted
7 this document.

8 MS. WEST: Thank you, Ms. Alaburic. That is my mistake.

9 Q. But you've seen this document before; correct? This is one that
10 was shown to you by the Petkovic Defence?

11 So if you -- for the purposes of your testimony in this case,
12 we're going to assume that the Petkovic Defence line, where the HVO comes
13 close to meeting the ABiH, is the front-line after June 30th, 1993.

14 So now I'm going to show you P11081. This is another map, and
15 the reason I'm showing you this map is because it's a far more detailed
16 map, and I think it will be more workable. And I'm only -- this is a map
17 that was drawn by the BH government after -- after August of 1993, and I
18 am only interested to know, if you will look and tell me, whether the
19 front-line drawn on the Petkovic Defence map and the front-line on this
20 BH government map is about the same. And I'm actually going to hand it
21 to you.

22 So I'm not interested in any of the writing on it. I'm not
23 suggesting to you that that's factual or not. My question is: Would you
24 agree with me that it appears that at least the front-lines coincide?

25 A. Yes.

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1 Q. So let's work off the more detailed map I showed you, which is
2 P11081, and we're going to enlarge it on the screen for you, and I'll
3 give you a copy as well just so you can make sure -- we can make sure

4 that you see it.

5 Now, for the purposes of these questions, the blue line is the
6 ABiH front-line, and the red line is the HVO front-line. Now, do you see
7 the city of Mostar sort of in the middle?

8 A. Yes.

9 Q. And you see leading out of Mostar north, we have one road that's
10 going north right through East Mostar, another road that's going north
11 that's kind of behind East Mostar, but they hook up as we get close to
12 Rastani? Would you agree with me this road going north, the one in
13 down-town East Mostar, is the main road that you've been talking about?

14 A. Yes.

15 Q. So if you look at the distance from that main road going through
16 East Mostar to the red line, would you agree with me, if we look at some
17 of the other distances on this map, so, for example, as we get up in the
18 area near Rastani, we see between the red and the blue is 250 metres,
19 would you agree with me that from down-town Mostar -- from that road to
20 the red line is somewhere a little bit more than 250 metres or probably
21 not more than 400 metres?

22 A. From the center of Mostar to that line, do you mean from the
23 Croatian lines to the armija lines, to the ABiH lines?

24 Q. Sir, if you go right to the center of Mostar, and you'll see
25 right down --

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1 A. Yes.

2 Q. Right down, and you go west, the distance from that road going

3 west to that red line, looking at the rest of this map and seeing how
4 distances are measured, about how far is that?

5 A. Yes, yes, in some cases even less, but the road goes through
6 settlements at these places and it's protected by buildings, and this
7 area can only be fired on by mortars.

8 Q. Very good. But in your direct testimony, you conceded that this
9 road was subject to HVO artillery fire; right?

10 A. I assume that the upper part that you can't see in the map, in
11 the Dreznica area -- well, the Dreznica area was under HVO artillery
12 fire, and in the town, given the contact between the forces, there was a
13 very small distance, well naturally this was possible, it was possible to
14 open fire there. And the ABiH also returned fire in the direction of
15 Croatian territory.

16 Q. Right. What we're focused on now is the main road and how close
17 it is to the HVO main line. I want you to go north a bit, and if you
18 continue to go north the road kind of turns to the right, and it goes
19 under the area of Rastani, and this is the area, for the purposes of my
20 question, I want you to assume that in this area, after August of --
21 August 24th, 1993, the HVO took over that area. So the area that you see
22 that has diagonal slash lines, consider that to be HVO territory. Would
23 you agree with me that that road comes within 50 metres of the Rastani
24 occupied HVO territory at one point?

25 MR. STEWART: Your Honours, there isn't universal following of

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1 this map and everywhere we're going on it. I'm not the only one -- we're

2 not finding this easy. Somebody needs to use some sort of pointer so
3 that we can see specifically what we're talking about.

