

1 Monday, 7 February 2011

2 [Open session]

3 [The accused entered court]

4 [The accused Pusic not present]

5 --- Upon commencing at 2.20 p.m.

6 JUDGE ANTONETTI: [Interpretation] Mr. Registrar, kindly call the
7 case.

8 THE REGISTRAR: Good afternoon, Your Honours.

9 Good afternoon, 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 This is the day when the Prosecution is going to start making
14 their closing arguments. And let me wish you a good afternoon to you
15 all, including those who are not here; that is, Mr. Pusic, for instance.

16 And let me use this opportunity to welcome here a new Petkovic
17 Defence counsel, Mr. Zoran Ivanisevic.

18 Furthermore, in terms of scheduling: On Wednesday, we were
19 scheduled to sit in the morning, but we are going to sit in the afternoon
20 because the Tolimir case requested a change, for reasons known to the
21 Tolimir Chamber. I hope this will cause no inconvenience to anybody.
22 Since it's going to happen on Wednesday, I wanted to let you know today
23 already.

24 Furthermore, all those who will have an opportunity to speak in
25 the next hours or weeks to come should speak slowly, please, for the

1 interpreters to be able to render their thoughts faithfully. And if ever
2 we were to run into problems, that time would be taken out of the
3 allotted time to each of the parties.

4 Also, the TribuNet site failed to mention the fact that we were
5 going to have our final closing arguments, whilst it was stated for
6 Charles Taylor and his case. It must be an omission, because I know
7 they're overworked. Still, they mention that there were a lot of
8 Croatian journalists coming to attend the final arguments.

9 Through me, the Trial Chamber wishes to recall that closing
10 arguments by all parties should not be a repetition of submissions made
11 in closing briefs. The Trial Chamber urges the parties to focus on the
12 key issues in this case.

13 When the Defence teams start making their final arguments, each
14 Defence team will first tell the Trial Chamber whether the accused
15 planned to make statements for a maximum of 30 minutes each out of the 5
16 hours allotted to each Defence team. The Trial Chamber recalls that
17 should an accused request the right to speak, he will speak last, at any
18 rate. Furthermore, if the accused do not wish to speak, the time that we
19 gave to each of the accused may not be given back to their counsel.
20 The Trial Chamber recalls that the time allotted to a Defence
21 team may not be given to another Defence team.

22 And the Trial Chamber reserves itself the right to rule on
23 reasoned rebuttal or rejoinder motions, if any, to the closing arguments
24 once the Trial Chamber has heard all of the closing arguments.
25 So all this being said, you know that this is a direct result of

1 the orders we issued and decisions we handed down.
2 And I'm going to give the floor to Judge Trechsel because he
3 wanted to say something.
4 JUDGE TRECHSEL: First, one observation.
5 In the meantime, probably while our President was speaking, the
6 internet, in fact, announces the final pleadings in the Prlic case.
7 The second point is: There has been a little mistake in the
8 transcript. It's found on, I think, line 19 of 9 questions of cessation of time. One is: One Defence cannot give time
10 that they do not use to another Defence. But when a Defence decides that
11 the accused will not, within the frame of their presentation, take the
12 floor, they dispose of the full time, in fact. They don't lose any time
13 in that case. That was, I think, a slip of the tongue or maybe even a
14 misprint.
15 Thank you very much.
16 JUDGE ANTONETTI: [Interpretation] So now everything has been
17 said. I think Mr. Scott is ready to go. I can see him at the rostrum.
18 You may proceed.
19 MR. KHAN: Mr. President, I do apologise.
20 Perhaps before my learned friend starts, we could get the
21 assistance of the Court staff, because our LiveNote for this Defence team
22 is not working.
23 JUDGE ANTONETTI: [Interpretation] Sure, the staff is going to
24 come in a minute. But let's not prevent Mr. Scott from starting, because
25 the transcript, as such, is working.

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1 [Prosecution Closing Statement]
2 MR. SCOTT: Counsel, the accused, Your Honours, good afternoon.
3 May it please the Court.
4 On October 23rd of 1993, Mufida Likic was a 14-year-old Muslim
5 girl living in Stupni Do. She got up at about 7.00 that morning, had
6 breakfast with her mother, her aunt, her two-year-old cousin. After
7 doing the breakfast dishes, she went outside to pile some firewood. Her
8 mother took their only cow to a nearby field to graze. It must have
9 seemed like a normal day. It must have seemed like most other days. But
10 a short time later, all of that came suddenly to an end, and Mufida's
11 life changed forever. There was a sound of gun-fire and then a grenade
12 exploding. The shooting increased dramatically, seeming to come from all
13 directions. She ran to the basement of her house with her father,
14 sister, and aunt. By this time, bullets were breaking the small basement
15 windows. Mufida said, in her own words, the windows, quote, "were blown
16 to smithereens. Bullets were entering the basement, where they were
17 lying on the floor."
18 Over the course of the next hour, all in the midst of gun-fire,
19 other Muslim women and children came to the basement to hide, many of
20 them still wearing their night clothes. By the end of an hour, there
21 were 11 Muslim women and children hiding in the basement.
22 Fearing the arrival of the attacking soldiers at some of the
23 nearby houses, the group of 11 decided to run to the basement of another
24 nearby house, to Kemal's house. When they arrived in the basement there,
25 there was Kemal's wife and small child. Now there were 13 Muslim women

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1 and children.
2 At one point, Mufida was able to look out of the basement and saw
3 her house and barn on fire. Now the attacking soldiers approached

4 Kemal's house, and the group decided to flee again.
5 Once outside, Mufida saw her part of the village completely on
6 fire. Stupni Do was in flames. As she continued on to Kada's house, she
7 was wounded by a gun-shot to her left side. When she arrived in Kada's
8 basement, she found her sister, Medina, her aunt, Hatidza, and her
9 neighbour, Nezveta Likic, already there.
10 There was a small pit in the basement that was only a few feet
11 deep, which was used to store potatoes. The four Muslim women huddled in
12 that pit, with Mufida behind and at the bottom. After a time, they heard
13 men's voices outside, and then there were two explosions in the basement.
14 A man came into the basement, saw them, and yelled to someone outside, I
15 have found three balijas women, apparently not seeing Mufida, who was
16 behind and under the others. There was then the sound of two men in the
17 basement, and they were cursing and swearing. There was a sudden burst
18 of gun-fire, and Mufida felt the body of her sister slump heavily on top
19 of her.
20 After a time, it was quiet again inside the basement. This is
21 what Mufida said:
22 "I called Nezveta, Hatidza, and Medina in a low whisper. There
23 was no response. I called my sister's name again and touched her hand.
24 She did not respond. I crept out of the pit. Nezveta, Hatidza, and
25 Medina still sat crouching in the pit, their heads bent over, their chins

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1 touching their chest. I tried to shake the body of my sister, but she
2 was dead. All three of them were dead."
3 Mufida's story goes on for some time after that; how she
4 continued to move about the village and the surrounding woods, seeing
5 again her entire village on fire. She and other Muslim women and
6 children eventually made their way through the woods to the road to
7 Dabravine, where they were found by an UNPROFOR unit two days later on
8 the 25th of October, 1993.
9 Searching through all the civilians and all the people who had
10 fled the area, Mufida found her mother and told her that Nezveta and
11 Hatidza and Medina were dead. Her mother fainted, woke up, and then
12 cried for a long time.
13 Witness BQ -- and I'll hasten to add that while this witness has
14 a pseudonym, he testified primarily in open session, with face
15 distortion. Witness BQ was a Muslim man who told the Court how he was
16 held by the HVO at Dretelj for approximately 58 days in the summer of
17 1993.
18 The exhibits that are on the screen in front of you, P09718,
19 P09719, and P09721, are photographs which will remind the Chamber of the
20 Dretelj camp and what it looked like, the buildings or the hangars where
21 Witness BQ and other Muslim men were held by the HVO. He told us that
22 about 500 to 600 Muslim men were kept in that tunnel. Most of them were
23 from Prozor, but there were also men from Central Bosnia and other parts
24 of Herzegovina.
25 The Chamber heard how, when the detained men received any food,

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1 "it was so awful that maybe it was better that we had none. I would
2 never have given it to my dogs, my pigs, or my cattle." As for amounts,
3 it was so small, one little loaf of 700 grams was divided into pieces for
4 17 people, and this soup that we got was just boiled over a fire. It was
5 so hot, just off the fire, and we had 10 to 20 seconds to eat it. I
6 don't think anybody could have held that dish with food for more than 20

7 seconds."

8 When Witness BQ and other Muslim men were released from Dretelj
9 on or about the 28th of August, 1993, the HVO took them in buses from
10 Capljina to Vrda, and from Vrda they had to walk to Dreznica. Many of
11 the men were exhausted and in poor health. Many of them could hardly
12 walk at all. Some collapsed on the way, suffering additional injuries.
13 The witness, himself, said that he could barely stand and only barely
14 made it from Vrda to Dreznica.
15 And the Chamber and those around the courtroom are now seeing
16 some of the photographs of the Muslim men who were released from Dretelj
17 on that day.
18 Witness BQ never saw a doctor at Dretelj, was not aware of any
19 medical care ever being provided there. The bandages that can be seen on
20 some of the released men were only given to them, only placed on them,
21 after they arrived at Dreznica by the Red Cross or UNPROFOR.
22 Witness BQ weighed approximately 94 kilograms before he was
23 detained, and when he was released from Dreznica, he weighed 37
24 kilograms. It could not have been a diet that he had ever wished for.
25 The Chamber will recall the testimony of Dr. Jovan Rajkov, who

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1 was a surgeon in the East Mostar War Hospital in 1993, who told the
2 Chamber about the work of that make-shift hospital, especially starting
3 on the 9th of May, 1993, about the horrible conditions in that hospital
4 and the limited medical supplies. The Chamber will recall a number of
5 video-clips involving the hospital, which the Chamber may wish to review.
6 Dr. Rajkov drew a stark contrast to the hospital in West Mostar:
7 "It wasn't under a siege, it wasn't under a blockade. If they
8 needed something, they could bring it in, install it, whatever."
9 Dr. Rajkov testified about the treatment of a large number of
10 civilian women and children for wounds and injuries, including bullet
11 wounds and from shelling, and identified two of the known sniper
12 locations in Stotina and in the glass building. He testified that
13 ambulances were specifically targeted by shelling and sniping and how a
14 substantial number of the hospital's own medical staff were either killed
15 or wounded in 1993.
16 How do we get to these sad and horrible events? What brought us
17 here. What happened in those parts of Bosnia and Herzegovina that some
18 people called Herceg-Bosna? What happened that brought us to this case,
19 that brought us to this trial?
20 The Prosecution submits that at the core of what happened, what
21 led to and caused these events and others, was the joint criminal
22 enterprise charged in this case, an enterprise to establish a Greater
23 Croatia as set out in the indictment, quote, "to politically and
24 militarily subjugate, permanently remove, and ethnically cleanse Bosnian
25 Muslims and other non-Croats who lived in areas on the territory of the

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1 Republic of Bosnia and Herzegovina which were claimed to be part of the
2 Croatian Community and later Republic of Herceg-Bosna, and to join these
3 areas as part of a Greater Croatia, whether in the short term or over
4 time, and whether it is part of the Republic of Croatia or in close
5 association with it, and, as part of this, quote, "to engineer the
6 political and ethnic map of those areas so that they would be
7 Croat-dominated, both politically and demographically."
8 The Prosecution respectfully submits, Your Honours, that there
9 are four fundamental points. The starting points are actual permanent

10 points, the Prosecution suggests, if the Chamber will continually look
11 to, it would provide help in analysing the evidence in this case.
12 First of all, what was this all about? In a nutshell, the
13 Greater Croatia, Herceg-Bosna Banovina, was about establishing a Croat
14 space, with borders, controlled by Croats, demographically and
15 politically, that looked, felt and sounded like Croatia. That's about as
16 succinct a statement as the Prosecution believes it can make about what
17 this was all about.
18 Now, let's talk about each of those elements, the important
19 elements, when I said there were four points, in more detail.
20 First, this was a top-down project or agenda or programme.
21 Greater Croatia was a top-down project driven by a relatively small,
22 politically -- excuse me, political and military elite, a political class
23 of Croat nationalists who had a particular ethnic and political vision.
24 This is the story of a nationalist faction that took control of the HDZ
25 and set out to implement Franjo Tudjman's vision of a Greater Croatia.

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1 These six men were not just a group of individuals who were
2 caught up in something coming from the bottom up, from the grassroots, as
3 some say. No, this was top down. This project was imagined, planned,
4 prepared, decided, driven, administered, implemented and carried out from
5 the top down. And these men, these men over here, were among its
6 designers, architects, builders, and executioners.
7 Judge Trechsel hit the head -- hit the nail on the head in an
8 intervention on the 2nd of June, 2009, transcript Page 41035-36, in
9 responding to some points being made by Mr. Praljak.
10 Judge Trechsel:
11 "Mr. Praljak, I'll put to you something which you will consider
12 as provocative, probably. And it's not at all my intention to provoke,
13 but I think in sheer honesty, I have to tell you, listening to you this
14 afternoon, I start wondering whether this war, that is presented as a war
15 of the Croatian Narod or people, for their popular rights, these people's
16 rights, in fact, is not something that the people wanted, but that a
17 small stratum, a class, a caste of politicians and military and other
18 very nationalistic minded people wanted, and which they then whipped
19 through, not being pushed from underneath, from the popular, from the
20 grassroots; but, on the contrary, pulling out the grass to throw it into
21 the war, to some extent."
22 The Prosecution submits that's exactly what happened here. This
23 was top down. Everything that happened, the ultimatums, the expulsions,
24 the destruction, the putting Muslim women and children on buses, the
25 transit visas, taking them to a third country, destroying the mosque,

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1 destroying communities, was all top down.
2 For confirmation that the Greater Croatia/Herceg-Bosna project
3 and the crime committed were a top-down enterprise, we need look, in
4 fact, no further than the words of the accused. Prlic confirmed --
5 Mr. Prlic confirmed the Herceg-Bosna plan, adopted, proclaimed and
6 supported by Zagreb:
7 "They were also using the opportunity to address the public and
8 say to the public that everything was being done and all the preparations
9 were being done to defend Herzegovina, which was only partly correct,
10 partly true. HVO, between themselves, they created another plan, which
11 was adopted and proclaimed and supported by Zagreb, which was also the
12 political centre of power. So the goal and the main point of that plan

13 was to defend the territory and also -- excuse me, and possibly also
14 attach it to the Republic of Croatia."
15 Mr. Prlic likewise confirmed that during the course of the war
16 and following, he had been implementing Tudjman's instructions. In a
17 meeting with Tudjman in Zagreb on the 20th of June, 1998, Prlic said :
18 "I do not belong to any line. I have been implementing what you
19 were telling me all the time."
20 To which Tudjman replied:
21 "Well, it is for sure that you are the most intelligent one
22 within that structure."
23 Praljak confirmed that he was implementing the same top-down
24 policy with Tudjman, Prlic and Stojic:
25 "I was implementing the policies of the Croatian state.

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1 "My policies were parallel to the policies of the Republic of
2 Croatia and the policies of Franjo Tudjman, Gojko Susak, Bruno Stojic,
3 Jadranko Prlic, and all of the others."
4 Mr. Praljak's own words.
5 Mr. Prlic confirmed that the Croat-Muslim war was directed by
6 Herceg-Bosna's political leaders.
7 "... the war was fought by political leaders through the
8 Main Staff of the HVO, actually through the military organs."
9 Petkovic confirmed that the Herceg-Bosna civilian leaders control
10 the HVO military, stating:
11 "... objectives are set by politics rather than the military.
12 The military must implement these decisions."
13 Praljak again confirmed political control of the HVO military:
14 "A political decision has an absolute priority over a military
15 decision. You cannot conduct the creation of a state --" let me repeat
16 that, " ... the creation of a state from 20 centres, but from one."
17 Who were these central political figures that were exercising
18 control over the military? Well, Petkovic told us that as well.
19 Petkovic confirmed that the three highest political or civilian
20 authorities concerning Herceg-Bosna's military and defence matters were
21 Boban, as president of the Herceg-Bosna, Prlic, as president of the
22 government, and Stojic, as head of the Defence Department, with the
23 Defence Department being part of Prlic's government. Petkovic confirmed,
24 in fact, that Stojic was, quote, "my minister."
25 Prlic confirmed that the HVO committed -- excuse me, the HVO

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1 military committed crimes:
2 "It is quite clear that HVO military units, members of military
3 units, committed crimes, and, therefore, HVO military authorities were
4 responsible and should be held responsible, should be answerable for
5 that."
6 Herceg-Bosna was top down; Tudjman, Susak, others in Zagreb,
7 these men and others.
8 Another important component or element of the whole project was
9 territory. The Croat-Muslim war, arising from the Greater Croatia
10 project, was all about territory, about Croatia and some Croats regaining
11 all or much of a territory that had once been known as the Croatian or
12 Hrvatska Banovina in 1939. We will talk more about that, but that is the
13 fundamental territorial element.
14 To use other terminology that has come up in the course of the
15 trial, the Croats wanted their own sovereign space, a sovereign area of

16 geography, real estate with borders. It wasn't the plan or it wasn't
17 enough to just establish some abstract, philosophical idea of Croat-ness.
18 No, you wanted to have a piece of territory, a piece of ground to call
19 your own. To make it real, to put it on the map, you needed a space with
20 borders. But that also wasn't enough. You also had to have
21 demographics.
22 Putting borders or lines on a map would not necessarily
23 accomplish your goal of your own sovereign space unless you, indeed, had
24 or could gain control within those borders or on that territory.
25 Assuming that the system of government on that territory was going to be

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1 something broadly like a democracy, something broadly like each adult
2 having an equal vote, you needed to have a majority of those voters. Or
3 to put it differently, your group needed to be in the majority.
4 If those pursuing a Herceg-Bosna or Banovina put borders around
5 it, put lines on a map, but inside those borders, the Muslims in all or
6 large parts of it were still in the majority, were still in control
7 politically, demographically, culturally, you hadn't accomplished very
8 much. They could still out-vote you, they could still do what they
9 wanted to do, so to speak, and that was not the purpose of Herceg-Bosna.
10 What's the point of having territory if you don't actually
11 control it?
12 At the same time, a demographic advantage, by itself, was not
13 helpful. You might have an overall demographic advantage spread out over
14 a large territory, but still no physical space that is, quote, "your
15 own." The Herceg-Bosnians needed or wanted both territory and
16 demographics.
17 Having put those two elements, territory and demography, on the
18 table, I think Mr. Praljak confirmed for us the importance and the
19 application of these two elements.
20 I'm going to get to some Praljak testimony in a moment, but I'm
21 going to introduce that by referring first to some testimony of the
22 British journalist Ed Vulliamy.
23 Vulliamy interviewed Boban in Grude in mid-April of 1992, and
24 this is what, according to Vulliamy's testimony in this courtroom, Boban
25 told him: Boban made it clear that he did not and could not recognise

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1 the Constitution of Bosnia-Herzegovina, nor could he recognise Sarajevo
2 as its capital. The reason he gave was that the Constitution guaranteed
3 the rights of individuals, but not of people, and the word he used for
4 people was "narod." Forgive me if I'm mispronouncing that - which is an
5 important word because it means people as an ethnicity.
6 He then went on to describe in some detail how he wanted the
7 various "narod" Serbian, Muslims, and Croats to be divided within
8 Bosnia by a system of what he called cantons or provinces, and how one
9 group of these cantons or provinces would be specifically Croatian. He
10 talked about how Herceg-Bosna was connected to Croatia, and the words he
11 used were "culturally, spiritually, and economically," and he said
12 that -- excuse me -- and he said that Herceg-Bosna had been separated
13 from Croatia by what he called, quote, "unfortunate historical
14 circumstances."
15 This testimony about what Boban said was then put to Mr. Praljak
16 by my colleague, Mr. Stringer:
17 "Q. Now, two questions on this for you, General.
18 "First of all, Boban's views expressed to Mr. Vulliamy in this

19 conversation in August of 1992 --"
20 I apologise. I misspoke earlier and said "April." I should have
21 said "August of 1992."
22 "... that Boban's views are essentially a mirror image of the
23 views of President Tudjman, aren't they, these cultural and spiritual
24 links between Herceg-Bosna, Croatia, and the unfortunate historical
25 circumstances that resulted in separation from Croatia?