4 JUDGE ANTONETTI: [Interpretation] Yes. Ms. West, Mr. Stewart is
5 quite right. I'm finding it difficult to follow you. To be quite frank,
6 I'm somewhat lost. It would be best to use a pointer. You could use the
7 ELMO, you could make your presentation in that way, because right now it
8 is a little difficult to understand.

9 MS. WEST: Thank you. I appreciate that, Your Honour. Maybe if
10 I put it on the ELMO, then the witness could mark it and you could all
11 following along.

12 MS. ALABURIC: [Interpretation] Your Honour, in the meantime if we
13 could know who drew this map and which period is concerned in relation to
14 this map so that we know what we are talking about.

15 MS. WEST: Thank you. At the beginning, I mentioned that this
16 was a BH government map and it reflects the area subsequent to
17 June - thank you - 24th, 1993.

18 MR. KOVACIC: If I may, the information is not really useful.
19 The Croatian government is rather extensive -- BH government, sorry, and
20 we would like to have more precise information; not only the agency of
21 the government, which one it is, but also the person, because that would
22 be interesting to challenge the evidence. Thank you.

23 MS. WEST: Mr. President, at the beginning of my questions to the
24 witness regarded the first map, because I understand the comments being
25 made by the Defence, and as I mentioned early on, my purposes for this

1 map was only to use it because it's more detailed in terms of roads, and
2 that's why I compared this map to 4D0422, which is a Petkovic map, to
3 show that the front-lines are quite similar. I don't -- I don't know --
4 you know, we cannot use the Petkovic map because it is not detailed. The
5 witness has indicated that this map is quite similar when it comes to the
6 front-lines, so it's unclear to me why we can't use a more detailed map.

7 Now, in terms of admissibility, I certainly can hear the
8 objections for that, but for right now, for the purposes of my questions,
9 I think this map is completely appropriate.

10 MR. KOVACIC: Your Honour, this information is maybe useful, but
11 it is not what we require. I think that the precise source of the map
12 should be disclosed, because otherwise we cannot argue about the validity
13 of that, especially because this is not yet in evidence. Thank you.

14 JUDGE TRECHSEL: I think two observations fall to be made.

15 First, the map is actually signed. The name -- are you
16 interested in what I'm saying, Mr. Kovacic? The name of the author,
17 prefaced with the word "author," is to be found on the bottom right-hand
18 corner. It is handwritten. I confess that I am not able to read it, but
19 someone might be.

20 And, second, I would suggest as the Defence have a map, that they
21 prepare themselves. The Prosecution pretends that there are no
22 differences. Whenever a question is put and something is raised which
23 the Defence does disagree and thinks it is not the same as on the
24 Petkovic map, then that be could brought into the open.

25 I understand that it's not even the intention to file this map as

1 a piece of evidence, but it's just being used as being technically
2 superior, as the Prosecution says, than the Petkovic map, and I would
3 think that as the Defence -- all Defences have the possibility to point
4 to differences, that should then -- should then do.

5 JUDGE ANTONETTI: [Interpretation] Look, we want Madam West to
6 make a presentation. Madam West, take the pointer and show us where the
7 road is, in your opinion, and then put the question. Everything else is
8 of secondary importance. We have the good fortune to have a road.

9 MS. WEST: Mr. President, may I proceed?

10 JUDGE ANTONETTI: [Interpretation] Yes, yes.

11 MS. WEST:

12 Q. So, Mr. Gorjanc, looking at this map, and I'm going to point,
13 here [indicates] is East Mostar, or -- can you see on the map where East
14 Mostar is, you know, the down-town area of East Mostar?

15 A. Yes.

16 Q. From that down-town area, going west to that red line, assuming
17 these other --

18 MR. STEWART: Can I make an observation, Your Honour?

19 This is all going to have to be comprehensible on the transcript,
20 so that it's difficult -- I know it's a difficult task, but --

21 MS. WEST: No, it's not difficult, Mr. Stewart. What I'll have
22 the witness do is mark it when I'm done asking the question.