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1 "So wouldn't you agree with me, based on what we've seen already,
2 that Boban's views were essentially the same views as President Tudjman
3 on this issue?

4 "A. Well, I'm in an awkward situation here. I don't know -- I
5 don't know how I can answer to such a question. These are the positions
6 of Mate Boban he put forward at a meeting with Mr. Vulliamy. I don't
7 know what they spoke about. I only know what Vulliamy says that they
8 spoke about. But based on that account, I can say that everything is all
9 right. Boban speaks about cantons. This idea was present all the time
10 in our minds."

11 Praljak spoke further about this, Mr. Stringer pursuing further:

12 "Q. I'm putting to you, sir, that what that means is that you're
13 rejecting the unitary state system of Bosnia-Herzegovina, and you are
14 advocating instead a separateness based on autonomy and territory for
15 different peoples; isn't that true?

16 "A. Yes, that's correct, that's what I advocated then. I
17 advocate that today. So I stand by what I said. I fully support my
18 words.

19 "Q. Now, General, I want to come back again to your testimony
20 about your objective here for an autonomous area, where Croats would be
21 an absolute or relative majority. Would you agree with me that such an
22 area, were it to exist, would have to have an identifiable border?

23 "A. That is correct.

24 "Q. Would you agree with me that such an area that you
25 envisaged, that you're speaking about here, would not be a temporary

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1 entity under Bosnia-Herzegovina or within Bosnia-Herzegovina, but what
2 you wanted was a permanent autonomous area for Croat people in Bosnia and
3 Herzegovina?

4 "A. Yes, it was supposed to be permanent."

5 The fourth element and final element was, if I can coin the
6 phrase, "Croat-ness." What you finally wanted -- what the
7 Herceg-Bosnians finally wanted, not just territory, not just
8 demographics, but Croat-ness. This territory, this space with borders
9 and demographics, needed to be Croat. It needed to sound, look, and feel
10 Croat; Croatian culture, Croatian symbols, Croatian flags, Croatian
11 anthems, Croatian currency, Croatian curriculum, Croatian language,
12 Croatian driver's license, Croatian citizenship. It had to look and
13 sound and feel like Croatia.

14 The four critical elements the Prosecution submits to you:

15 Top-down, territory, demographics, Croat-ness. With those four elements
16 in mind, I want to address the case at some length, and especially in
17 response to various parts of especially the Prlic, Stojic, and Praljak
18 final briefs as to a variety of issues that largely started and occurred
19 during the period 1990 to the end of 1992, which will bring us to the
20 largest part of the indictment in 1993.

21 Franjo Tudjman's views about Croatia's borders, as they existed

22 in 1990, and his obsession with restoring the Croatian banovina of 1939,
23 were well known, as he, himself, stated these views on many occasions.
24 In his 1981 book "Nationalism in Contemporary Europe," Tudjman said that
25 the creation of Bosnia-Herzegovina as a separate Republic in the

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1 Socialist Federal Republic of Yugoslavia had made Croatia's territorial
2 and geographic position, quote, "unnatural, in the economic sense, and
3 unsuitable, in the administrative sense." According to Tudjman, it was
4 entirely artificial to separate Bosnia and Herzegovina from Croatia,
5 since Bosnia and Herzegovina were historically linked with Croatia, in
6 his view, and they together comprised an indivisible geographic and
7 economic entity. That is quoting his book that I cited a moment ago.
8 The solution, according to Tudjman and others, was to add to
9 Croatia's existing borders a territory that had been known as the
10 Croatian or Hrvatska banovina. This large area was the result of a 1939
11 agreement between the Serbian-Yugoslav prime minister, Cvjetkovic, and
12 the Croat leader, Vlado Macek, which created a large Croatian territory
13 encompassing much of Bosnia and Herzegovina and almost all the former
14 Triune Kingdom of Croatia, Slovenia, and Dalmatia. While the agreement
15 only lasted until Germany and Italy invaded Yugoslavia in April 1941,
16 Tudjman and others idealised Croatia's expanded banovina borders and
17 longed to restore the banovina by annexing large parts of Bosnia and
18 Herzegovina to Croatia.
19 Josip Manolic, who was the prime minister of Croatia in
20 1990-1991, a member of Croatia's Defence and National Security Council in
21 1993, and president of Croatian Parliament's Upper Chamber in 1994, came
22 and testified. And I know it's been some time ago now, but hopefully
23 some of these witnesses will come back to all of us as we continue to
24 review and study the evidence.
25 Mr. Manolic confirmed in his ICTY testimony that Tudjman was,

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1 quote, "obsessed with this idea of the banovina creation, and he
2 described the realisation of the banovina borders as the main goal of
3 Tudjman's policy. The principle idea of the Croatian state policy,
4 according to Manolic, was the partition of Bosnia-Herzegovina
5 independently from any other circumstances. The, quote, "annexation of
6 Herzegovina to Croatia" was really the guiding idea of the Croatian state
7 policy.
8 Tudjman's own foreign minister, Mate Granic, wrote in his book,
9 "Foreign Affairs Behind the Scenes," quote:
10 "Tudjman's obsession was to re-create the Croatian banovina which
11 had been established in 1939, according to which Herzegovina and parts of
12 Central Bosnia and the Bosnian Posavina were joined to Croatia. The
13 president often told me that the banovina was the best solution."
14 Tudjman's views concerning Muslims, not surprisingly, were
15 consistent with his views towards Bosnia. In a meeting with Herceg-Bosna
16 representatives in December 1993, Tudjman said that the Croats had fought
17 the Muslims for three centuries and that it was the Muslims who had
18 brought Croatia to the brink of disaster. Tudjman explained that the
19 ordinary Bosnian Croat preferred the Orthodox Christian Serbs to the
20 Muslims, quote, "because he is a Christian, after all."
21 US Ambassador Peter Galbraith had a number of meetings with
22 President Tudjman and testified that Tudjman often referred to the 1939
23 banovina. President Tudjman believed that Bosnia-Herzegovina would not
24 and should not continue, that Bosnia should not and would not continue as

25 a sovereign, independent state, and that a substantial part of Bosnian

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1 territory should become territory of the Republic of Croatia. Not only
2 that, but Galbraith told us that Tudjman often spoke favorably of
3 population exchanges, population transfers, that this had been something
4 that had been done through history and there was nothing so unusual about
5 moving populations, exchanging population, and that was clearly part of
6 Tudjman's vision. He explained to Galbraith which territories should
7 become part of Croatia, and even produced a map showing Bosnia being
8 divided right down the middle, was Galbraith's words, right down the
9 middle.

10 Mostar, in Tudjman's view, was a Croatian city. It was the
11 capital of the Croatian territory in BiH, and as far as Tudjman was
12 concerned, the Muslims could not claim Mostar as theirs.

13 Now, those who were or who would become the political and
14 military leaders of Herceg-Bosna and the HVO in 1991 and 1992, and would
15 lead the persecution and ethnic cleansing against the Muslims in 1992 and
16 1993, shared Tudjman's views about the banovina and establishing Croatian
17 political, military, and demographic control in a Croatian space. The
18 roles of the accused in this case are set out in the Prosecution's final
19 brief and will be discussed further in the course of the Prosecution's
20 closing submissions as to individual accused. We will pause, however, to
21 talk about where Mr. Boban fit in this picture.

22 Like Tudjman, Mate Boban believed that Herceg-Bosna had been
23 separated from Croatia by unfortunate historical circumstances and saw
24 the banovina as a model for Herceg-Bosna and a precedent for its joinder
25 with Croatia. Boban ran for office as an HDZ-BiH candidate in the

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1 November 1999 elections in Bosnia and received fewer votes than the
2 moderate Croat, Stjepan Kljuic.

3 On 18th of September 1991, he became vice-president of the HDZ
4 BiH Crisis Staff. Together with Dario Kordic, Boban shared the important
5 meeting of the Travnik and Herzegovina HDZ Regional Communities on 12
6 November 1991, which called for a, quote, "decisive and active policy
7 which should lead to the realisation of our eternal dream, a joint
8 Croatian state." The meeting's conclusions, signed by Boban and others,
9 called for the proclamation of a Croatian banovina, quote, "as the first
10 step on the road to the final solution of the Croatian question and the
11 creation of a Sovereign Croatia in its ethnic and historical,
12 now-possible borders." It was no accident that when Boban and
13 Franjo Boras met with Bosnian-Serb leader Radovan Karadzic in May 1992 in
14 Graz, that the Herceg-Bosna position was stated in terms of the 1939
15 banovina.

16 Your Honours, I'm reluctant to proceed if we're having technical
17 interference. I'm not blaming anyone, but it makes it difficult to have
18 the Chamber's attention.

19 JUDGE ANTONETTI: [Interpretation] Mr. Scott, you can continue.
20 The transcript is working. We only have some problems with LiveNote.
21 What's important is listening to you and reading the transcript.

22 MR. SCOTT: Thank you, Your Honour.

23 According to the ECOMM official Ray Lane, Boban and his political
24 associates wanted to live in a Greater Croatia, and their major political
25 direction was unification with the Republic of Croatia. Boban was a

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1 strident Croat nationalist and had little regard for other ethnic groups,
2 but was more closely aligned with the Serbs and their concepts for Bosnia
3 than the Muslims. The Croatian foreign minister Mate Granic we referred
4 to earlier described Boban as a, quote, "very narrow minded man, full of
5 hatred for the Bosniaks."
6 Witness Suad Cupina testified that Boban told him in June 1992
7 that he had no intention of recognising the BiH leadership in Sarajevo or
8 the state of Bosnia and Herzegovina, and that Herceg-Bosna was intended
9 to be a state for Croats.
10 By January 1993, Boban was implementing a policy of moving
11 Muslims out of areas that he considered Croat under the Vance-Owen
12 proposals and moving Croats from other parts of Bosnia into the so-called
13 Croat areas. In an 8 March 1993 meeting with Tudjman, Susak, and others,
14 Boban said that Bosnia and Herzegovina would soon cease to exist, and
15 confirmed that Herceg-Bosna and HVO -- and the HVO were tools to create a
16 greater Croatia:
17 "It all came down to us --"
18 Excuse me:
19 "It is all down to us. No one is going to put freedom in our
20 lapse. There is no such Croatia that will bring freedom to us, because
21 we are an essential part of Croatia. You know that we, in our policies,
22 we all know these policies precisely, and let me not repeat them again
23 here.
24 "Every Croat from Bosnia and Herzegovina has the right to Croatia
25 as much as President Franjo Tudjman, but we have to keep and create

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1 Croatia there, and it is our -- that is our task that you know very
2 well."
3 The British diplomat David Owen complained to Tudjman in June
4 1993 that Boban treated Mostar and Travnik as if they were his. Boban
5 derided the value of cease-fire agreements and also blamed the Muslims
6 for violation. Boban said that the three groups, Serbs, Croats, and
7 Muslims, could not live together for the foreseeable future, and he said:
8 "Better to say the truth. We are at war over territory and
9 borders."
10 The Croatian leader Manolic testified that in implementing
11 Tudjman's banovina policy, Boban did nothing without the knowledge of
12 President Tudjman. In a 24 August 1993 Croatian TV programme, Boban
13 characterised his relationship with Franjo Tudjman in the following way:
14 "Franjo Tudjman is the president of Croats throughout the world,
15 and thus also the Croats in Bosnia and Herzegovina. The political
16 programme of the HDZ, of which he is president, is the programme that I
17 and my associates have been implementing systematically in the territory
18 of BiH. I therefore listen to Franjo Tudjman to the extent I listen to
19 the programme of the HDZ, of which he is president, which is also the
20 extent to which I respect him and accept all of his rationalities as the
21 president of all Croats in the world."
22 On 2 September 1993, Tudjman ordered Boban to deal with the HVO
23 prison camps, which were harming Croatia's image. Beyond that, by late
24 November 1993, the continuing international pressure on Croatia arising
25 from Herceg-Bosna's behaviour caused Tudjman to effectively remove Boban

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1 as president, although he stayed in that position until approximately the
2 11th of February, 1994. This development had no effect on Boban's views,

3 and he remained Tudjman's loyal soldier.
4 Boban told a British journalist, in the latter part of 1993:
5 "We will become a part of the Republic of Croatia. That is the
6 aim of the Croats in BiH."
7 When Boban and Jadranko Prlic met with Karadzic and Ratko Mladic
8 on the 3rd of February, 1994, Boban told the Serb leaders:
9 "We shall never agree to less than a BiH union of three
10 republics. The boundary determinations between Serbs and Croats is the
11 condition for peace in the Balkans. The most important task is to
12 destroy the legitimacy of BH."
13 All of this -- Your Honour, all of this evidence is fully
14 consistent and supports the following adjudicated facts:
15 One, Franjo Tudjman's nationalism and his desire to annex a part
16 of Bosnia-Herzegovina was apparent to Lord David Owen, to whom President
17 Tudjman staked his claim that 17.5 per cent of Bosnian territory should
18 revert to a republic with a Croatian majority.
19 President Tudjman aspired to partitioning this neighbouring
20 country, Bosnia-Herzegovina.
21 The aspirations of Franjo Tudjman to annex Croatian regions of
22 Bosnia persisted throughout the conflict.
23 "There is no doubt that the Republic of Croatia and the HZ-HB
24 were pursuing the same ultimate goals; namely, the incorporation of
25 Croatian provinces of Bosnia and Herzegovina into a single Croatian

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1 state.
2 The foundation of the Croatian Democratic Union -- or community,
3 excuse me, or union, the HDZ, was laid in February in 1989 in Zagreb with
4 Franjo Tudjman making the opening speech. In Croatia's April 1990
5 multi-party elections, the HDZ garnered more votes than any other party,
6 and Tudjman was elected president. Throughout the 1990s, the HDZ
7 dominated Croatian politics, and Tudjman remained president until his
8 death in late 1999.
9 With the establishment of the HDZ in Croatia, it next turned its
10 focus on creating the HDZ in Bosnia and Herzegovina. In this regard and
11 concerning Zagreb's overall relations with what became Herceg-Bosna, a
12 group known as the Herzegovina Lobby, led by the Croatian Defence
13 Minister Susak, who had been born and raised in Siroki Brijeg, played a
14 prominent role. The HDZ leadership in Zagreb identified a physician from
15 Sarajevo, Dr. Davor Perinovic, and invited him to lay the foundation of
16 the HDZ BiH. Unfortunately, it turned out a short time later that
17 Mr. Perinovic was discovered to have Serbian ethnicity, making him
18 unqualified, apparently, to head the HDZ BiH, and he was removed by the
19 party leadership.
20 In the same month of September 1990, the Bosnian Croat
21 Stjepan Kljuic was travelling through Zagreb, where, at Tudjman's
22 request, they discussed Kljuic taking over as party leader. The HDZ Main
23 Board met in Zagreb and decided to make Kljuic the new BiH party head,
24 and he became that in September 1990.
25 The Chamber has heard about the elections in Bosnia in 1990; the

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1 three principle parties being, as the two you've heard -- or one you've
2 heard already, the HDZ BiH, the other party would be the Party of
3 Democratic, the SDA, considered by many to be primarily a Muslim party,
4 and the Serbian Democratic party or SDS.
5 On 18 November 1990, the first multi-party elections for the

6 republic and legislature were held. Out of a total of 240 seats, the SDA
7 won 86 seats, the SDS won 72, the HDZ BiH won 44. Among the HDZ BiH
8 candidates, Kljuic won the most votes, more than Boban.
9 The three parties filled the seven positions on the BiH
10 Presidency as follows: Stjepan Kljuic was a Croat member; Franjo Boras,
11 Croat member; Alija Izetbegovic, Muslim; Fikret Abdic, Muslim; Biljana
12 Plavsic, Serb ; Nikola Koljevic, Serb; and Ejup Ganic, who consisted
13 with, or allowed by Bosnian law, identified himself as a, quote,
14 "Yugoslav" and filled that position.
15 The parties formed a coalition government with Alija Izetbegovic
16 named president of the Presidency; the Croat, Jure Pelivan, made
17 prime minister; and the Serb, Momcilo Krajisnik, made president of the
18 Parliament.
19 That takes us, at least to some extent, up to the time of March
20 1991 and the meeting in Karadjordjevo. It is an adjudicated fact that
21 Franjo Tudjman's aspirations to partition Bosnia-Herzegovina were, quote,
22 "displayed during the confidential talks between Franjo Tudjman and
23 Slobodan Milosevic in Karadjordjevo on 30 March 1991 on the division of
24 Bosnia-Herzegovina." Other related adjudicated facts established by the
25 Trial Chamber are, quote:

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1 "The views that President Tudjman harboured territorial ambitions
2 in respect of Bosnia and Herzegovina, despite his official position to
3 the contrary, is strengthened by reports of discussions held between
4 Tudjman and Milosevic, against the backdrop of the break-up of the
5 Yugoslav federation in 1991.
6 "Follow Karadjordjevo, Franjo Tudjman opined that it would be
7 very difficult for Bosnia to survive and that the Croats were going to
8 take over the Banovina plus Cazin, Kladusa, and Bihac.
9 "Franjo Tudjman also said there would no longer be a Muslim
10 region within the former Yugoslavia, that it would constitute only a
11 'small element of the Croat state.'"
12 Now, questions have been raised by some of the Defence about
13 whether -- well, we know there was a meeting at Karadjordjevo, but what
14 was actually said. But, Your Honours, Ambassador Okun, the senior Croat
15 leader, again, Manolic, and Kljuic all confirmed and discussed
16 Karadjordjevo and its implications and consequences for the facts of this
17 case.
18 I will not go into the content of the testimony, because it was
19 in closed session, but I especially commend to you the detailed testimony
20 of Witness AR.
21 In the book "Origins of the Catastrophe," the American diplomat
22 Warren Zimmerman, who was the last US ambassador to the Socialist Federal
23 Republic of Yugoslav, described what Tudjman told him about the meetings
24 with Milosevic:
25 "Tudjman admitted that he had discussed these fantasies about an

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1 Islamic fundamentalist Bosnia with Milosevic, and they agree that the
2 only solution is to divide up Bosnia between Serbia and Croatia.
3 Magnanimously, Tudjman said he didn't insist on a 50-50 division. 'Let
4 Milosevic take the larger part; he controls it anyway. We can do with
5 less than 50 per cent. We're willing to leave the Muslims a small area
6 around Sarajevo. They may not like it, but a stable Balkans is possible
7 only if there's a change in Bosnia's borders, no matter what the Muslims
8 think. There's nothing sacred about those borders. Bosnia isn't an old