23 MR. STEWART: Well, sorry. It was actually kind of a comment
24 made supportive of you --

25 MS. WEST: And I appreciate --

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1 MR. STEWART: -- [Overlapping speakers] sometimes it's difficult,
2 actually, making such a thing clear. If you find it incredibly easy,
3 then congratulations.

4 MS. WEST: May I proceed, Mr. President?

5 JUDGE ANTONETTI: [Interpretation] Please do.

6 MS. WEST: Thank you.

7 Q. So if you go from down-town East Mostar going west to that red
8 line, and using, say, that -- that the estimate is 750 metres, that's 250
9 metres [indicates], that's 750 metres [indicates], using those as a
10 guide, can you estimate for me how far it is from this road line to the
11 red HVO front-line?

12 A. It's at the exit from Mostar towards the north. It's in the area
13 of the train station. It's about 200 metres to the Neretva River.

14 Q. I'm going to have you draw on this map that line, and you can
15 indicate that it's 200 metres.

16 A. [Marks]

17 THE ACCUSED PRALJAK: [No interpretation]

18 JUDGE ANTONETTI: [Interpretation] Mr. Praljak, let the witness
19 testify. He is testifying. He has just marked the distance of 200
20 metres.

21 Madam, please continue.

22 MS. WEST: Thank you.

23 Q. And if right next to that line you just drew, if you can write

24 "200 metres."

25 A. [Marks]

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1 Q. Okay. So now, if we go from, let's say, about this right
2 here [indicates] to the red line, can you make a line and write in about
3 how many metres you think that is?

4 A. I agree that the distance would be 750 metres [marks].

5 Q. Okay. And earlier I mentioned that I want you to assume for me
6 that after the 24th -- excuse me, August 24th, 1993, that the area of
7 Rastani was taken over -- taken back by the HVO. For the record -- yeah,
8 exactly. I want you to make a mark --

9 THE ACCUSED PETKOVIC: [Interpretation] Your Honour --

10 MS. WEST:

11 Q. -- from the continuation of that road to the area of Rastani and
12 give me an estimation on how far you think that is.

13 A. [Marks]

14 JUDGE ANTONETTI: [Interpretation] General Petkovic, what is it
15 that you would like to say? I am following the witness quite clearly.

16 THE ACCUSED PETKOVIC: [Interpretation] Your Honour, for technical
17 reasons relating to this map, I'd like to say the following: The scale
18 is 1:1.000.000 [as interpreted]. Ask the witness, a centimetre on the
19 map, how much does that relate to real life, if the scale is
20 1:1.000.000 [as interpreted]. One centimetre cannot represent 200 metres
21 here. You know, that's the problem. The scale of the map, it says
22 "1:100.000." So what does 1 centimetre represent, and then we can see

23 what we're talking about.

24 THE WITNESS: [Interpretation] It represents 1 kilometre.

25 THE ACCUSED PETKOVIC: [Interpretation] Then we have to measure 1

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1 centimetre so that it represents a kilometre. It would not be 250 metres
2 in that case.

3 JUDGE ANTONETTI: [Interpretation] Sir, if what Mr. Petkovic says
4 is true, he says that the scale of the map is 1:100.000, and therefore 1
5 centimetre would represent 1 kilometre. You are a general, just like he
6 is, or you're a colonel or a general, so you should be in agreement when
7 it comes to military maps.

8 THE WITNESS: The scale of the map is 1:100.000 and that means
9 that 1 centimetre on the map represents 1 kilometre in reality, and this
10 means that there should be -- one square should represent 2 kilometres.

11 JUDGE ANTONETTI: [Interpretation] If you say that 1 centimetre is
12 a metre, then there are mistakes that one can notice immediately on the
13 map. When I see "1.7 kilometres," well, in this case we have more than 2
14 centimetres, and when I say "4.7 kilometres," well, on the map we have
15 more than 4 centimetres.