9 state, like Croatia, which once extended all the way to Zemun (a western
10 suburb of Belgrade."
11 Zimmerman talking:
12 "Listening to Tadjman, I realised I had to abandon diplomatic
13 niceties. In our view, Izetbegovic was neither a radical fundamentalist
14 nor a threat to anybody. The United States would strongly oppose the
15 break-up of Bosnia. 'Nobody who wants to do this can count on any
16 assistance from us. There will be war in Bosnia if you try to divide
17 it."
18 Take note of that, in terms of the concept of foreseeability, the
19 concept of planning, the concept of knowing what was around the corner.
20 "There will be war in Bosnia if you try to divide it. Don't you
21 think the Muslims will react? What you propose ignores the rights of a
22 large share of Bosnia's population."
23 The problem of Bosnia -- that was Tadjman's own term, "the
24 problem of Bosnia." At an important meeting of Croatia's Supreme State
25 Council on the 8th of June 1991, Tadjman confirmed, again, his

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1 discussions with Milosevic and his continuing view that Croatia's, quote,
2 "impossible borders were largely due to Bosnia's historically absurd
3 borders," and he explained to those assembled, quote, "how to solve the
4 problem of Bosnia."
5 "... as you know, in the beginning the Serbs said that if there
6 was to be a confederal alliance, they would not accept the current
7 borders ... because of the Serbs living outside Serbia in Bosnia and
8 Croatia ...
9 "So this is the reality that we cannot overlook. Also,
10 gentlemen, if we opt for Croatia's independence, either within an
11 alliance or total independence, Croatia's borders, such as they are
12 today, are absurd, they are impossible, in the sense of administration
13 and trade, let alone as regards any kind of protection of these borders
14 of Croatia.
15 "Therefore, from our point of view, no less than from the
16 Serbian, there is the problem of -- there is a need to find an essential
17 solution to the problem, isn't that so, because the establishment of
18 Bosnia, the borders of BH after World War II, are historically absurd, a
19 resurrection of a colonial creation from the period between the 15th and
20 18th century."
21 Tadjman informed those present, and again we're talking about
22 Croatia's Supreme State Council, that there would be, quote, "talks on
23 the problems, problem of Bosnia, that is the problem of boundary
24 determination and the borders of the Republic of Croatia."
25 Tadjman made it clear that solving, quote, "the problem of

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1 Bosnia," and gaining, quote, "realistic borders for a sovereign Croatia
2 Bosnia," were the core problems. "The solution to the problem of
3 Bosnia," Tadjman said, "lies in what was said there in the partition of
4 Bosnia-Herzegovina, and if we achieve that, then we could possibly look
5 for a basis for an alliance of sovereign republics and states. I think
6 we shall achieve this, because this is equally in the interest of Serbia
7 and Croatia, while the Muslim component has no other exit than to accept
8 this solution, although it will not be easy to find the solution, but
9 essentially that is it."
10 Now, there are a series of meetings throughout mid-1991 which
11 we're not going to take -- and you'll probably be happy to know we're not

12 going to go through all of those. But the evidence clearly demonstrates
13 there is an ongoing series of meetings in Bosnia and Herzegovina
14 involving the Boban-Kordic-Boras faction, and these communities that are
15 set out, the two largest ones that are most relevant to this case, being
16 the Regional Community of Travnik and the Regional Community of
17 Herzegovina, headed by Kordic and Boban respectively, these communities
18 are moving all through 1991 closer and closer to unification together and
19 closer and closer to the establishment of Herceg-Bosna.
20 Throughout this time, there is a growing split between Boban,
21 Boras, Kordic, on the one hand, and people like Kljuic and the more
22 moderate Croats, on the other, and there is a continuing dialogue - well,
23 "dialogue" is a nice way of putting it - a debate, friction, argument
24 going on throughout mid-1991 as to the proper course for the HDZ BiH,
25 with these factions battling for control.

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1 What is interesting for the Chamber to note in this respect is:
2 At the same time, and we're stepping off the HDZ for a moment, but while
3 this is all going on, the Serbs are doing essentially exactly the --
4 doing or have done exactly the same thing. While all of these events
5 were taking place, the Serb and Bosnian Serb leadership of the Serb
6 political party, the SDS, in the spring of 1991 were also establishing
7 various illegal regional groups or communities or municipalities. The
8 first of these, the community of municipalities of the Bosnian Krajina,
9 was formed in April 1991, and the community of the municipalities of
10 Eastern and Old Herzegovina, and the community of the Romanija
11 municipalities, was formed in May.
12 The BiH Assembly took immediate action in opposition to these
13 structures, issuing a recommendation in April 1991 that all efforts to
14 organise regional entities or associations of municipalities cease. The
15 various actions, however, continue. These projects continued over time.
16 They then evolved into something called the Serbian autonomous districts
17 or SAOs, and it's important to note that the Defence's own expert
18 witness, Mr. Jurcevic, said this was, in his words, "evident on these
19 facts" that, quote, "that the national concept of the structure of the
20 Serbian people in BH was an integral part of the Greater Serbia project
21 and that it was in an advanced phase of operational/political
22 implementation as early as 1991." Again, Mr. Jurcevic described the SAOs
23 and the Serb organisations as, quote, "a prerequisite for an integral
24 part of the armed aggression and occupation of BiH."
25 It's interesting that when we had a Croat expert looking at what

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1 the Serbs were doing, that Croat expert who came and testified on behalf
2 of the Defence, which he had every right to do, of course, it was very
3 clear to him that these were illegal entities, all the tools of -- all
4 being used to accomplish a greater Serbia. But all of a sudden when what
5 the Croats were doing and what happened with Herceg-Bosna, when you put
6 those same facts in front of him, well, that's different, it's not
7 greater Croatia, no, I wouldn't go that far. So it works for the Serbs;
8 didn't work for the Croatians, according to Dr. Jurcevic.
9 By this time on November 1 1991, the BiH Constitutional Court
10 ruled that the Serb entities were illegal and annulled them; in
11 particular, to the extent that the association had attempted to exercise
12 powers related to defence and military matters, including, quote, "social
13 self-protection." The Court stated that it was the republic which
14 regulated such matters. The Court also found the actions procedurally

15 defective, in that most of these decisions to establish these Serb
16 entities were taken pursuant to an alleged, quote, "emergency
17 procedure," quote, "often without announced agenda without the presence
18 of the council members of Croatian and Muslim nationality." What a
19 surprise.

20 Now, I note the date of the Court decision, 1 November 1991. The
21 BiH Constitutional Court says the Serb entities are illegal and they are
22 annulled.

23 Only 18 days later, on the 18th of November, 1991, Herceg-Bosnans
24 declare the existence of Herceg-Bosna, after the BiH Constitutional Court
25 decision, after the government of BiH has already said these are illegal

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1 organisations.

2 Now, with the Serb developments in mind, let's continue back to
3 these efforts of the Herceg-Bosnans, Boras, Boban, Kordic, and the others
4 to establish Herceg-Bosna.

5 We've already made reference to the important meeting on the 12th
6 of November, 1991, in Grude of the Herzegovina and Travnik Regional
7 Communities, and they reached the following conclusions that day:
8 "The Herzegovina Regional Community and the Travnik Regional
9 Community stand by their conclusions ... that the Croatian people of
10 these regions continue to uphold the unanimously accepted decisions and
11 conclusions adopted during consultations with

12 President Dr. Franjo Tudjman on 13 and 20 June 1991 in Zagreb.
13 Proceeding from the conclusions of the above-mentioned meetings," and
14 again that's the meetings on the 13th and the 20th of June, "on the basis
15 of those two meetings, these two regional communities have jointly and
16 unanimously decided that the Croatian people of Bosnia and Herzegovina
17 must finally carry out a decisive and active policy which should lead to
18 the realisation of our centuries-old dream, a joint Croatian state.
19 "In order for this historical goal to soon become our reality,
20 these two regional communities request the commencement of activities to
21 formulate and issue legal and political documents (the proclamation of a
22 Croatian banovina in BH, a referendum on accession to the Republic of
23 Croatia, et cetera) as the first stage -- as the first stage on the road
24 to the final settlement of the issue and the creation of a sovereign
25 Croatia in its ethnic and historical (now possible) borders."

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1 Six days later, on Monday, 18 November 1991, in Grude, Kordic,
2 Bozo Rajic, and others proclaim the existence of the Croatian Community
3 of Herceg-Bosna, stating in Article 1 that it.

4 "... shall be established as a political, economic, and
5 territorial integrity."

6 Article 3 made Mostar a Muslim-majority city in a Muslim
7 plurality municipality, the seat of the Croatian community. And
8 Article 2 said that the HZ-HB shall be composed of the following 30
9 municipalities, only 12 of which actually had a Croat-majority
10 population.

11 The Chamber will see in front of it a list of the 30
12 municipalities and their demographic composition, in terms of majority or
13 plurality, based on the 1991 census. Out of the 30 claimed
14 municipalities, Your Honours, only 12, less than half, actually had a
15 Croat majority, actual majority; not plurality, but more than
16 50 per cent.

17 As an overlay of the maps plainly show, and not surprisingly, the

18 borders of the declared Herceg-Bosna and those of the Croatian Community
19 of Bosanska Posavina in north-east Bosnia matched almost perfectly the
20 borders of the 1939 banovina, with the addition of areas such as Vares,
21 Kakanj, and Jajce, none of which had a Croat-majority population.
22 We saw these maps on the very first day, if we can all remember
23 back far enough to the opening statement in April of 2006. The first
24 map, map number 3, shows the Croatian Communities of Herceg-Bosna and
25 Bosanska Posavina. The next map, map number 5, shows the overlay of

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1 banovina of 1939 on the municipalities in Bosnia and Herzegovina. The
2 next map shows the overlay of the banovina with the Croatian community,
3 the red line being the borders of the banovina. And we see that
4 Herceg-Bosna even -- actually claimed a couple of areas -- several areas
5 that were outside the historical banovina. And then in map number 9, the
6 ethnic composition based on the 1991 census, and we see the ethnic
7 composition of the municipalities claimed by Herceg-Bosna.
8 Now, the Prosecution submits, Your Honours, that it doesn't take
9 the proverbial rocket science when you look at the ethnic composition of
10 these areas and see that there was an inherent conflict at work. Go back
11 to the four principles, or at least two of them, territory and
12 demographics. Well, if the area in blue -- the area in the blue border
13 is your territory, you've got a serious problem with demographic control,
14 because you've just claimed to be yours territories where you are not in
15 the majority.
16 As a large body of evidence confirms, including the evidence of
17 Kljuic, the constitutional expert from Slovenia Ribicic, Donia, and
18 Tomljanovich, the establishment of Herceg-Bosna was the creation of a
19 Bosnian-Croat para-state in BiH, the introduction of a para-state
20 administration. It was a mono-national community with mono-national
21 bodies that merged from a mono-party formation, the HDZ BiH, or, more
22 accurately, a particular faction of that party. At no time had there
23 been a referendum or any free and democratic election for either the
24 Croats or the Muslims, or any other non-Croats, in Bosnia and Herzegovina
25 in which a majority of any ethnic group had voiced its support or

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1 approval for the establishment of Herceg-Bosna.
2 This was a sheer fiat by a small faction of the HDZ BiH, like
3 Boban, Boras, Kordic, and others, and with these men joining that group.
4 There was never a popular -- not even the Croats, themselves, ever voted
5 for this, let alone the Muslims. There were no open and democratic
6 elections held to the organs. No one ever elected -- no popular vote
7 ever elected anyone to Mr. Prlic's HVO government.
8 Bosnia and Herzegovina was still legally part of Yugoslavia, and
9 its republican bodies, including the Presidency, the government and
10 parliament, all were clearly functioning. And that's an important
11 statement. I want to pause there for a moment, because what you've heard
12 over the last number of years is, Well, we had to create Herceg-Bosna
13 because BiH wasn't functioning, the authorities weren't functioning. In
14 November of 1991, there was still no war, primarily. There had been
15 skirmishes, unfortunate skirmishes, but there was no large-scale war in
16 Bosnia. There was no large-scale armed conflict there. Businesses were
17 operating, taxes were collected, schools were in session, the trains were
18 running, and mail was being delivered. The authorities were not not
19 functioning at the time that Herceg-Bosna declared its existence.
20 Shortly after Herceg-Bosna was announced, both the BiH government

21 and Constitutional Court condemned it. An opinion issued by the BiH
22 Ministry of Justice and Administration on the 20th of November, 1991,
23 just two days later, so that all the actions that Herceg-Bosna had
24 purported to take were, quote, "illegal and illegitimate, contrary to the
25 Constitution and the interests of the state of Bosnia and Herzegovina and

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1 all its citizens."

2 A 23 November 1991 report concerning the work of the
3 Constitutional Court said that the creation of separate communities and
4 other entities had continued since the Court's previous report on the 6th
5 of November and that the Court, by late November, was responding to,
6 quote, "only the most violent violations of constitutionality and
7 legality." And quote:

8 "Forming of the creation community of --" excuse me,
9 "municipalities, Herceg-Bosna, and a similar community based in Brcko,
10 represent an anti-constitutional act and an illegal attempt to change the
11 constitutional order."

12 It is an adjudicated fact in this case that the HZ-HB was founded
13 with the intention that it should secede from Bosnia-Herzegovina with a
14 view to unification with Croatia.

15 Mr. President, I'm about to change to another topic. And looking
16 at the clock, it might be a convenient time to take the break.

17 JUDGE ANTONETTI: [Interpretation] Yes, very well, absolutely.

18 Let's have a break. We'll have our traditional 20-minute break.

19 --- Recess taken at 3.39 p.m.

20 --- On resuming at 4.02 p.m.

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

22 Mr. Scott, you have the floor.

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

24 A few weeks after the declaration of Herceg-Bosna's existence on
25 the 18th of November, 1991, there was an extremely important meeting in

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1 Zagreb on the 27th of December, 1991. If I had to tell anyone, Judges,
2 or anyone else interested in this case, if you had to read maybe 12
3 documents or a dozen documents or so in full, and you could only read
4 about that many, this would be one of them. It is at this meeting on the
5 27th of December, 1991, chaired by Tudjman, that the two factions of the
6 HDZ BiH come to Zagreb and essentially plead their case. You have the
7 Boban-Kordic-Boras faction and you have the Kljuic-Doko-Markesic,
8 faction, if you will, if you want to call it that, sitting before the
9 master and arguing in which direction all of this should go.

10 Tudjman's there with his senior advisers and the leaders of the
11 Bosnian branch of his party. Kljuic -- as I said, Kljuic is there,
12 Jerko Doko, who was then at that time -- I believe at that time was
13 already the minister of defence in Bosnia, a Croat, Ivan Markesic, and
14 then you had Boban, Kordic, Boras and others. Kljuic continued to fight
15 and press for a single, multi-ethnic, independent, and sovereign BiH,
16 while Boban's group was fighting for the creation of the banovina and
17 their own sovereign Herceg-Bosna space.

18 Four days earlier, the party's hard-liners had met in
19 Tomislavgrad and had excluded Kljuic from that meeting. They made their
20 position clear in item 2 in the minutes of this earlier meeting in
21 Tomislavgrad, which was the same position they expressed now to Tudjman,
22 even purporting to speak -- and this is a recurring theme, something that
23 I'd ask the Judges to be mindful of. This is a recurring theme, with

24 Boban and the others claiming to speak on behalf of all Croats in Bosnia
25 and Herzegovina, with absolutely no mandate or basis for doing so,

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1 claiming that they had, quote, "confirmed the will of the entire Croatian
2 people of Herceg-Bosna expressed on 18 November 1991..."
3 Well, as I said to you before the break, there was no election,
4 there was no vote. This was one faction of the party. Mr. Kljuic, in
5 the 1990 elections, the moderate, had received more votes than Boban.
6 This was the take-over of the party by one faction, without any election,
7 and simply your basic power struggle.
8 In contrast to that position, which I should say further, and I
9 pause, forgive me, the Boban group continued to say and read out the
10 minutes of the Tomislavgrad meeting and said that it was this
11 declaration -- excuse me, the declaration of Herceg-Bosna would serve as,
12 quote, "a legal basis for the entry of these territories into the
13 Republic of Croatia." In contrast, Kljuic continued to push for a
14 single, unified, and sovereign BiH. Kljuic argued, among other things,
15 that the problem of banovina and the problem of Herceg-Bosna was that a
16 large portion of the Croatian population in Bosnia was left outside that
17 area, with Kljuic noting that only 14 of Herceg-Bosna's claimed 30
18 municipalities had a Croat-majority population. I think Kljuic was
19 slightly off in his counting, but close.
20 By the meeting's end, it was clear where Tadjman stood and where
21 the party was headed, with Boban's faction clearly in control. Tadjman
22 openly chastised Kljuic for supporting Bosnia's sovereign existence:
23 "Bosnia-Herzegovina should not be taken as something God-given
24 which must be preserved, and we must especially not forget how harmful it
25 is, because of the creation of Bosnia and Herzegovina Croatia has been

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1 put in an impossible situation regarding its territory."
2 Indeed, Tadjman said Bosnia's continued existence was against
3 Croatia's interest:
4 "The survival of Bosnia and Herzegovina as an independent and
5 sovereign estate, even if possible, is in any case against the interest
6 of the Croatian state and makes impossible the normal territorial
7 establishment of the Croatian state, and creates conditions for the
8 disappearance of what remains of the Croatian people in Bosnia and
9 Herzegovina today."
10 Mark those words. The continued existence, the survival of
11 Bosnia and Herzegovina, is contrary to the Croat national interest.
12 Tadjman continued on:
13 "All of history has shown that Bosnia and Herzegovina is no
14 solution for the Croatian people.
15 "We said that for tactical reasons we were in favour of a
16 sovereign Bosnia as long as it existed, but there is no longer a
17 sovereign Bosnia. The Serbs have split off."
18 Again, not really a true statement at that time.
19 "It seems to me, therefore, that just as we have taken advantage
20 of this historic moment to establish an independent,
21 internationally-recognised Croatia, I believe that it is time that we
22 take the opportunity to gather the Croatian people inside the widest
23 possible borders ..."
24 Tadjman made it clear that Bosnia's break-up -- complete break-up
25 was the real goal, saying that: "Not even some sort of cantonisation,

1 with the continuing existence of Bosnia-Herzegovina, would mean for us
2 the solution, which is the solution of demarcation; that is, borders."
3 There can be no doubt that from the meeting, Tudjman meant the
4 borders between Croatia and Serbia that would be drawn in BiH, with
5 Croatia's desired, quote, "demarcation" being the banovina borders.
6 "I think we have had sufficient experience, what with World War
7 II and this war, that without demarcation between Croatia and Serbia,
8 there can be no political solution, no removal of the threat of war in
9 the future. The state of Croatia cannot survive such as it is, but a
10 Croatian state, even with the borders of the banovina, could, not to
11 mention if these borders were improved on."
12 Now, here we can see Tudjman even going a step further. Now he's
13 saying, you know, Not only might we get the banovina, but we might even
14 be able to improve on that. And, indeed, Tudjman was convinced that
15 Croatia, in the course of Bosnia being divided up, might obtain not only
16 the banovina, largely in the form of Herceg-Bosna's claimed
17 municipalities, but also the overwhelmingly Muslim-populated
18 municipalities in Bosnia's north-west corner, including Bihac.
19 In the end, an agreed carve-up with the Serbs would leave
20 Bosnia's Muslims with a small, quote, "statelet" around Sarajevo.
21 In apparent reference to his previous conversations with
22 Milosevic, Tudjman told the meeting:
23 "Why not accept this offer of demarcation when it is in the
24 interest of the Croatian people, the Croatian people here in this
25 republic and the Croatian people in Bosnia-Herzegovina, because I do not

1 see a single reason -- a single serious reason against it."
2 But Tudjman, Boban and the others knew full well that changing
3 the lines on a map was only part of the solution. Achieving a real
4 Greater Croatia required a dominant Croatian demography which, in turn,
5 would require population movements. At least behind the closed
6 presidential doors, Boban made no bones about it. The founding
7 municipalities of HZ-HB now have a population which, according to the
8 census, is 55 per cent Croatian, 27 per cent Muslim, 9 per cent Serbian,
9 and the rest are none of the above. However, because municipalities in
10 Bosnia and Herzegovina were created similarly as in Croatia, by composing
11 Serbian and Bosnian population -- excuse me, Serbian and Muslim
12 population in the territory of Croatia, or vice versa, by cleansing
13 border areas, practically border areas of Herceg-Bosna, this creates
14 approximately 65 per cent of the Croatian population in Herceg-Bosna. As
15 if to validate his point, Boban offered that by comparison, even the
16 Serbs were only 63 per cent of the population in Serbia.
17 Kljuic had already made it clear to Tudjman that he would not
18 support this Greater Croatia; that if that was Tudjman's view or that was
19 Tudjman's course, that Kljuic was out of it. Kljuic said:
20 "I did not agree to that policy, and even before this, when we
21 spoke privately in the president's house and this was not recorded, I
22 said to him, 'Mr. President, you cannot get me to do this. There's
23 little Boban who could hardly wait to do it, but I was ready to resign.'"
24 It is an adjudicated fact that from at least November 1991
25 forward, quote:

1 "There is no doubt that the Republic of Croatia and the HZ-HB

2 were pursuing the same ultimate goals; namely, the incorporation of
3 Croatian provinces of Bosnia and Herzegovina into a single Croatian
4 state."

5 Two important facets or characteristics of this programme, the
6 Greater Croatia Banovina programme or project, one was what we called in
7 the course of the trial the two-track policy, which, essentially, in so
8 many words, means: Say one thing, do another.

9 Tudjman, Boban, and others knew, of course, that they could not
10 openly advocate Bosnia's destruction. It was not the
11 internationally-popular or accepted thing to say in polite diplomatic
12 circles.

13 Tudjman, at the 27 December meeting, says:

14 "Under the present circumstances, gentlemen, from the general
15 Croatian standpoint, a demarcation of borders suits us better ... This is
16 not the first time that we have talked like this, even in this circle."

17 In other words, Among us boys.

18 "For tactical reasons, we did not raise this possibility
19 publicly, because we did not want to be the one to raise it, the issue of
20 borders."

21 Some years later, in his suspect interview, Jadranko Prlic
22 confirmed exactly this two-track policy in his admitted statement. And
23 you've seen this before, I'm not going to read it all again, but Prlic
24 very clearly tells us there was a plan -- there was one plan described to
25 the public and there was one plan created -- another plan created among

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1 themselves. In the middle of that paragraph:

2 "However, between themselves, they created another plan ..."

3 That's two-track.

4 There's another important feature of this, and that is that
5 historical circumstances, for whatever reason, put a huge political
6 advantage on the Croat side of the table, in terms of perception and
7 negotiations. Tudjman, Boban, and the others knew that they could count
8 on Milosevic and the Serbs almost always taking, at least publicly, a
9 more extreme position and would bear the onus, in the vernacular, someone
10 might say, they would take the heat for dividing Bosnia or much of it, so
11 that Tudjman, Boban, and others did not even need to openly advocate
12 partition, as some describe it, economists, political scientist, they
13 could ride on the Serbs' coat tails in making such statements as, Well,
14 Bosnia is already divided anyway, or, A sovereign Bosnia doesn't exist
15 anymore anyway, or, It's going to be divided anyway. They could hide
16 behind Milosevic and his coat tails. And here, again, Tudjman confirmed
17 exactly that at the 27 December meeting:

18 "The survival, the sovereignty of Bosnia in the present
19 circumstances from the Croatian standpoint, is such that not only do we
20 not have to advocate it, we must not even raise the issue openly."

21 I don't have a slide on that. Let me say that again:

22 "The survival, the sovereignty of Bosnia in the present
23 circumstances from the Croatian standpoint, is such that not only do we
24 not have to advocate it, we must not even raise the issue openly."

25 Your Honours, that brings us to a point in the Prosecution's

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1 opening statement -- or, excuse me, closing argument where we will -- we
2 would like to propose or we will present a video that is Exhibit P07437
3 on Greater Croatia. It is 40 minutes. We are going to -- after looking
4 at it several times, we are going to play the whole thing, because based

5 on everything that the Prosecution said up until now, we think that the
6 Chamber will find the video a quite helpful final overview on this topic.
7 [Video-clip played]
8 "Reporter: On 'Dispatches' tonight, the unreported story of the
9 Bosnian war, how the Croatian government has shared in the carve-up of
10 Bosnia just as it always intended, and how it's got away with it.
11 Tonight, as the Croats meet to talk peace with their former Muslim allies
12 in Vienna, 'Dispatches' reveals the secret protocols that betrayed those
13 same Muslims. That's 'Dispatches: How the Croats have Created a
14 Brand-New country in Bosnia Just for Themselves and How the West has
15 Turned a Blind Eye to a Greater Croatia.'
16 "Capljina, a town in Herceg-Bosna, a new country few people have
17 ever heard of, but a country that's determined to put itself on the
18 European map. Herceg-Bosna is the mini-state that Croats have carved out
19 of what was once Bosnia, and now Capljina's mayor, Pero Markovic, can
20 look forward to a brave new world.
21 THE INTERPRETER: [Voiceover] "In the future, I hope that with the
22 help of the world and all those who have experience with life in
23 democracy, we will be able to continue to live as others, the same way as
24 Europe, because we are part of Europe. So we need to work. We must
25 rebuild that which has been destroyed. We must go to school and get

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1 ready for life in Europe, to which we belong.
2 "Reporter: But before Herceg-Bosna can take its place in Europe,
3 towns like Capljina have a lot of work to do. Not just repairing the
4 damage caused by the Serb attack 18 months ago, but also removing the
5 traces of a second, more chilling battle.
6 "Capljina seems to be getting back to normal, but scratch beneath
7 the surface and everything has changed. One in four of the town's
8 population has left. They didn't choose to go.
9 "Six months ago, Capljina was sealed off by the militia. Street
10 by street, block by block, a quarter of the town's people were loaded
11 into buses and driven away. They were all Muslims. This was the final
12 step in a campaign of persecution, which began when Muslim cafes and
13 shops were looted and destroyed.
14 "Herceg-Bosna has not emerged by accident. The setting up of
15 this state is the realisation of a long-term plan.
16 "Today, all the players in the Capljina football team are Croats.
17 They play beneath the Croatian checker-board flag. The story of how the
18 Serbs carved out their chunk of Bosnia is well known. The Croats have
19 now done the same, but their game plan has been overlooked.
20 "Herceg-Bosna owes its existence to one man, Croatian President
21 Franjo Tudjman. For him, the making of a Croat state on Bosnian land has
22 been a personal obsession, an obsession which drove him to bang the final
23 nail into Bosnia's coffin. Tudjman has built this state on concentration
24 camps, ethnic cleansing, torture, starvation, all executed by his
25 henchman, Mate Boban."

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1 THE INTERPRETER: [Voiceover] "Bosnia-Herzegovina will be an equal
2 part -- be a state of the Croatian people, and the Croatian people will
3 be its own master there."
4 "Reporter: The Croats were the smallest group in Bosnia, fewer
5 than a fifth of the population, but they've always dominated the baron
6 landscape of Herzegovina. Herzegovinian's look to the Croatian capital,
7 Zagreb, rather than Sarajevo as their capital. This rocky terrain bred

8 the fascist Ustashes of World War II. To this day, Herzegovinians
9 display a virulent strain of Croatian nationalism."
10 "It is a philosophy of intolerance, a lot of prejudice, they hate
11 the state as an institution, they hate taxes, they hate everything. They
12 need only space and territory."
13 "Reporter: After World War II, poverty drove tens of thousands
14 of Herzegovinians to abandon this infertile land. In emigre communities
15 abroad, their nationalist fervor only deepened. They dreamed of their
16 region becoming part of Croatia. It was a dream shared by Croatian
17 president Franjo Tudjman. He always believed that Croatia had a historic
18 claim in Bosnia."
19 THE INTERPRETER: [Voiceover] "Bosnia-Herzegovina is an entity
20 that came into being due to the Ottoman invasion of Europe. By that
21 time -- or until that time, Bosnia was part of the Croatian state or
22 there was a Bosnian kingdom, but it was Catholic, and it was linked with
23 Croatia."
24 "Reporter: Tudjman's obsession with Croatian claims in Bosnia
25 runs deep. In 1991, he meets his arch enemy, Serbian President Slobodan

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1 Milosevic, for secret discussions. Even though Serbia is threatening to
2 invade Croatia, Tudjman is still happy to talk about their one common
3 interest, a carve-up of Bosnia and Herzegovina. Two eye-witnesses of
4 this meeting at Karadjordjevo can now reveal the real agenda.
5 THE INTERPRETER: [Voiceover] "Nowhere in the mass media has
6 complete information about that been published. Those were secret talks,
7 but they were given the appearance in the mass media as talks between
8 Croatia and Serbia, about problems between these two countries, and no
9 more than that. What's more, all rumours -- all talk that they were
10 talking about Bosnia there were officially denied."
11 "There were several maps on a table, I guess, and the idea was
12 more or less close to the recent ideas on Bosnia-Herzegovina. That
13 means, either to divide Bosnia and Herzegovina into 10 or 15 units or in
14 3 semi-independent states."
15 "Reporter: Did the Muslims attend this meeting?"
16 THE INTERPRETER: [Voiceover] "No, absolutely not. Not a single
17 representative of Bosnia and Herzegovina took part in the talks in
18 Karadjordjevo or after Karadjordjevo. Those were bilateral talks between
19 Serbian and Croatian representatives, but never were they attended by any
20 representative of the Bosnian Muslims."
21 "Reporter: Tudjman had swept to power on a nationalist ticket,
22 but most of his advisers opposed his ambitions in Bosnia. However,
23 Tudjman is an autocrat who listens only to the people who agree with him.
24 "He found unconditional support elsewhere. Emigre Herzegovinians
25 had poured money into Tudjman's election campaign. They were confident

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1 he would promote their nationalist ambitions not only in Croatia, but
2 also in Bosnia. The most prominent is Gojko Susak.
3 "Until four years ago, Susak was a pizza parlour entrepreneur in
4 Toronto. Now he's the defence minister of Croatia."
5 "The president had a view on Bosnia and Herzegovina long before
6 we met. He was very explicit in that at the very first public speech
7 when he came to the US and Canada. That's when I first met him.
8 Politics in Bosnia-Herzegovina were defined. They do coincide with my
9 view of Bosnia and Herzegovina in many ways, though."
10 "There is a double game between the two. At personal level,

11 Mr. Susak is a kind of Tudjman's slave. He accepts every decision that's
12 made by Mr. Tudjman, so his non-existing personality, at personal level.
13 But in political sense, Mr. Tudjman sometime or even at the present time
14 very often exhibits political -- Mr. Susak's political philosophy."
15 "Reporter: But for the Croats of Sarajevo and the rest of
16 Bosnia, Tudjman's ambitions were dangerous. The Herzegovinians, who
17 numbered 200.000, had always lived together, but 600.000 other Croats
18 were scattered in mixed communities throughout Bosnia. They couldn't
19 easily be disentangled. These Croats already had their own leadership in
20 Sarajevo."
21 THE INTERPRETER: [Voiceover] "So that I won the election at the
22 only legal convention of Croats in Bosnia-Herzegovina unanimously. I got
23 a term in office for two years. After that, I often talked to President
24 Tudjman, and I was always saying to him, 'You are the president of all
25 Croats, but I am president of the Croats in Bosnia-Herzegovina.'

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1 "Reporter: But unknown to Kljuic, the president of all Croats
2 was already preparing the ground for a division of Bosnia. Even as he
3 makes his first presidential visit to the Croats of Sarajevo, Tudjman is
4 secretly backing a small group of extremist Herzegovina politicians who
5 are plotting a separate Croat state in Bosnia. But he reveals nothing of
6 his true intentions to this audience."
7 THE INTERPRETER: [Voiceover] "Ladies and gentlemen, in the past
8 three years I have travelled the world a lot, but this meeting with you
9 is certainly the most touching."
10 "Reporter: 'Dispatches' has obtained the signed secret protocol
11 produced by that group in November 1991. It confirms decisions reached
12 with Tudjman in Zagreb. It declares Croatian people within
13 Bosnia-Herzegovina must finally start a decisive and active policy which
14 is supposed to lead us to our centuries-long dream, a common Croatian
15 state. They'll show Europe and the world which regions in
16 Bosnia-Herzegovina are Croatian and where our future lies.
17 "The document lays out the real plan. First, a Croat province in
18 Bosnia is declared. Next, any Croat leaders who support a united Bosnia
19 must be removed. Within two months of the meeting, with Tudjman's
20 backing, the separatists force Kljuic to resign. Herzegovinian
21 Mate Boban, whose main claim to fame was the spell in jail for black
22 marketeering, is installed as the new leader. The plan is underway.
23 Boban moves the Croat power base to this factory to his hometown of
24 Grude, in Herzegovina. This town, with just two main streets and no town
25 square, takes the place of a sophisticated Sarajevo. The next stage is

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1 simple. Boban sets up a separate Croat army in Bosnia, the HVO.
2 "March 1992, Croats vote with Muslims for independence. The
3 Serbs rebel, and war breaks out.
4 "As the Serbs cut a swath through Bosnia, the Croatia steps in to
5 help the beleaguered state. Tudjman signs a military alliance with
6 Bosnian President Izetbegovic to fight the Serbs. Tudjman knows that the
7 mainly Muslim Bosnian government has little choice but to rely on
8 Croatia. This serves his purpose."
9 THE INTERPRETER: [Voiceover] "Initially, the Muslims were not
10 prepared to fight the Serbian aggression, and then they accepted the
11 agreement on the joint fight of the Croats and Muslims against the Serb
12 aggression."
13 "We thought that Muslims would join Croatia. That was -- I mean,

14 that was a second thought behind his political mind."
15 "Reporter: Croats and Muslims link up to fight the Serbs. Many
16 Muslims join the HVO, which is better prepared than government forces."
17 THE INTERPRETER: [Voiceover] "I was with the HVO. I was even
18 platoon commander. And somehow I expected that the alliance would hold."
19 "Reporter: Once the alliances halted the Serb alliance, Boban
20 moves to the next stage of the master plan. He declares that the Bosnian
21 government is dissolved and announces that the HVO has taken over in all
22 areas unoccupied by the Serbs. The strains in the alliance are obvious."
23 "Well, superficially, they were working together as partners.
24 There was a coalition which had taken them through the referendum on
25 independence, and, on the face of it, you thought that you were dealing

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1 with the Croats and the Muslims versus the Serbs. It was not many weeks
2 before I realised that this was not a true coalition."
3 THE INTERPRETER: [Voiceover] "And then without the Muslim
4 participation, we were able to defend 35 per cent of Bosnia-Herzegovina
5 against a Serb aggressor. In those areas, because there were no more
6 authorities, Bosnia-Herzegovina had disappeared, we established the
7 Croatian Defence Council as a temporary government in the free areas to
8 protect the people and their property, and to establish the basic
9 functions in these areas, such as education, health-care, and so on."
10 "Reporter: But to the HVO's supposed partner in the alliance,
11 the take-over seems far from temporary. Ivan Negovetic is a Croat who
12 enlisted not in the HVO, but in the Bosnian Government army."
13 THE INTERPRETER: [Voiceover] "HVO takes over power. They take
14 the police station in the municipality, they appoint their own officials,
15 and they remove all elements of the state of Bosnia and Herzegovina,
16 which means our flag, other symbols, everything that makes up the state
17 of Bosnia-Herzegovina, and proclaim a new state."
18 "Reporter: To tighten its grip across Bosnia, the HVO has to
19 weaken its alliance partner. 'Dispatches' has obtained official
20 documents which show the restrictions the HVO placed on the Bosnian Army.
21 In many areas supposedly under joint control, the HVO requisitions all
22 industry, power supplies, and transport. All consignments of weapons to
23 the Bosnian Army need to pass through Croatia and Herzegovina. At each
24 check-point, some of the consignment is hived off, and most of the
25 weapons end up in HVO hands. In Grude alone, 37 trucks of weapons

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1 intended for the defence of Sarajevo are halted and plundered."
2 THE INTERPRETER: [Voiceover] "And we tolerated that. We even
3 tolerated the fact that they sell back the weapons that they had
4 plundered from us, although these weapons had already been paid by our
5 people in foreign countries. But we didn't want to open another front.
6 We tried to avoid another conflict. But then logistical supply routes
7 had completely been cut off, and then we didn't receive even
8 15 per cent."
9 "Reporter: In some areas, Bosnian forces are disarmed and
10 expelled by the Croats. In others, they fight back and push the HVO out.
11 "Serb aggression becomes a distant memory, as Croats and Muslims
12 begin a scramble for territory. They fight each other with the
13 bitterness born of betrayal. Bosnia is dead."
14 THE INTERPRETER: [Voiceover] "The Bosnian crisis by this appears
15 in a totally new light, not as a fascist aggression of Serbian Montenegro
16 against an independent state, but the atmosphere of civil war is created

17 in which everybody shoots at each other."
18 THE INTERPRETER: [Voiceover] "While the Muslims and Croats were
19 still together, you could still talk about Bosnia. But when the
20 Croatian-Muslim conflict broke out, then the Muslim policy also had to
21 change. Certainly, the idea of a unified Bosnia was destroyed with the
22 Croatian attack against the Muslims."
23 "Reporter: Tudjman and Boban are already rewriting history.
24 They planned to seize power across Bosnia, but the Bosnian Army stopped
25 them. Now the official Croat line blames Muslims for destroying the

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1 alliance."
2 THE INTERPRETER: [Voiceover] "Apart from that, we Croats are
3 really guilty of what's happening, because with good intentions, we
4 helped the Muslims, who were victims of Serb aggression, we helped them
5 to stay alive and helped them regain their dignity in every respect, and
6 above all we gave them the means to kill Croats."
7 THE INTERPRETER: [Voiceover] "The extremist elements prevailed,
8 and they were growing stronger, so the Muslims opted for a long war
9 against the Croats instead of a political solution. They opted for a
10 long war itself a political solution."
11 "Reporter: As the alliance crumbled, Western negotiators failed
12 to react to the Croats' territorial ambitions. The Croats had taken care
13 to pose as the reasonable party in the Bosnian conflict."
14 "They were the weakest group because they're the smallest group,
15 and I think they were quite clever, politically, to decide that, by and
16 large, they would go along with the negotiators. They would be the
17 reasonable party. That was in their interests to be that, and I think
18 that was a clever strategy."
19 "Reporter: That strategy is about to pay dividends. Now the
20 peace negotiators are poised to give the Croats a green light for the
21 final dismantling of Bosnia.
22 "December 1992, Geneva. As the Vance-Owen Peace Plan is being
23 drafted, the Croats are tightening their grip throughout their planned
24 mini-state, Herceg-Bosna. The plan divides Bosnia into 10 provinces, but
25 it appears to ignore Mate Boban's obvious territorial ambitions,