16 THE WITNESS: [Interpretation] We have to look at the coordination
17 network on the map, because this map has been reduced in size and this
18 one enlarged, so the representation is erroneous. We have a square, 2
19 kilometres by 2 on a map, the scale of which is 1:100.000.

20 JUDGE ANTONETTI: [Interpretation] So you say one square, it's --
21 it represents 2 kilometres, 2, not 1?

22 THE WITNESS: [Interpretation] Yes, 2, that's right. 1 centimetre
23 on the map represents 1 kilometre, and the coordination network is
24 unique, it's a single one. It means that one square is 2 kilometres by
25 2. It should have the size -- it should be 2 centimetres, but here it is

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1 smaller. And on the other map, it is bigger. That's why I was confused,
2 because I could -- on the basis of the square, I thought it was the scale
3 of 1:20.000, because on a map of 1: -- the scale of which is 1:25.000,
4 the coordinate network is 1 by 1. The grid, the coordination grid is 1
5 by 1.

6 JUDGE ANTONETTI: [Interpretation] Let's allow Madam West to
7 continue. She wanted to show that the road was, in fact, very close to
8 the HVO front-lines.

9 Ms. West, please continue, and we'll see about the distance
10 later, and in particular with regard to Rastani.

11 MS. WEST: Thank you, Mr. President, and I'm just going to back
12 up on the record because it appears that something wasn't recorded.

13 Q. I had asked you, at page 94, line 18:

14 "From the continuation of that road to the area of Rastani, can
15 you give me an estimate on how far you think that is?"

16 And it was at that point that you wrote in "50 to 100 metres."
17 Did you say that out loud? Or let me ask you again. How far is that
18 distance from Rastani to the road?

19 A. It's over 200 metres here, if I take into consideration the scale
20 of the map, because I thought the scale of the map was 1:25.000.

21 MS. ALABURIC: [Interpretation] Perhaps it would be useful to
22 first locate Rastani, and then we could determine the distance between, I
23 assume, Eastern Mostar and Rastani.

24 JUDGE ANTONETTI: [Interpretation] Sir, could you point out the
25 location of Rastani?

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1 THE WITNESS: [Interpretation] Rastani is on the right bank of the
2 Neretva River **in the northern part of Mostar.**

3 JUDGE ANTONETTI: [Interpretation] Yes, but could you do so on the
4 map?

5 THE WITNESS: [Interpretation] On the map, it's to the north, it's
6 this area here [indicates], it's in this area here.

7 JUDGE ANTONETTI: [Interpretation] Very well. So the question is
8 a key question. The road that we can see, how far is this road from the
9 HVO lines after the HVO took control of Rastani? Is it 50 metres, 100
10 metres, 200 metres?

11 MR. STEWART: Your Honour, I do persist with the observation I
12 made earlier. Your Honour says -- it's not Your Honour's fault, no
13 criticism at all, but "the road that we can see." We are going to need
14 such things to be very clearly marked, and better -- the sooner the
15 better as we go along, but they're going to have to be clearly marked
16 because we can see lots of roads here. So it's -- with respect, I think
17 this task is more difficult for counsel sometimes than is appreciated,
18 and let's take it, at the right place, to get it clear, please.

19 JUDGE ANTONETTI: [Interpretation] Ms. West, you asked for the

20 admission of this map, since you asked the witness to indicate distance.

21 Now that we know where Rastani is, we know that the distance is 50 to 100
22 metres, 50 to 100 metres. Could you please point to the route with the
23 pointer?

24 MS. WEST:

25 Q. Mr. Gorjanc, I think you can point to that road. You can even

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1 mark it with your pen, mark the road with your pen.

2 A. [Marks]. That's the road, and this is Rastani [indicates]. The
3 entire area is Rastani.

4 Q. And so the -- what would be the HVO front-line after they took
5 over the area from Rastani to that road, is that 50 to 100 metres, like
6 you wrote on the map?