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1 ambitions which the negotiators knew only too well."
2 "One was well aware that they had been pursuing their own agenda
3 way before the Vance-Owen Plan was announced; that is, we were very
4 conscious of it. The Herceg-Bosna question was a constant issue between
5 President Izetbegovic and President Tudjman, so, you know, it was
6 nothing -- there were no surprises by then. We were fully aware of what
7 was their private agenda."
8 "Reporter: Even so, the Croats see the Vance-Owen Peace Plan as
9 an endorsement of their private agenda. Two of the provinces have a
10 clear Croat majority. A third is half Muslim. Boban claims this
11 province for himself. He insists that Vance-Owen has rewarded Croats
12 with over a quarter of Bosnia. He hurries to sign."
13 THE INTERPRETER: [Voiceover] "The Vance-Owen Plan was one of the
14 best possible options for the future of Bosnia-Herzegovina. It is a pity
15 that it wasn't understood either by Europe or by the US, the UN, the
16 Serbs, and the Muslims."
17 "Reporter: The Vance-Owen Plan places Mostar the mixed city of
18 Mostar in a Croat province. The Croats have long coveted Mostar as their
19 capital. They use the peace plan as a green light for a take-over. But

20 Vance-Owen also binds each province to protect ethnic minorities. The
21 Croats appear not to notice."
22 THE INTERPRETER: [Voiceover] "After they signed the
23 Vance-Owen Plan, the Croats from Bosnia-Herzegovina thought that the
24 division was accomplished. We got our Herceg-Bosna as our para-state,
25 and we can do whatever we want. We can rename the streets, we can rename

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1 the Croatian universities. And Mostar was finally the capital of our
2 newly-created state. And they thought that it was a fait accompli, but
3 they were wrong."
4 "Reporter: May 9th, 1993. The Croats mount an all-out assault
5 on Mostar. The Bosnian forces resist.
6 "Have you always seen Mostar as the capital of Herceg-Bosna?"
7 "Yes, all the time."
8 "Reporter: Even though it was a majority Muslim?"
9 "No, there were no majority Muslim, of any nation. Before the
10 war, the equal number of inhabitants were Muslims and Croats. The
11 difference was only a few hundred."
12 "Reporter: But still you saw it as the capital of the Croatian
13 part of Bosnia and Herzegovina?"
14 "Yes. Yes, it is."
15 "Reporter: Why?"
16 "Because this republic must have a capital, must have one centre,
17 must have university, must have other things which makes the republic a
18 republic on one civilisation level, the theatre, the symphonic orchestra,
19 and so on."
20 "Reporter: But that civilised capital does not include Muslims.
21 All the Muslims living on the west side are rounded up and forced across
22 the river to the devastated east side. A brutal siege begins. Civilians
23 become a weapon of war."
24 THE INTERPRETER: [Voiceover] "I used to live on the right bank.
25 We had a lovely two-bedroom apartment which was fully furnished. We had

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1 both worked for 25 years. Everything is still there. They drove us out.
2 We were used as human shields. We weren't allowed to take anything with
3 us."
4 "Reporter: I saw a film where there was a night-shot of people
5 being driven out of West Mostar into East Mostar by HVO troops?
6 [Voiceover] "... not much could have been recorded even in
7 Somalia."
8 "Reporter: For four months the HVO blocks all relief convoys to
9 Muslim-held East Mostar. As the battle for the capital of Herceg-Bosna
10 grinds on, Boban continues to starve civilians there. He is still using
11 food as a weapon in his war."
12 THE INTERPRETER: [Voiceover] "First thing in the morning, you
13 have to fight for fuel wood. You have to go around to the destroyed
14 houses to try and get some fuel wood. Although much of it has already
15 been taken, people need it. And after that, you try to get some water
16 for cooking, and if you have anything to put in a pot, you cook. That's
17 what you do. It's very difficult, to be honest. And then if there's
18 shelling, you go and see if your family are still alive. Every morning,
19 we count heads to see who was killed and who wasn't, who has been wounded
20 and who's still okay. And food, oh, my God, if you manage to eat, you
21 eat once a day; sometimes twice, but that happens only rarely."
22 "Reporter: Across the river on the Croatian-held side of Mostar,

23 there's no shortage of food."
24 "Mostar don't have west bank, don't have east bank. Mostar is a
25 beautiful town, and I don't recognise this division. It's temporary

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1 front-line, but I am inhabitant of Mostar, Mostar is my native town, and
2 I don't want to divide it."
3 "Reporter: Other natives of West Mostar are busy sweeping away
4 the last traces of their neighbours. 'Dispatches' found some photographs
5 among the ashes."
6 THE INTERPRETER: [Voiceover] "This is a shame to throw away
7 anything. I found my neighbour's photograph albums. I took them.
8 Everything that I found in rubbish, I put them in 50-kilo bags. If they
9 ever return, I want to give it to them. If this peace ever came back,
10 we'll give them back their memories."
11 THE INTERPRETER: [Voiceover] "Most of them are on the east bank
12 or living abroad."
13 "Reporter: The Croats steadily work their way through the order
14 of war pioneered by the Bosnian Serbs. In the Mostar region, Muslim men
15 of fighting age are herded off to camps, such as Dretelj. Many had
16 fought in the HVO."
17 THE INTERPRETER: [Voiceover] "Dretelj is hell on earth. It's a
18 place where a Croat could kill a Muslim and not be held responsible for
19 that. People were systematically destroyed there. There was no food, no
20 water, no sanitation. Health-care was virtually non-existent. People
21 were tortured every day. They were ill treated every day. Many people
22 died."
23 "Reporter: On an island just off the Croatian mainland, Muslim
24 victims from Dretelj Detention Camp are still held under police guard.
25 'Dispatches' filmed there secretly."

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1 "It's important for you at the moment ..."
2 THE INTERPRETER: [Voiceover] "For the time being, you have to go
3 somewhere where you will be safe, because your refugee status has been
4 extended by only a month."
5 "Reporter: The government of Herceg-Bosna released these men
6 only on condition that they would be sent abroad by the United Nations.
7 They have left Bosnia forever."
8 "It's important that you secure your safety."
9 THE INTERPRETER: [Voiceover] "Croatia had to release us from
10 Dretelj to clear its name, but as you can see, we were not sent home to
11 Bosnia. We were sent to Croatia, and we can only stay there temporarily
12 until we're sent to third countries. It's just another stage in the
13 process of ethnic cleansing."
14 "Reporter: Throughout the war against Bosnian government forces,
15 the regular Croatian Army continues to pour into Bosnia to reinforce the
16 HVO. This Croatian soldier was photographed on the front-line in Mostar
17 last June."
18 THE INTERPRETER: [Voiceover] "Before the conflict, the HVO didn't
19 have a single tank. Now they have scores of tanks in the area, so it's
20 clear that they got help either from Croatia or through Croatia. And we
21 have also recorded conversations. We can tell from the soldiers' accents
22 that they come from the regular Croatian Army."
23 "Reporter: We have evidence of Croat Army tanks in Buski."
24 THE INTERPRETER: [Voiceover] "We also have evidence of your own
25 British tanks in Pakistan and in India."

1 "There is, and as I speak, very substantial elements of the
2 Croatian Army in Bosnia and Herzegovina, very substantial, and I must say
3 I think it's an issue which the world ought to address more strongly.
4 They addressed it in terms of the Serbs in the spring of 1992 with
5 various considerable strength of purpose. They have, to a great extent,
6 ignored it in the last six months as it's built up."

7 "Reporter: President Tudjman's ambitions in Bosnia have been so
8 ignored, but in the Croatian capital of Zagreb, it's business as usual.
9 Croatia's backing of atrocities in Bosnia has gone unpunished. A senior
10 diplomat told 'Dispatches' the Croats have got away with murder,
11 literally. At a European Community meeting in July, ministers rejected
12 sanctions."

13 "Certainly, that is the view of the European Community,
14 obviously influenced by the Federal Republic of Germany and other
15 friends of Croatia like Austria and the United Nations, Hungary and
16 others, and the United States. So the general feeling has been that it
17 is better to make representations to President Tudjman and to criticise
18 and to argue, rather than to take action in terms of sanctions against
19 Croat."

20 "We need an appropriate international approach to the Balkans,
21 and until present time we have experienced many strange international
22 politicians, genuinely losers in their own countries, like Lord Owen,
23 Lord Carrington, Lord that and that, and they were sent to this part of
24 the earth to play irresponsible political games."

25 "Reporter: One winner in these irresponsible political games has

1 been Franjo Tudjman. In July, he abandoned any pretence of supporting a
2 unified Bosnia by calling openly for a carve-up. Peace negotiations are
3 now based on a union of republics or mini-states. Tudjman has satisfied
4 his obsession. Next on the agenda, the joining of this part of Bosnia
5 with Croatia."

6 THE INTERPRETER: [Voiceover] "I believe that we will become part
7 of Croatia. That is the goal of Croats in Bosnia and Herzegovina.
8 Croats in Herzegovina and in Bosnia are the same. The Croats in
9 Herzegovina are an undivided part of the Croatian nation."

10 THE INTERPRETER: [Voiceover] "We need to be aware of how
11 important a moment is in the history of a nation and peoples. Croatia's
12 borders in the past and now, and not just the borders of Croatia.
13 Unfortunately, we are at the crossroads of civilisations.

14 "Reporter: In Herceg-Bosna, in towns like Capljina, the new
15 state is taking shape. The few factories are getting back to work.
16 Children are getting used to a new curriculum, the same one taught in the
17 Croatian motherland.

18 "But just outside Capljina, a convoy waits to collect the Croat
19 refugees driven out from central Bosnia. For these people, Tudjman and
20 Boban's land grab has backfired. They come from outside Herceg-Bosna,
21 where the HVO is losing more and more territory to Bosnian government
22 forces. The Croats of Central Bosnia are now reduced to a few besieged
23 pockets, falling one by one. The latest is Vares, where 20,000 people
24 have fled. Mate Boban's only solution is to offer them a home in the
25 barren land of Herceg-Bosna.

1 "In Sarajevo, Croats face an uncertain future. Thirty-thousand
2 Croats live here. It's still the largest Croat city in Bosnia, but the
3 Herceg-Bosna government has abandoned them. Only the church is left to
4 protect them.

5 "The spiritual leader of all Croats in Bosnia, Archbishop
6 Vinko Puljic, refuses to leave his cathedral, despite constant pressure
7 to move to Herceg-Bosna."

8 THE INTERPRETER: [Voiceover] "From the 27th of December, 1992,
9 the Croats have had no officially-elected representatives in the
10 parliament. They are outside of Sarajevo. And since then, we have been
11 living in suspense."

12 "Reporter: Ivan Tomislav is a Croat citizen of Sarajevo. He
13 feels betrayed by Mate Boban and his fellow Herzegovinians in Grude."

14 THE INTERPRETER: [Voiceover] "What they're doing over there, the
15 politicians in Grude, they just implement policies that are being
16 dictated in Zagreb, and their policies do not represent the interests of
17 all Croats from the whole of Bosnia and Herzegovina. I was never
18 consulted about these political solutions. I never voted for them.

19 Herceg-Bosna is not a solution, it's not an integral solution for all the
20 Croats and Catholics in Bosnia and Herzegovina. Therefore, I cannot
21 approve a unilateral political solution unless that political solution
22 protects all of my believers. I demand a political solution that
23 protects the rights of all of my believers."

24 "Reporter: For the Croats in Sarajevo, Mate Boban's invitation
25 to come and join other Croats in Herceg-Bosna is unacceptable."

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1 THE INTERPRETER: [Voiceover] "I'd like to thank Mr. Boban for his
2 proposal, but I could never live in Mostar or in Grude. I don't know
3 where. I feel at home here in Sarajevo despite the shells. The living
4 conditions are almost non-existent, but we will survive."

5 "This is a tragedy, and this tragedy could be attributed to the
6 leadership of Mr. Tudjman, because he has made many wrong decisions and,
7 I mean, he -- he's simply -- I mean, his mentality is a mentality of a
8 genuine loser."

9 THE INTERPRETER: [Voiceover] "They are blind. They are
10 politically a blind man, and they want to sacrifice 700.000 Croats from
11 the whole of Bosnia for 170.000 Croats in Herzegovina."

12 "Reporter: The choice now facing Bosnian Croats is stark. For
13 most, it's Herceg-Bosna or nothing. President Tudjman has carved out his
14 chunk of rock in Bosnia. He's fulfilled his personal obsession with no
15 international reprisals, but the price has been the betrayal of Bosnia
16 and the sacrifice of his own people."

17 MR. SCOTT: The place where I left off in the chronology, Your
18 Honours, before the video was at the end of December 1991, at the 27
19 December 1991 meeting. I would just refer to a couple of things in the
20 video.

21 The Prosecution submits that one of the reference documents about
22 the so-called road map or plan that was referenced was the record of the
23 meeting on the 12th of November, 1991, which is P00071, which was already
24 referred to earlier in my comments, and we believe that the -- we submit
25 that the reference -- the so-called partnership agreement between Bosnia

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1 and Croatia was the so-called friendship agreement in July of 1992, just
2 if those references might assist the Chamber.

3 I apologise for my health and my voice. I'm sorry for that, Your

4 Honours.

5 There are a lot of important events that happened in the first
6 six months of 1992. There's the Livno meeting, which is important;
7 there's the referendum that's been referred to now several times in the
8 video; there are additional meetings and communications with and
9 involving Mr. Tudjman and others, President Tudjman and others; there is
10 the declared independence of Bosnia and Herzegovina as a new state; there
11 is the formation of the new BiH state armed forces.
12 During that time-period, the Herceg-Bosnians established the HVO
13 military in April 1992, at the same time calling the armed forces of
14 Bosnia-Herzegovina illegal and the enemy. Petkovic, Praljak, and others
15 are active during this time with the active support of the state of
16 Croatia in establishing the HVO military and getting things moving.
17 Largely because of the time element, however, I'm going to
18 generally go past those events so that I can get more quickly to the
19 second half of 1992, starting approximately July. In doing so, I just
20 want to make clear that I'm not minimising or dismissing for a moment the
21 importance of some of these other items, but we simply have to make some
22 selections in what we're able to cover. The Chamber will recall other
23 evidence in the case, perhaps other evidence from our pre-trial brief,
24 from our final brief, other submissions that have been made that may
25 assist the Chamber in that regard.

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1 Before we go to July, however, I do want to pause on the topic of
2 what we've called Croatisation or persecution, just so that point is
3 clear.
4 By April 1992 and thereafter, at the same time that Herceg-Bosna
5 was asserting its political, territorial, and ethnic sovereignty and
6 separation by rejecting the BiH government, declaring the BiH armed
7 forces illegal and, instead, establishing its own HVO and its own HVO
8 government, the Herceg-Bosna HVO leaders were also pursuing a deliberate
9 and sustained programme of persecution, Croatisation, and discrimination
10 against Muslims and other non-Croats. Indeed, the seizure of 30
11 municipalities by the Herceg-Bosna leadership in a gathering composed
12 only of Croats, with only 12 of those municipalities even having a
13 Croat-majority population, with no vote, no consent, no agreement with
14 the Muslims, was, itself, a persecutory and discriminatory act.
15 The fundamental fact that virtually all government and military
16 names were Croatian this and Croatian that, the Croatian Community of
17 Herceg-Bosna, the Croatian Defence Council, the Croatian Post Office, the
18 Croatian University of Mostar, made it very clear that this was a new
19 territory for one ethnic group.
20 The Prosecution position is that Herceg-Bosna's seizure of power
21 and the process of Croatisation starting in the spring of 1992 is part of
22 the persecution charged in the indictment. This extends back well into
23 the spring, as we've just said, the spring of 1992. Some people might
24 refer to that as softer forms of persecution, but, nonetheless, part of
25 the persecution charged in the indictment.

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1 Every effort was made to make virtually everything in
2 Herceg-Bosna Croatian, from state symbols and insignia, to language,
3 educational curriculum, currency, place names; for example, Prozor --
4 with Prozor changing its name to Rama and Gornji Vakuf being changed to
5 Skopje. In short, Herceg-Bosna was supposed to look, feel, and sound
6 like Croatia; remember, top-down, territory, demographics, Croat-ness.

7 A particular dark side of Croatisation was the official use or
8 encouragement of Ustasha names and symbols, many associated with
9 notorious World War II criminals, like as Ante Pavelic, Jure Francetic,
10 and Rafael Boban. A section of the street formerly named after Mostar
11 author Aleksa Santic was renamed in honour of the Ustasha leader,
12 Dr. Mile Budak. And another street was named after two other leaders of
13 the wartime independent state of Croatia, Vokic and Lorkovic, which was
14 understandably quite offensive to non-Croats and, I take it, probably
15 quite offensive to many Croats as well.
16 An HVO brigade, the one Your Honours watched taking the oath, I
17 asked Your Honours to draw back on your memories of when we saw the video
18 of this oath-taking ceremony, the name of that unit was the
19 Jure Francetic Brigade, a notorious World War II Ustasha war criminal.
20 We will eventually come to discuss such things as command climate, and we
21 ask the judges what sort of command climate -- what kind of message does
22 it send when you name your military units after notorious war criminals.
23 Here's a further important point, we submit, before moving ahead
24 to July, but about talking now about the Croatisation. It again has been
25 a consistent Defence theme or claim that Herceg-Bosna was something only

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1 temporary, only to take the temporary place of these allegedly
2 non-functioning BiH authorities. If that was true, if that was true,
3 these temporary -- these so-called temporary substitute Herceg-Bosna
4 authorities could certainly have continued using the BiH flag and
5 symbols, they could have applied BiH law, they could have used the
6 existing names of BiH authorities and places, they could have used
7 ethnic-neutral terms. Why did everything have to be Croatian? Why all
8 the talk about Croatian territory? Why all the talk about, This is
9 Croatian land? If it was a temporary, stand-in government, only
10 temporarily for the benefit of the so-called non-functioning BiH
11 government, why did you need Croatisation? In fact, wouldn't it have
12 been more multi-ethnic -- wouldn't a more multi-ethnic -- a more ethnic
13 neutral approach been less hostile and less provocative and less
14 persecutory towards the Muslims?
15 By 1995, Jadranko Prlic proudly reported to Tudjman:
16 "Mr. President, people are being born and dying with the
17 Croatian Republic of Herceg-Bosna. It is both their birth and death
18 certificate and the flag under which they are buried. That has
19 infiltrated all the people's pores down there. Therefore, people are
20 both emotionally and profoundly connected to this."
21 Now, moving to July, approximately. By this time, as I said a
22 few moments ago, an awful lot of things have happened that are important
23 to the case. The HVO military is up and running. They have rejected
24 completely the BiH authorities, the BiH armed forces, again, calling them
25 illegal and, quote, "the enemy." That pattern of behaviour, Your

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1 Honours, the Prosecution submits, is exactly that. The pattern that the
2 Chamber will see once again, not only in 1992, but in January of 1993 and
3 April 1993 and throughout 1993; that is, this: Once the Herceg-Bosna HVO
4 leadership had determined a particular course of action or saw an
5 opportunity to expand or consolidate its power, it took such action or
6 grabbed such power or territory, even if other relevant parties had not,
7 in fact, agreed or consented to such action or even opposed it. The HVO
8 would go forward based on its own view or interpretation of events,
9 seizing power or territory or, as some might say, jumping the gun, where
10 there was no valid basis or consent that it do so.

11 The continuing direct and high-level involvement of persons such
12 as Milivoj Petkovic and Bruno Stojic can be seen in connection with
13 several events in late June and early July 1992. Petkovic plainly
14 confirms the HVO's widespread and systematic programme to take control of
15 the, quote, "Croatian municipalities" and, quote, "Croatian territory "in
16 his report to a Herceg-Bosna leadership gathering on the 26th of June,
17 1992. It can only have been with great pride that Petkovic reported his
18 accomplishments and described his programme, which he set out as four
19 main tasks:

20 "Through offensive activities in the entire area of South-east
21 Herzegovina, HVO forces, with assistance of considerable HV forces and
22 equipment, have achieved success ..."

23 "Today, we have under control almost the entire territory of
24 Croatian municipalities (Neum, Ravno, Stolac, Capljina, Ljubuski, Citluk,
25 Siroki Brijeg, and Mostar."

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1 "Admittedly, there is still part of the territory, mostly in
2 Mostar and Stolac municipalities, that are not under control of HVO
3 forces.

4 "Therefore, we have four main tasks in front of us:

5 "1. To put under control the remaining area of Croatian
6 municipalities;

7 "2. To secure and fortify the achieved line;

8 "3. To carry out re-organising of the existing HVO forces; and

9 "4. To establish Croatian rule over all municipalities.

10 "Our intentions are: To prepare ourselves and through offensive
11 activities liberate the remaining Croatian territory."

12 Notwithstanding the pace at which they had moved the Herceg-Bosna
13 programme forward or, indeed, because of that rapid pace, by early July
14 1992, Tudjman and his Herceg-Bosna cohorts were confronted with two major
15 problems: First, the Republic of Croatia was under increasing
16 international pressure because of its direct intervention and
17 interference in a sovereign UN member state of Bosnia and Herzegovina;
18 and, second, the resistance and opposition of the
19 internationally-recognised BiH authorities, and Muslims generally, to the
20 Herceg-Bosna para-state were becoming louder and stronger.

21 By the 15th of May, 1992, Croatia was already being condemned for
22 its actions in BiH. In Resolution 752, the UN Security Council
23 condemned, quote, "all forms of interference from outside
24 Bosnia-Herzegovina, including by elements of the Croatian Army," and
25 demanded that such elements, quote, "now in Bosnia and Herzegovina,"

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1 quote, "either be withdrawn or be subject to the authority of the
2 government of Bosnia-Herzegovina, or be disbanded and disarmed." The
3 same resolution also demanded that all irregular forces in
4 Bosnia-Herzegovina be disbanded and disarmed with this description
5 including the HVO as a paramilitary force, which up to this point in time
6 had steadfastly refused to put itself under BiH state control.

7 The Secretary-General reported to the Security Council two weeks
8 later, on 30 May 1992, that:

9 "As regards the withdrawal of elements of the Croatian Army now
10 in Bosnia and Herzegovina, information currently available in New York
11 suggests that no such withdrawal has occurred."

12 This report was followed by new Security Council Resolution 757
13 on 30 May 1992.

14 "... deploring the fact that the demands of Resolution 752 have
15 not been complied with, including its demands that Bosnia-Herzegovina's
16 neighbours take swift action to end all interference and respect the
17 territorial integrity of Bosnia-Herzegovina."
18 In this context, and illustrating again the operation of the
19 two-track policy, the Croatian leadership affirmed its recognition and
20 support for the BiH state government and its efforts to establish a
21 single unified armed forces under the BiH Presidency's command. Note:
22 The very BiH government whose armed forces and commanders, the orders of
23 which have been called and labelled by the Herceg-Bosnians as illegal and
24 invalid. Zagreb says, We support you with UN forces. Don't worry,
25 Izetbegovic, we're right behind you. At the same time, our Herceg-Bosna

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1 clients are telling you to stay out of Herceg-Bosna, it's none of your
2 business, your forces are illegal and your orders invalid. That's
3 two-track. We can see that in a letter -- in a joint statement issued by
4 Tudjman and Izetbegovic on the 12th of June 1992.
5 In item number 3:
6 "The Republic of Croatia supports the efforts of Bosnia and
7 Herzegovina to maintain its independence and resist aggression, and to
8 this end offers and will continue to offer its help. The Republic of
9 Croatia also supports the efforts of the legal government and Presidency
10 of Bosnia and Herzegovina to consolidate the defence of the republic by
11 uniting all forms and components of armed defence to the unified armed
12 forces of Bosnia and Herzegovina under the superior command of the
13 Presidency of Bosnia and Herzegovina."
14 Of course, if Herceg-Bosna and the HVO were, in fact, in any way
15 a genuine and legitimate part of BiH, or wanted to be, they would have
16 joined and could have been subject to the legal governmental authorities
17 and the single unified state command. Clearly, they had no desire to do
18 so.
19 Tudjman, Boban, and the others must have hoped that this joint
20 statement, signed by Izetbegovic and Tudjman on the 12th of June, 1992,
21 they must have hoped that that would answer or assuage the Muslims'
22 increasingly vocal opposition to Herceg-Bosna. This opposition is
23 illustrated in a platform for the activities of the president of BiH in
24 state of war issued by the BiH Presidency on 26th June 1992.
25 I'm going to try to save a few moments of time by paraphrasing,

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1 and simply this is yet one more in a series of statements which BiH
2 authorities flatly rejected Herceg-Bosna para-states and parallel
3 institutions in Bosnia. I'll refer to one quote out of several. The
4 platform stated that BiH would, quote, "not accept negotiations which
5 have as their basis the establishment of ethnically-pure territories or a
6 regional division of Bosnia and Herzegovina on a solely ethnic basis."
7 Despite this clearly stated opposition, Tudjman and others were
8 determined to push forward with Herceg-Bosna. On the 5th of July 1992,
9 Tudjman, Susak, the Croat hard-liner Vice Vukojevic, and others met with
10 Boban and several Bosnian Croat leaders, including Milenko Brkic.
11 Now, a reminder about Mr. Brkic. Following the major fall-out --
12 the falling out between Boban and the HDZ party president Kljuic, Kljuic
13 has kind of half-resigned. He was not formally -- I don't know, maybe he
14 was just being difficult. He would not officially completely withdraw,
15 but he took on an inactive role. And in his place, as the acting
16 president of the party, this Milenko Brkic had been put in that position.

17 As time will tell, and as we'll get to it in the next few moments,
18 unfortunately Mr. Brkic suffered the same predicament of as Mr. Kljuic,
19 because he proved to be far too moderate for Boban, Boras, Kordic, and
20 the others.
21 In a meeting reminiscent of the 27 September 1991 show-down
22 between Boban and Kljuic, the HDZ BiH party president Brkic and others,
23 much to Tudjman's and Boban's consternation, raised serious questions
24 about Herceg-Bosna, saying that it was not right for the HVO to take
25 power from the legitimate BiH authorities and that the Muslims were not

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1 accepting this, especially in areas where the Muslims were in the
2 majority.
3 Mr. Brkic says, and this is from one of the presidential
4 transcripts:
5 "Many people are asking if the work of the HDZ BiH party has been
6 suspended or not. The question is whether a party convention should be
7 held or not. What is Herceg-Bosna, what kind of association is it, and
8 Posavina and Central Bosnia also need to be clarified. What is their
9 relationship with the state, as a whole? What is the HVO? Is this an
10 army or a civilian structure, and what is the scope of its authority?
11 This has not been clarified sufficiently. The HVO has suspended regular
12 civilian authority and even the HDZ party.
13 "There has been much recklessness in work. The question arises
14 of who should be obeyed in the future, who is authorised to replace
15 people, which are the legally-elected organs of authority, and so forth?
16 "Relations with Muslims are growing complicated. The HDZ party
17 has adopted conclusions and paid tribute to the HVO for what it has done
18 so far, especially regarding free territories. However, the HDZ does not
19 agree with the suspension of civilian authority."
20 As you read those and look at those words, this is the president
21 of the HDZ-Bi -- the acting president, Bosnian Croat president of the
22 HDZ-BiH, saying, We don't really know. What is Herceg-Bosna, what is the
23 HVO? What's going on here?
24 Brkic continued, indicating that people from Zagreb were playing
25 in these matters, and, quote, "I doubt their good intentions." Mr. Maric

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1 from Grude explains many of the things he implements by saying he has
2 been in contact with Mr. Tudjman who backs these positions, et cetera."
3 Boban roughly dismissed Brkic's statements, despite the fact
4 that, at least on paper, Brkic was his superior, his party leader.
5 Boban:
6 "If I had known that these would be the participants in the
7 meeting and that we would have this kind of discussion, it is certain
8 that I would not have come, because I have far more pressing business."
9 I said to you earlier that one of the transcripts or documents
10 the Chamber should look at would be the 27 December meeting. I also
11 highly recommend to the Chamber the record of the meeting with Brkic and
12 others on the 5th of July, 1992, which I believe is P00312, another
13 highly-telling meeting.
14 Boban's reaction and his anger and frustration with Brkic really
15 leap off the Page, and he says, as he says here:
16 "If I had known that we were going to be talking about this, I
17 wouldn't have even come."
18 It is clear that the policy being conducted now -- Tudjman then
19 comes in -- I'm sorry. Tudjman then comes into the conversation, same

20 meeting:

21 "It is clear that the policy being conducted now cannot satisfy
22 everyone in Bosnia and Herzegovina. The HDZ leadership must remain
23 consistent in conducting a unified policy.
24 "It is up to you to assess whether a HDZ convention should be
25 held or not.

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1 "The main problem of cantonisation and the relations towards the
2 Muslims, and the role of the authorities in and the HVO ... in building
3 up a government and what is being recommended and advocated by
4 Mr. Izetbegovic, one must be very careful, because his deeds are
5 something else. Let us not delude ourselves with certain promises. The
6 essential thing is that we must not lose our Croatian identity. We have
7 to have our territories, which have been Croatian territories throughout
8 history, especially those where the Croats have lived as a majority for
9 years."
10 Tudjman had no trouble recognising and stating plainly that the
11 HVO had, indeed, established a, quote, "new government," and expressly
12 rejecting the single multi-ethnic BiH that moderate Croats, like Kljuic
13 and Jerko Doko, who was then the BiH defence minister, were advocating.
14 The HVO deserves credit -- this is Tudjman:
15 "The HVO deserves credit for the establishment of a new
16 government and new relations. The system of authority being created by
17 Kljuic and Doko is not for us. For us, the core of authority must lie in
18 the HDZ ...
19 "We have to organise military and civilian authority within the
20 framework of the Community of Herceg-Bosna."
21 Brkic then comes back at Tudjman and says:
22 "There's a fundamental inconsistency in your position. You
23 cannot, on the one hand, say that you recognise the sovereignty and
24 independence of BiH, but not recognise its authorities."
25 Brkic told Tudjman:

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1 "If you recognise BH, it is logical to recognise the government.
2 Just how much that government can act and how functional it is at the
3 moment is a separate matter. If this is just a declaration, then what is
4 happening in practice? The government surely has a conception of how to
5 resolve the problems."
6 Like Boban, the Croat hard-liner Vukojevic, could hardly stomach
7 the conversation:
8 "It is certain that there are divisions in the HDZ along the
9 Bosnian line. A division certainly exists, and one of them is
10 Jure Pelivan's Sarajevo option, which I oppose."
11 We'll get to Mr. Pelivan in the next meeting. He was at that
12 time the Croat -- the Bosnian Croat prime minister of Bosnia-Herzegovina.
13 Susak complained that Herceg-Bosna had not yet gone far enough:
14 "We have managed to encircle the territories," we've drawn the
15 lines on the map, we have territory, "but have not succeeded in
16 accomplishing organs of power."
17 As with Kljuic before him, it was clear from this meeting that
18 Brkic's days in the HDZ leadership were numbered, with his moderate views
19 plainly not acceptable to Boban, Vukojevic, and the hard-liners, and,
20 indeed, by the fall of 1992, Brkic was replaced by Boban himself, as
21 discussed below, soon we'll get there.
22 A few days later, on the 21st of July, 1992, following the UN's

23 protest in May concerning the Croatia's involvement in Bosnia, Tudjman
24 met with Izetbegovic and others at an important meeting in Zagreb.
25 This is Exhibit P00339, and I will add this to my list -- my

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1 short list of those transcripts that should be read in full.
2 This Tudjman, Izetbegovic, Jure Pelivan, Brkic, all, if I can use
3 an American term, duking it out, fighting each other, debating on the
4 direction of things in Bosnia. And, again, add that to your short list
5 of transcripts to read.
6 Remember that -- we're coming up on a break, but if I can just --
7 remember at this time there are already two outstanding Security Council
8 resolutions condemning Croatia's involvement in Bosnia. Tudjman's got a
9 problem. He's got to somehow deal with that. He's either got to leave
10 Bosnia, which by all indications he doesn't want to do, or he has to get
11 some legitimacy or some cover for their presence there, and that leads us
12 to this so-called friendship meeting with Izetbegovic on the 21st of
13 July, 1992.
14 Mr. President, I suggest that might be a time to stop for a
15 break.
16 JUDGE ANTONETTI: [Interpretation] Very well. Let's have our last
17 break, 20 minutes.
18 --- Recess taken at 5.28 p.m.
19 --- On resuming at 5.50 p.m.
20 JUDGE ANTONETTI: [Interpretation] The court is back in session.
21 Mr. Scott, the Trial Chamber is asking you to tell us the number
22 of all these documents that you're quoting. I believe that so far you
23 haven't forgotten any, but make sure that you always tell us what is the
24 exact reference of the exhibit that you're quoting.
25 Thank you.

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1 MR. SCOTT: Thank you, Mr. President.
2 I will endeavour to do that, and maybe if I can just be so bold,
3 if I miss some and if I fail, I'll be happy to assist the Chamber's staff
4 following the argument, if that may also assist. But I will do my best.
5 Sorry, I'm just -- I was just consulting with Ms. Winner about --
6 yes, sorry.
7 We were talking, Your Honours -- my apologies. We were talking
8 about the 21 July 1992 so-called friendship meeting. I mentioned before
9 the break that one of -- excuse me, one of Tudjman's serious problems at
10 the time was that he had the UN Security Council breathing down his neck
11 about Croatia's involvement in Bosnia. The meeting transcript makes
12 clear, the Prosecution submits, that Franjo Tudjman had three principle
13 goals for this meeting: First, obtaining Izetbegovic's agreement for the
14 Croatian Army's presence in BiH, thus solving his problem with the UN;
15 number 2, getting Izetbegovic to accept the HVO military as a recognised
16 part of the BiH armed forces; and, third, gaining Izetbegovic's
17 acceptance of Herceg-Bosna as a governmental/territorial entity in space.
18 The end of the meeting and the resulting written agreement, the
19 so-called friendship agreement, showed that Tudjman was only partly
20 successful as to one of the three goals, in gaining a qualified
21 acceptance of the HVO military, but only on the same condition as the BiH
22 Presidency had been saying since April, If you truly become one of us, if
23 you truly become part of this army under a single unified command, then,
24 indeed, you are welcome to join us. As to the other goals, Tudjman
25 plainly failed. While the final friendship agreement concluded -- and

1 the friendship agreement is P00339. While the final agreement included
2 language about military co-operation against the Serbs on both sides of
3 the Croatian-Bosnian border, there are no words in the agreement allowing
4 HV presence in Bosnia. It may have given Croatia a bit of cover, but it
5 was ultimately clear that Tudjman did not get the language that he
6 wanted, as Tudjman, himself, later confirms.

7 And I don't know if I'll run out of time or not, but I will tell
8 the Chamber that as you read the presidential transcripts through the
9 late summer and fall of 1992, what you see and read Tudjman saying over
10 and over again, We didn't get it. We went there, we had the meeting in
11 July. We didn't get the agreement we wanted. He says it over and over
12 again.

13 On Herceg-Bosna, the acceptance of Herceg-Bosna, Izetbegovic's
14 answer to Tudjman's repeated requests that he accept Herceg-Bosna was a
15 resounding, No, and probably no surprise at this point.

16 Now, going back and touching with a bit more detail in terms of
17 the HVO as a military force, while plainly rejecting Herceg-Bosna,
18 Izetbegovic made it clear, and you can again see it from the transcript,
19 that it would be acceptable and, indeed, even desirable for the HVO
20 military to become a genuinely integrated part of the single BiH state
21 armed forces under the command of the BiH Presidency.

22 The Chamber may recall the Croatian witness Zuzul who came and
23 testified during the Prlic Defence case, and he said that this was such
24 an important meeting and, quote, "We measured our words carefully the
25 whole day; not just paragraphs, but words ... this document was

1 prepared," the friendship agreement, "... this document was prepared in a
2 very, very serious manner."

3 That being the case, Tudjman and the HVO could not have obtained
4 what they were hoping for, since none of this, quote, "carefully measured
5 words" indicate that the HVO would not be subordinate to the BiH
6 Presidency as supreme commander or to a single ABiH command.

7 Section 6 of the final agreement states:

8 "The armed component of the Croatian Defence Council (that is,
9 the HVO military) is an integral part of the united armed forces of the
10 Republic of Bosnia and Herzegovina. The Croatian Defence Council will
11 have its representatives in the joint command of the armed forces of
12 Bosnia and Herzegovina."