7 A. You will please forgive me. I believe that the scale of this map
8 was bigger. However, when I take into account that this is a map whose
9 scale is 1:100.000, then the distance is about 200 metres.

10 Q. Why don't you make that correction on the map. Go ahead and make
11 that correction.

12 MR. STEWART: Your Honour, what is it --

13 THE WITNESS: [Marks]

14 MR. STEWART: I must persist with this, Your Honour, because we
15 are going to have work from this transcript later. The witness says
16 that's the road, and then he makes some marking, and the transcript
17 doesn't tell us what marking he's made, so when we look at the transcript
18 a few months down the line, we're going to have to guess what the marking

19 is that goes with the remark he's made because he put a block around
20 Rastani. It really is -- it needs to be -- if we're going to have to use
21 this material later, it does need to be taken more carefully.

22 JUDGE TRECHSEL: I think Mr. Stewart is perfectly right. If one
23 looks at the text in isolation, one cannot make heads or tails, so
24 I think as we are about to close, there is perhaps some homework for
25 tonight to think of a way how this can be presented in a way that is

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1 useful for the transcript.

2 In technical terms, I cannot refrain from recalling that this map
3 is 1:100.000, and the distance between the lines is, on the map, in the
4 original, 1 kilometre. This is, I suspect, already a slightly enlarged
5 map. That's why it looks larger than 1 centimetre. It probably is. So
6 we have to reduce this. On the screen, of course, it's again much
7 bigger.

8 We have a number of indications of this map which at first glance
9 seem to me quite plausible, and that, I think, is something which allows
10 to make estimates, because it is a basis that perhaps someone wants to
11 contest. I -- for the moment, I see no reasons to doubt it.

12 And then the map, itself, with these indications, I think, can be
13 of a certain use, subject, of course, to all corrections and criticisms
14 the Defences want to apply to it.

15 MS. WEST: Mr. President, can I just have one more moment to wrap
16 this up.

17 Q. Mr. Gorjanc, on the map on the ELMO, can you sign the bottom and

18 put today's date, please?

19 A. [Marks]

20 MS. WEST: May this have an IC number.

21 JUDGE ANTONETTI: [Interpretation] We are going to give it an IC
22 number, then.

23 MS. ALABURIC: [Interpretation] I would like to provide
24 clarification.

25 The fact that the map has been signed, does this mean that we are

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1 done with the map or are we going to continue talking about it tomorrow?

2 MS. WEST: I don't know.

3 THE REGISTRAR: Your Honour, for record purposes -- Your Honour,
4 for the record, the marked version of the map shall be given
5 Exhibit IC01088. Thank you, Your Honours.

6 JUDGE ANTONETTI: [Interpretation] In order to understand the
7 issue of the map, I am going to say this for the transcript: In addition
8 to the reference to 200 metres made by the witness, we see that the
9 author of the map, on the left, between the red and blue lines, marked
10 "220 metres," and there are three arrows and you will see "220 metres."
11 And we can conclude that if the author of the map is not mistaken, 220
12 metre distance can be visualised in the -- very close to the reference to
13 200 metres that the witness has made, and everybody can see it.

14 Ms. West will probably come back to the issues tomorrow, but I
15 believe that this road was close to the HVO lines, and in any case
16 somewhere around 200 metres or less than that.

17 In any case, we are going to continue tomorrow, in the afternoon,

18 2.15.

19 Good evening to everybody.

20 MS. WEST: May I have one more comment? My apologies.

21 I think it might help this situation if the witness took the map
22 with him overnight, and maybe he can take a look at it, and if we decide
23 to go into it tomorrow, he will have an equal -- a valuable opportunity
24 to take a look at it. Thank you.

25 JUDGE ANTONETTI: [Interpretation] Give him the map. He's going

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1 to study it, and he is going to bring it back tomorrow.

2 [The witness stands down]

3 --- Whereupon the hearing adjourned at 7.03 p.m.,

4 to be reconvened on Tuesday, the 3rd day of

5 November, 2009, at 2.15 p.m.

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