13 Among the carefully-measured words, there is nothing about the
14 HVO being a separate but equal army, there's nothing about it having
15 equal representation or power in a command system, there's nothing about
16 the fact that it would control the command of the BiH state armed forces
17 or that the HVO would somehow continue to exist somehow equal but somehow
18 entirely separate under a separate command. There's no basis for those
19 views in the friendship agreement signed by Izetbegovic and Tudjman.
20 As to Herceg-Bosna, Izetbegovic couldn't have been clearer,
21 rejecting Tudjman's repeated efforts to get him to accept it. He states
22 at one point:

23 "We do not agree with that item ... I think that the agreement
24 shouldn't interfere in internal. Everything else is an internal issue of
25 Bosnia and Herzegovina and will be regulated over there ... It could be a

1 little bit scandalous if someone would ... say the constitutional order
2 has been regulated in Zagreb."
3 Tudjman tried to force the issue, but Izetbegovic steadfastly
4 refused, except to recognise, quote, "full equality of the three
5 constitutive peoples: Muslims, Croats and Serbs."
6 Izetbegovic told Tudjman:
7 "It is obviously the point about which we cannot agree because
8 this is implicating some things that may cause secession tomorrow."
9 Both the Bosnian Croat acting president of the HDZ-BiH, now we're
10 back to Mr. Brkic and Mr. Pelivan - I told you we would come back to them
11 in a moment - they are also in the same meeting. Both the Bosnian Croat
12 acting president of the HDZ-BiH, Miljenko Brkic, and the Bosnian Croat
13 prime minister of Bosnia, Jure Pelivan, agree in this meeting -- agree
14 with Izetbegovic, that talking about the legitimacy of Herceg-Bosna was
15 completely different than accepting the HVO military as part of the BiH
16 armed forces if, indeed, and genuinely subordinated to a joint and single
17 unified command.
18 Brkic and Pelivan go on to say that Herceg-Bosna's actions in
19 taking power would, if they had not already, lead to a, quote, "serious
20 conflict with the Muslims." Brkic told Tudjman:
21 "Mr. President, when the HVO appears as a military structure,
22 then the Muslims and Croats are united, but at the moment when the HVO
23 appears as a civilian structure, then the Muslims don't accept it in the
24 entire area of the Central Bosnia and Herzegovina."
25 Pelivan agreed, saying that Tudjman's proposed language seeking

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1 to legalise or legitimise Herceg-Bosna, quote, "would not pass on the
2 government, the government of Bosnia and Herzegovina."
3 Pelivan continued:
4 "Listen, we are talking about Herceg-Bosna here, a community as a
5 political organisation. This government hasn't been established
6 everywhere. The fact is that this may cause disapproval on the other
7 side. Serbs will also request to have their government."
8 My apologies to interpreters:
9 "Serbs will also request to have their government."
10 In fact, we know by now that that had already occurred.
11 Having plainly and repeatedly said that Herceg-Bosna was not
12 acceptable, Izetbegovic and the BiH delegation, due to Herceg-Bosna's
13 aggressive actions over the past several months, were nonetheless faced
14 with a fait accompli, which was certainly no accident. Herceg-Bosna had
15 declared its existence. Herceg-Bosna had established a separate
16 government. Herceg-Bosna had established its separate armed forces.
17 Herceg-Bosna had seized power in municipality after municipality. It was
18 a fait accompli.
19 The most Izetbegovic could extract in the friendship agreement
20 was the commitment by Tudjman that the Herceg-Bosna structures, the HVO
21 civil structures, would, quote, "be made to conform as soon as possible
22 with the constitutional juridical system of the Republic of Bosnia and
23 Herzegovina." What else could he say? They already existed. So he
24 signs an agreement and walks away, saying, Well, they are a
25 fait accompli, but you commit to bringing them into compliance with our

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1 constitutional system, quote, "as soon as possible."
2 The follow-up to the friendship meeting on both fronts, I think,
3 is very telling, because contrary to what happens on the Herceg-Bosna

4 side, you can actually see the BiH authorities trying to act in good
5 faith. They're trying to carry out this friendship agreement. But as
6 you'll see again, the Herceg-Bosnians will have none of it.
7 Less than three weeks after the so-called friendship agreement
8 was signed on 21 July, the BiH Presidency amended the BiH Law on
9 Armed Forces in what the Prosecution submits was a prompt, reasonable,
10 and bona fide effort to carry out the agreement. It affirmed that the
11 HVO was part of the BiH state forces, to the extent that it truly was, if
12 it was, subject and subordinate to the same single unified command, and,
13 as such, that the HVO was a subordinated part of the BiH state armed
14 forces.
15 The decree adopted on 6th August 1992 amended Article 2 of the
16 Law on the Armed Forces to state:
17 "The Army of the Republic (hereinafter: the Army) constitutes the
18 armed forces of the republic.
19 "Units of the Croatian Defence Council constitute an integral
20 part of the army, as well as other formations," and this is the critical
21 language, "which put themselves under the single command of the army."
22 The statutory language is fully consistent with not only the
23 language of Section 6 of the friendship agreement but the entire concept
24 of a unified armed force under a single unified command.
25 After measuring -- again, measuring the words carefully, the

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1 friendship agreement says the HVO will have its representatives in the
2 joint command of the armed forces. The carefully-measured words say
3 nothing, again, about the HVO being a separate but equal army somehow
4 related to the BiH state armed forces, but somehow marching to a
5 different command with Boban as its supreme commander. You can't have
6 two supreme commanders. You can't have the BiH Presidency, with
7 Izetbegovic being the president of the Presidency, as supreme commander,
8 and you can't have Mate Boban being supreme commander at the same time.
9 Indeed, I would remind the Chamber there are already Bosnian Croats in
10 senior positions in the BiH state armed forces, with the Croat
11 Stjepan Siber being the number 2 commander of the ABiH, a Croat.
12 The BiH Presidency's position, far from being disingenuous, as
13 the Defence seems to suggest on occasion, was fully consistent with the
14 HVO's own concept of a single armed force under one command, as reflected
15 in one of the series of HVO orders that we saw in the spring of 1992;
16 first from Boban, then from Roso, then there was another one from
17 Blaskic, saying that only the HVO is legal. If you want to be part of
18 us, you'll be completely subordinated to us. You'll wear our insignia,
19 you'll take no orders, no commands from anyone else, et cetera. And we
20 have that and we can see that in Roso's 8 May 1992 order in which he
21 says, and this is from May of 1992:
22 "1. The only legal military units in the territory of the HZ-HB
23 are units of the HVO.
24 "2. All other military units in the above territory must join
25 the single defence system and recognise the HVO Main Staff as their

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1 supreme command.
2 3. Every member of the above military units must wear HVO
3 insignia (badge on cap and canvas HVO sign on left sleeve)."
4 Your Honours, how is it that the self-appointed political and
5 military leaders of the self-declared Herceg-Bosna para-state could
6 insist that any armed forces on its alleged territory must join, quote,

7 "the single defence system" and must, quote, "recognise the HVO
8 Main Staff as their supreme command," closed quote, and, quote, "must
9 wear HVO insignia," while at the same time taking the position that the
10 legal and legitimate Presidency of the internationally-recognised UN
11 member state of Bosnia-Herzegovina could not require those who would be
12 part of its legitimate state armed forces operating on its sovereign
13 territory, which extended all the way, by the way, to the international
14 border with Croatia, to, quote, "join the single defence system" and
15 recognise the BiH Presidency as, quote, "their supreme command"? Sauce
16 for the goose, sauce for the gander.
17 In their sworn testimony, the accused Petkovic and the senior HVO
18 commander and Defence witness Filipovic both made clear that the person
19 they considered the supreme commander of the HVO was the president of
20 Herceg-Bosna, Mate Boban. Confirming all aspects of an HVO
21 organisational chart that he prepared for the Blaskic case, Petkovic
22 repeatedly said concerning the box -- remember, the box on the chart said
23 "supreme commander." Petkovic says, That's Mate Boban:
24 "Yes, it's Mr. Mate Boban, this box which reads 'supreme
25 commander.'"

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1 Petkovic testified that Boban was the HVO's supreme commander
2 from the time that Petkovic arrived in Bosnia in April 1992 until
3 February 1994, when Boban left that position.
4 It was likewise put to Filipovic:
5 "And then it says 'the Decree on armed forces stipulated that the
6 commander-in-chief was at the head of the army.
7 "Q. Do you agree?
8 "A. Yes, if you mean the supreme commander who was Boban."
9 An army, Your Honours, cannot serve two masters. Two armies
10 cannot have two different supreme commanders and be the same army.
11 Indeed, Filipovic himself plainly conceded, both in his Kordic
12 testimony and in this case, that there three armies in BiH each serving,
13 quote, "the interest of that side." Filipovic affirmed and adopted the
14 following from his Kordic testimony:
15 "We had three armies in Bosnia-Herzegovina: The Army of the
16 Republika Srpska, which separated and took up arms to reach their
17 objectives; then we had the Muslim side, which wore the green fezzes, had
18 their own flags, had their own insignia; then we had the Croatian
19 component or party and represented the interest of that side.
20 "And if you're talking about the joint defence of Croats and
21 Bosniaks, that is, Muslims, that was jointly but not the same.
22 "At that time, we could not have had the same army. That was a
23 purely theoretical concept."
24 And I'd ask the Chamber, as you continue to consider this issue,
25 to distinguish between sometimes allies and being the same army. There

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1 may, indeed, have been -- and, in fact, there were times when the HVO and
2 the ABiH fought together against the Serbs. We've talked about that
3 through the years. Being an ally does not make you part of the same
4 army. The HVO and the ABiH, in the areas and during the times relevant
5 to this case, were never the same army.
6 Petkovic's own actions only three days after the BiH Presidency's
7 6 August decree speak volumes of the attitude on the HVO side. In
8 contrast to but in the face of the BiH Presidency's adoption of the
9 decree, amended decree, Herceg-Bosna simply continued its march toward a

10 separate Croat space under separate Croat control and excluded or
11 attempted to exclude all other armed forces from its territory.
12 On 10 August 1992, Petkovic ordered Herceg-Bosna military police
13 and civilian police commanders to, quote:
14 "Use all available HVO, civilian, and military police forces to
15 prevent any military units other than the HVO from entering your area of
16 responsibility."
17 Any.
18 "This is solely HVO territory. None others are welcome, none
19 others will be accepted. You are to advise this staff on the presence of
20 any unit other than the HVO."
21 P00377.
22 Simply put, the HVO had no intention of subordinating itself to
23 the command of the BiH Presidency in the summer or fall of 1992 or any
24 time during 1993, not seriously, not in good faith, not genuinely.
25 Now, there was also follow-up to the friendship meeting on the

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1 political side. We've talked about the military. Remember the language
2 which talked about to bring the Herceg-Bosna structures as soon as
3 possible into compliance with Bosnia's constitutional juridical system?
4 Well, Mr. Izetbegovic and the BiH Presidency develops the notion
5 of, during this wartime situation, of a new organisation based on
6 districts. This started in August 1992, which ordered the organisation
7 of BiH into initially seven and later ten districts. The Herceg-Bosnans,
8 of course, were opposed to this, as they were opposed to BiH authorities
9 doing anything in Herceg-Bosna.
10 Stojic reported at a meeting of the HZ-HB Presidency on the 14th
11 of August -- this is just a couple of weeks -- several weeks, not later.
12 Stojic has attended a meeting with some BiH ministers, and he goes back
13 and reports to the BiH -- excuse me, to the HZ-HB Presidency on the 14th
14 of August. He had met with BiH ministers the day before at which the BiH
15 ministers had offered co-operation in fighting together against the
16 Serbs, but had rejected ethnic units or cantons. Stojic reported in the
17 minutes of that meeting:
18 "After this meeting, the conclusion is there can be no agreement
19 with the Muslims."
20 That's Stojic on the 14th of August, 1992.
21 In fact, organisation of all of the proposed BiH districts went
22 forward during the fall of 1992 and --
23 JUDGE TRECHSEL: Excuse me, Mr. Scott. Is there a quota for this
24 last quotation?
25 MR. SCOTT: Yes, Your Honour, excuse me. It's P00391.

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1 JUDGE TRECHSEL: Thank you.
2 MR. SCOTT: You're welcome.
3 In fact, organisation of all the proposed BiH districts went
4 forward during the fall of 1992 and thereafter, except for the Mostar and
5 Livno districts, which were located, of course, on Herceg-Bosna's
6 so-called territory.
7 Indeed, jumping ahead to 1993 just for a moment, when the BiH
8 authorities made further attempts to establish the Mostar and Livno
9 districts in the first quarter of 1993, Prlic and the Herceg-Bosna leader
10 vociferously opposed them as contrary -- plainly contrary to the Greater
11 Croatian banovina project. Just as the Herceg-Bosnans have no bona fide
12 intentions of making the HVO military part of the BiH state armed forces

13 under the BiH's Presidency's control, they likewise had no intention of
14 dismantling Herceg-Bosna or bringing it into conformity with the legal
15 and juridical system of Bosnia-Herzegovina, quote, "as soon as possible."
16 That was not part of the agenda. In fact, the evidence will show that
17 Boban, Prlic, and Herceg-Bosnans continued to march as fast as possible
18 in the opposite direction, not ameliorating, not softening their
19 positions in the face of all the opposition from the international
20 community and from the Muslims and from the BiH authorities, not
21 saying -- not rethinking their position, but going hard and fast in the
22 opposite direction.
23 By July 1992, the Herceg-Bosnan leadership knew that it continued
24 to face troublesome opposition and annoying competition, not only from
25 the BiH Presidency against Muslims, but from many moderate Croats,

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1 including the moderate parts of the HDZ-BiH party and from two Croat
2 organisations called the Croatian Party of Rights and its Croatian
3 Defence forces or HOS. Boban, Praljak, and the others knew that it would
4 be difficult to move forward and consolidate their power further unless
5 and until these other factions -- competing factions and forces were
6 silenced or side-lined.
7 Now, talking about the party, we've talked a bit this afternoon
8 about -- well, we knew about Kljuic, who's gone, effectively. We know
9 about Milenko Brkic, another moderate who has now been side-lined, has a
10 big fight with Tudjman at the July meeting, and that's continuing.
11 While people like Boban, Boras, and Kordic often talked about the
12 HDZ-BiH as their party, their party, by mid-1992 the HDZ Bosnian branch
13 had not, in fact, proven to be an entirely reliable vehicle for the
14 Herceg-Bosnans to accomplish their work, at least not until the
15 hard-liners fully consolidated their control in November -- some months
16 from now in November of 1992.
17 Party leaders and members like Kljuic, Brkic, and others had
18 proven difficult for Boban and his Herceg-Bosna compatriots, so that the
19 Herceg-Bosna HVO leadership had largely abandoned the party by the late
20 spring of 1992. Or, to put it differently, it was content to let it sit
21 there, essentially, inactive.
22 At the Zagreb meeting on 5 July 1992, if you remember, the acting
23 HDZ president, Brkic, had put to Tudjman that some people were already
24 asking if the work of the party had been suspended:
25 "People are asking, should we have a convention?"

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1 In fact, Tudjman, himself, discouraged calling an HDZ-BiH
2 convention during this time, and the Prosecution submits that it was
3 exactly for these reasons. Calling a meeting -- calling an HDZ
4 convention in Bosnia, with people -- with the likes of Kljuic and Brkic
5 and other moderates still in top party positions would be dangerous.
6 The HDZ-BiH official Zdenko Cosic confirmed at a meeting with
7 Tudjman at meeting with Tudjman on 17th September 1992 that Tudjman had
8 expressed reservations about calling a convention, as Brkic had
9 suggested, saying, quote, "it was not really desirable to call a
10 convention at such times." That's from P00498.
11 The accused Petkovic and Defence witness Filipovic confirmed that
12 by mid-1992, the HDZ-BiH was no longer active or any real factor during
13 the war. Petkovic testified: "... the HDZ had frozen its activities. I
14 don't think that it had dismantled itself, but it had frozen its
15 activities.

16 "So the HDZ didn't gather at any levels at the lower, mid levels,
17 or higher levels. So in the course of the war, it quite simply ceased to
18 operate.
19 " ... it did not gather, it did not work, it didn't assemble, and
20 it didn't take any decisions.
21 Now, I'm going to pause here, because maybe, ultimately, we may
22 some times by noting some of these issues as we go rather than
23 circling -- perhaps circling back to them tomorrow. One of the other
24 claims that we've heard from the various Defence teams from time to time
25 is, Where are these other alternative bases of power? You know, Prlic

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1 wasn't responsible, the real power was in the party, or the real power
2 was over here, or the real power was in the municipalities. And we're
3 going to try to touch on all those and explain to Your Honours why none
4 of those were true. Well, this is one of them, because when they point
5 the finger, and when maybe they get up in the next two weeks and say,
6 Well, you know, it was really the HDZ-BiH party that had the power,
7 uh-uh, no, the party wasn't even operating during this period. Petkovic
8 and Filipovic, one accused, one Defence witness, both confirmed party
9 inactive, not doing anything, not a power base during this time-period.
10 The HVO commander Filipovic says:
11 "In the Kordic case --"
12 I put to him:
13 "Q. In the Kordic case, you testified and you said that the
14 political party known as the HDZ-BiH, the Bosnian wing of the HDZ, that
15 that political party as of June 1992 was not active, that it had at least
16 effectively ceased to exist. Would you stand by that testimony today?
17 "A. In that area in which I was in, it was stated that it froze
18 its activity.
19 "Q. All right. And --"
20 Apologies:
21 "And in another place, in your same testimony on that, you said:
22 'In the summer of 1992, the parties officially ceased to function.' So
23 that relates to what you just told us just now also?
24 "A. Yes, that it froze their actions. They were on ice."
25 Petkovic comes back to it and even actually takes it even

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1 further. This is his testimony in this case.
2 Actually, we've jumped a slide, I think. Sorry, Your Honour, I
3 have some technical -- all right. My apologies. My mistake, as always.
4 Thank you, Skye.
5 Petkovic testifies:
6 "Your testimony in Kordic, at Page 268 '04-05 ...
7 "Q. Some of the international observers have speculated that the
8 HVO Army affairs were subject to pervasive political control exerted by
9 the HDZ-BiH. Is that true, that there was such control exerted by the
10 political party?"
11 Milivoj Petkovic, under oath:
12 "Your Honours, that is not true. It is another matter that our
13 supreme commander ..."
14 Note that, again confirming who the supreme commander was, not
15 Izetbegovic.
16 "... our supreme commander, Mate Boban ... was the number one
17 man -- number one in the HDZ."
18 He was the number one in the party, which depending on the time

19 wasn't necessarily true, at least not de jure:
20 "But I do not see that the HDZ ever ran the army or the HDZ, as
21 such, as a party, imposed itself on the military. And as far as I know,
22 I think the work of the party was frozen for a while.
23 "Q. Which is actually consistent with what you said just a
24 moment ago; correct?
25 "A. Yes, that's correct."

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1 The HDZ was not functioning, was inactive, was on ice, was
2 frozen, is not an alternative power base. It is not anyone or anything
3 that the accused can point to as being responsible for what happened in
4 Herceg-Bosna.
5 Now, they also needed to eliminate this organisation called HOS
6 because it was also being troublesome. Bosnian Croat opposition to or
7 competition with Herceg-Bosna was not limited to the HDZ-BiH or its more
8 moderate factions. There was also something called the Croatian Party of
9 Rights and its military wing known as the Croatian Defence Forces or HOS,
10 which were the HDZ's and HVO's principal rivals for Croat members and
11 their support in Bosnia-Herzegovina.
12 Important point: Ideologically, HOS differed from the
13 Herceg-Bosnians in a very important way, in that HOS favoured a single
14 shared Croat-Muslim BiH, rather than the Serb-Croat partition which
15 Tudjman and the Herceg-Bosnians supported. HOS was more closely aligned
16 with the BiH authorities and the BH state armed forces. HOS and its
17 leader, Blaz Kraljevic, acknowledged the BiH authorities in Sarajevo,
18 rather than the Herceg-Bosnians in Grude and Mostar, and recognised
19 Izetbegovic, not Boban, as supreme commander.
20 The Defence Witness Jurcevic observed in his report that
21 Kraljevic, quote -- so this is coming from a Defence witness:
22 "Kraljevic supported co-operation between the Croats and the
23 Muslims and Bosniaks. In early August 1992, the government in Sarajevo
24 appointed General Kraljevic a member of the BH Army Main Staff."
25 Was the ABiH -- was Izetbegovic willing to put senior Croats in

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1 senior positions of command if they were willing to do so and willing to
2 be subordinate to his authority? Yes, he was, and we have HOS and
3 Blaz Kraljevic as proof of that.
4 For these reasons, HOS was popular with Muslims as well as
5 Croats, and in many municipalities, such as Zenica, there were more
6 Muslims than Croats in HOS. HOS was a formidable-enough competitor that
7 the HVO, in the summer of 1992, feared that HOS might even become the
8 dominant force in such places as Capljina and Ljubuski.
9 It is easy to see from these circumstances that HOS, as a
10 military-capable Croat organisation that was much more closely oriented
11 toward the BiH authorities in Sarajevo, rather than Herceg-Bosna, was
12 seen by Boban, Praljak, and others as a threat. Because of this, on 9
13 August 1992, Blaz Kraljevic and eight other HOS members were killed in
14 ambush at Krusevo, near Mostar.
15 The Defence witness Jurcevic, again Mr. Jurcevic, testified that
16 this part of his report was completely accurate, and this is what he
17 said:
18 "Due to the many differences between parts of the HVO and the
19 HOS, Kraljevic was soon killed in an ambush near Mostar.
20 "At that point, an all-out armed conflict between the HOS and the
21 HVO was avoided by an agreement signed on 23 August 1992 by Mate Boban

22 and the chief of the Main Staff of the HOS (Ante Prkacin).
23 "After this, the HOS was completely disbanded when groups or
24 individual members transferred to the HVO or the BH Army."
25 After Kraljevic's assassination, the HVO quickly took over many

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1 HOS units. It is noteworthy that the man who was Blaz Kraljevic's
2 deputy, Ivica Primorac, had, just prior to his defection from HOS to the
3 HVO, and just shortly before Kraljevic's murder, met several times a
4 Mate Sarlija, also known as Daidza, and with Slobodan Praljak, and had
5 also spoken with Boban. The same Primorac went on to become the
6 assistant chief of the HVO Main Staff for professional units and
7 continued in this post until August of 1993. He goes from deputy
8 commander of HOS, the Prosecution submits, makes a deal with the HVO, and
9 is rewarded with a senior position in the HVO military.
10 As confirmed by the Defence witness Jurcevic, soon after Primorac
11 defected from HOS to the HVO and Kraljevic was murdered, much of HOS was
12 subordinated to the HVO in the agreement signed by Boban.
13 Slobodan Praljak confirmed to Franjo Tudjman that he, that is,
14 Praljak, was, quote, "personally involved with Prkacin" in the, quote,
15 "destruction of HOS."
16 In a meeting in Tudjman's office on the 26th of September, 1992,
17 when the Croatian president was upset with Prkacin for calling himself a,
18 quote, "general" in the Croatian Army, and seemed to be looking to punish
19 him, Praljak came to Prkacin's defence:
20 "Mr. President, please, I'd like to say that it is not so simple.
21 Openly speaking --"
22 "Openly speaking, we have used Mr. Prkacin, I personally and in
23 co-operation with others, for destruction of the HOS down there. He has
24 done a good job down there."
25 It was, indeed, a good job for Praljak and the Herceg-Bosnans.

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1 HOS had been destroyed; mission accomplished.
2 By mid-1992, Your Honours, the patterns, practices, and
3 characteristics of ethnic cleansing in the former Yugoslavia were already
4 well known and widely reported.
5 In his report dated the 27th of October, 1992, the UN special
6 rapporteur, Mazowiecki, stated:
7 "The special rapporteur shares the view of other observers that
8 the principal objective of the military conflict in Bosnia and
9 Herzegovina is the establishment of ethnically-homogeneous regions.
10 Ethnic cleansing does not appear to be a consequence of the war, but
11 rather its goal. This goal, to a large extent, has already been achieved
12 through killings, beatings, rape, destruction of houses, and threats."
13 In his report titled "The Characteristics and Patterns of the
14 Balkan Conflicts as Widely Known and Reported by the Latter Part of
15 1992," the Prosecution expert witness Nicholas Miller addressed the
16 following questions -- that report, by the way, is Exhibit P10239.
17 Miller answered the following questions that had been posed to him:
18 "Q. What characteristics and patterns or practices in the wars
19 in the former Yugoslavia were extensively reported, widely known, and
20 publicly recognised by the middle and latter parts of 1992?"
21 Next question:
22 "Q. Given the precedent of the war in Croatia in the first
23 months of war in Bosnia, would ethnic violence against civilians in the
24 form of murder, expulsions, and rape, likely ensue?"

25 Miller answered that:

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1 "The civilian toll of acts of persecution, attacks, and forcible
2 population transfers was, in fact, widely known in Croatia and in
3 Bosnia-Herzegovina in 1991 and 1992."

4 That:

5 "The attempt to subjugate populations and/or take territory was
6 substantially likely to result in violence against civilians, including
7 killings, widespread destruction, forced expulsions, and other criminal
8 acts."

9 And that:

10 "Such acts were already manifested during the conflict in Croatia
11 and Bosnia-Herzegovina by and beyond the latter part of 1992."

12 Miller reported that in the Balkan wars of the 1990s, quote,

13 "civilians became a particular focus of attention of warring parties, who
14 were not merely trying to defeat an enemy, but were trying to clear
15 territory of one or the other ethnic group either entirely or in large
16 measure."

17 In this way, quote, "ethnicity was the fuel of the conflict,"

18 and, quote, "territorial conquest and cleansing was the goal."

19 The large-scale armed violence was not accidentally ethnic but
20 instead, quote, "the issue in these conflicts was, in fact, ethnicity."

21 Certain types of behaviour or practices became well known and
22 predictable:

23 "One regular theme and one which was well publicised
24 internationally and locally was the barricaded town or village as the
25 site of ethnic struggle."

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1 If I might submit, the use of the word "barricaded town," I
2 think, might be described as a siege.

3 Throughout 1991 and by the summer and autumn of 1992, quote, "the
4 dominant characteristics of a conflict based on ethnicity and the
5 practices and patterns of behaviour involved in such conflict became and
6 were widely reported, publicly recognised, and well understood. Attacks
7 on civilians, forcible population transfers, and large-scale detentions
8 were already a known part of what was already being called and had
9 already been coined 'ethnic cleansing.'"

10 By mid-1992, there was an increasing body of United Nations
11 resolutions, reports, and other UN communications describing with great
12 concern the developments and characteristics of the Yugoslav conflicts.

13 Another common story in the press coverage at the time was the,
14 quote, "barbarous treatment of captives." Yet another was that refugees
15 and displaced persons had become pawns and that, quote, "refugee
16 resettlement had become a tool in ethnic cleansing."

17 As Mazowiecki reported on 28 August 1992:

18 "The detention of civilians is clearly being used as a method of
19 pressuring them to leave the territory. In many cases, after agreeing to
20 leave, they are obliged to sign documents renouncing their claim to their
21 homes and other property, or indicating that they agree to donate their
22 property to the local government."

23 All of these phenomena were widely reported, well understood, and
24 publicly recognised by the end of 1991. In this way, quote, "the
25 political and military leaders and various factions of the Serbian,

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1 Croatian, and Muslim groups or organisations must have known or had every
2 reason to believe that what a continuation and expansion of the conflicts
3 would bring. The goal of territorial partition of Bosnia based largely
4 on ethnicity was stated, foreseen, and, indeed, virtually taken for
5 granted by Croatian and Serbian political and military leaders by early
6 1992. In this context, in this information environment, in Western
7 Herzegovina, Croatian political and military leaders from Croatia and
8 Bosnia began to prepare for a war that they saw as both inevitable and
9 desirable."

10 And that was a quote from P10239, Page 11.

11 As Miller stated in his report:

12 "To put it succinctly, the war in Bosnia proceeded predictably
13 according to a script of patterns and practices already written in
14 Croatia, but with more intensity."

15 In fact, by mid-1992 -- now, remember, we're still in 1992. We
16 haven't even gotten to 1993 yet. In fact, by mid-1992, ethnic cleansing
17 in Herzegovina, itself, was already widely reported. A writer for
18 "Vreme" reported in August 1992 that in July 1992, Red Cross
19 representatives visited camps and prisons in Mostar, Ljubuski, and
20 Capljina, and that in the years since the conflict began, quote,
21 "violations of humanitarian law and human rights have been committed by
22 all sides in the conflict and had become a practice, particularly as far
23 as the civilian population is concerned."

24 By August 1992, the existence of HVO -- August 1992, the
25 existence of HVO camps at Ljubuski and Capljina was known in the West.

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1 The fact that the UN special rapporteur, Mazowiecki, by mid-1992 was
2 already reporting on the existence and operation of four detention camps
3 on "Bosnian Croat territory (Livno, Mostar, Orasje, and Rascani) is
4 telling."

5 Miller reported:

6 "The Croatian media reported widely on the entire spectrum of
7 events. The Serbian and international press did as well. Any
8 moderately-informed person living and working in the former Yugoslavia
9 could not but have known of these developments and reports and the
10 characteristics and practices involved in the Balkan conflict."

11 As an example, Franjo Tudjman, himself, in a meeting with
12 Herceg-Bosna leaders, including Mr. Prlic, on the 17th of September,
13 1992, expressly noted, quote, "this barbarity that is unfolding in Bosnia
14 and Herzegovina" involving, quote, "mutual extermination."

15 Indeed, the actions of the warring sides through the middle of
16 1992 clearly indicated that killings of civilians, forced expulsion, and
17 widespread destruction would ensue should any ethnic group try to
18 subrogate another in Bosnia and Herzegovina.

19 As discussed earlier, the American diplomat Warren Zimmerman had
20 by this time already warned Franjo Tudjman where his Bosnian policy would
21 lead and what would result from them:

22 "There will be war in Bosnia if you try to divide it. Don't you
23 think the Muslims will react? What you propose ignores the rights of a
24 large share of Bosnia's population."

25 By the end of July 1992, several things were clear. Except for

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1 the occasional shell or local incident, all significant fighting, with a
2 few exceptions, between the Serbs and the Croats in the wider Mostar

3 region was over, with the Trial Chamber establishing the adjudicated fact
4 that, quote, "most Serbs had left or been driven out of Mostar."
5 Jadranko Prlic confirmed this some weeks later in a meeting with Tudjman
6 on the 17th of September, 1992, where he reported:

7 "We did not enter a single Serb village, nor do we want a single
8 Serbian village."

9 The real conflict, both in Herzegovina and in many parts of
10 Central Bosnia, was now between the Croats and Muslims, as the
11 Trial Chamber has determined by a number of adjudicated facts. It was
12 increasingly clear that the BH authorities and the Muslims, generally,
13 with some exceptions, did not accept Herceg-Bosna and, in fact, were
14 increasingly opposed to it.

15 In a call for co-operation in mid-July 1992, the Muslim
16 leadership in and around Mostar, including the mufti, Sead Smajkic,
17 Ismet Hadziosmanovic, Mira Rajic and Miro Mahmutcehajic, protested the
18 increasingly mono-ethnic nature of the HVO administration. They warned
19 that there had been no agreement, quote, "on the status of the
20 predominantly Muslim municipalities (Konjic, Jablanica, Mostar and
21 Stolac)." They urged that Muslim and Croat fighters be given equal
22 status, that a multi-ethnic joint command be established, and that both a
23 civilian and military police also be organised on a proportional basis,
24 quote, "in line with the Statute of the Armed Forces of the RBiH," the
25 Republic of Bosnia and Herzegovina.

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1 The Muslim leaders asked for the recognition of both Bosnian and
2 Croatia as official languages, and that the symbols of the Republic of
3 Bosnia and Herzegovina be introduced. Imagine that, the symbols of that
4 sovereign country actually being re-introduced on its sovereign
5 territory. They called for both ethnic groups to be involved in setting
6 the university curriculum and for university teachers to be selected on
7 the basis of equality. They also called for captured JNA property to be
8 allocated in line with the regulations of the Republic of Bosnia and
9 Herzegovina. Unfortunately, these requests fell on deaf HVO ears and
10 were simply ignored, further adding to the mounting tensions that would
11 lead to open conflict.

12 Similar protests and requests were made in a petition from the
13 Muslims of Herzegovina on 8 August 1992. They advocated, quote, "the
14 integral and indivisible state of Bosnia and Herzegovina and did not
15 recognise any parastatal creations." The petition called for the use of
16 the BiH flag and coat of arms as well as the introduction of total
17 equality of the Bosnian language with the Croatia and Serbian languages.
18 Many of the same things were said again, but with greater urgency, in the
19 SDA Regional Committee president's 14 September 1992 letter to the
20 president of the HZ-HB, Mr. Boban; to the president of the HZ-HB
21 government, that is, Jadranko Prlic; to the president of the party, HDZ
22 BiH; and the president in Mostar HVO government, Jadran Topic. In
23 addition to restating demands for common symbols and insignia, equality
24 in the military, and the use of the BiH flag, they also asked for freedom
25 of movement for all citizens and equal treatment at customs crossings.

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1 It was abundantly clear and plainly known to Tudjman and the
2 Herceg-Bosna political and military leadership that Izetbegovic, the BiH
3 authorities, and Muslims, generally, and, indeed, many moderate Croats,
4 did not accept Herceg-Bosna and had not given the assents or agreements
5 that Tudjman and the others might have hoped for. In statement after

6 statement from July 1992 forward, these leaders, including Prlic,
7 Petkovic, Praljak and others, recognised that Herceg-Bosna's
8 relationships with the Muslims were poor, that they had no agreement with
9 the Muslims, that open conflict was foreseeable and even inevitable, with
10 Tudjman's policies and the Herceg-Bosna para-state on a collision course
11 with the Muslim opposition.

12 The accused Petkovic had already given an important briefing to
13 the HZ-HB Presidency on 3 July 1992, before the important 5 July and
14 21 July Tudjman meetings, stating that in most of Herceg-Bosna's
15 territory -- this was Petkovic - relations with the Muslims, who he
16 described -- his words were "the minority ethnic group in these parts," a
17 patently false statement. They were not the minority group in Stolac,
18 they were not the minority group in Jablanica, they were not the minority
19 group in Konjic. But, nonetheless, Petkovic said the relationships with
20 the Muslims were poor.

21 The HDZ BiH acting president, Brkic, had told Tudjman on 5 July
22 that there had been much recklessness:

23 "Relations with Muslims are growing more complicated."

24 Izetbegovic again had plainly rejected Herceg-Bosna at the 21
25 July friendship meeting. Brkic agreed, Pelivan agreed. The words to

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1 Tudjman and the Herceg-Bosnians leadership, including these men, was,
2 We're not buying it, we don't accept Herceg-Bosna. Don't go there,
3 because if you go there, there's going to be a war. And as I've just
4 spent 10 minutes telling you about, the patterns and practices of ethnic
5 cleansing are going to come about because that was -- those were the
6 patterns and practices and characteristics of this conflict. If you're
7 buying into war here, gentlemen, the Muslims don't agree, they done
8 accept Herceg-Bosna, and if you push your agenda, that's where this is
9 headed.

10 As I mentioned earlier, Stojic had already told the HZ-HB
11 Presidency, after a meeting with the BiH authorities on the 14th of
12 August, there can be no agreement with the Muslims.

13 In another meeting in Zagreb on 29 August 1992, involving both
14 Tudjman and Izetbegovic, two fundamental facts were once again clear.
15 First, it was Tudjman who was calling the shots on the Croat side, with
16 Boban occasionally joining the dialogue but always deferring to Tudjman.

17 And, second, there was still no political agreement between the Croats
18 and Muslims as to Herceg-Bosna. Tudjman and Boban, however, still
19 insisted on a separate Croat space, with Croat sovereignty there:

20 "We want to have the space down there with relative authority,
21 the authority of the Croat people."

22 That comes from P00414.

23 Tudjman tried once again to purchase Izetbegovic's acceptance of
24 Herceg-Bosna by linking it to the HVO's participation in a joint command
25 with Sarajevo. Now, this is telling again. Remember all this talk, We

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1 want to be part of the single joint army, and we all want to be a part of
2 the same big family of armies. The fact that that was not the case is
3 what Tudjman does here, If you accept Herceg-Bosna, the HVO will join
4 you. That's the condition precedent. If you accept Herceg-Bosna, then
5 we'll join up with you. Tudjman says:

6 "An agreement on joint command should be definitely reached.

7 However, such a command is not possible if there is no previous agreement
8 between the Muslims and Croats in Bosnia. It means this is related to a

9 general political solution."
10 That, again, is from P00414.
11 In a sense, and whether he intended it or not, Tadjman had made
12 the agenda finally perfectly clear. The HVO will participate in a joint
13 command with the BiH state armed forces, but only if you first give us
14 Herceg-Bosna. There was, once again, a fundamental clash between a
15 unified, multi-ethnic Bosnia of equal citizens and the model of a
16 separate ethnic space with separate sovereignty and control.
17 On 11 September 1992, while meeting with Tadjman to discuss the
18 military situation in Bosnia, one of Mr. Praljak's trips to report back
19 to Tadjman in Zagreb, Praljak tells Tadjman and Susak, quote:
20 "War with the Muslims can be anticipated."
21 Now, that's 11 September 1992. It's about six weeks before
22 Prozor at the end of October. So Praljak goes back to Zagreb knowing
23 there's no agreement with the Muslims, that conflict is inevitable, and
24 says -- and reports back to his boss, Tadjman:
25 "War with the Muslims can be anticipated."

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1 Six weeks before Prozor.
2 Far from being satisfied, Susak simply responded as if to say to
3 Praljak, Tell us something we don't already know. Susak says back --
4 responds to Praljak:
5 "We have been aware of that for over a week now, and we have made
6 preparations on what needs to be done. Mr. Praljak, we're already a week
7 ahead of you. We know a war with the Muslims is coming, and we've
8 already started the preparations a week ago."
9 That comes from P00466, Page 51.
10 Only a few days later on 17 September 1992, Tadjman held another
11 important meeting with a number of senior advisers and various
12 Herceg-Bosna HVO leaders, including Boban and Prlic. Tadjman plainly
13 understood that he had achieved no agreement with Izetbegovic and that
14 his policy of sending Croatian troops into Bosnia was seriously exposed.
15 This is Tadjman from P00498, Pages 69 to 72:
16 "Here at this table --"
17 Sitting in the presidential offices in Zagreb, Here at this
18 table, gentlemen:
19 "Here at this table we had long discussions where Izetbegovic
20 insisted that the HVO be recognised as a military, not political power of
21 the people ... when we signed the agreement here -- Izetbegovic did not
22 want a military agreement ... As it is, not only are we left without
23 it ... but, let me ask you, show me a citizen of Croatia who wants to go
24 to war, to an illegal war in Bosnia and Herzegovina. How can we take to
25 court our soldier who refuses to go --"

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1 By the way, these are supposed to be the volunteers:
2 "How can we take to court our soldier who refuses to go when we
3 are saying that only volunteers go? Therefore, we find ourselves in a
4 delicate situation, both with respect to our own folk, our own people,
5 and particularly with respect to the world. So he did not want to sign
6 the agreement," Izetbegovic. "Why? Ask him."
7 That's Tadjman's attitude at this time in mid-September. I don't
8 have the agreement, we don't have cover, we are conducting an illegal war
9 in Bosnia. Why doesn't he sign the agreement? I don't know. Ask him.
10 Tadjman, himself, in explicitly discussing the so-called
11 friendship agreement at a 26 September 1992 meeting of Croatia's National

12 Defence Council -- we're not talking about the local Boy Scouts; we're
13 talking about Croatia's National Defence Council -- acknowledged still
14 again the absence of a political agreement when he bemoaned the Muslims'
15 unwillingness to accept the idea of parallel structures, referring to the
16 earlier negotiations:
17 "In the end, when we signed that agreement --"
18 The July so-called friendship agreement:
19 "In the end, when we signed that agreement, we proposed a
20 military clause that Izetbegovic rejected ...
21 "I said that since we already talked about that, that we didn't
22 want to limit ourselves just to the military co-operation, that as far as
23 Croatia is concerned, we should not concentrate on a lengthy war, but
24 also on a political solution.
25 "Then we made a draft which he did sign, but it was just that he

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1 could get a possibility to supply over our territory."
2 Apparently thinking it was safe to say so among friends, Tudjman
3 expressed a "how dare they" attitude or a "how dare they" annoyance that
4 the BiH government would actually be so bold as to want to exercise
5 sovereignty on its own territory, quote, "even in those areas, Croatian
6 areas, where the HVO has control." P00524, Page 6.
7 Croatian Defence Minister Susak pipes in immediately to the boss
8 concerning events in a foreign country, not his own, quickly assured
9 Tudjman, We won't allow that. They want to exercise sovereignty on that
10 territory of Herceg-Bosna. Mr. President, we won't allow that.
11 Tudjman concluded the issue with words that were as clear as noon
12 on a spring day:
13 "We will openly tell Izetbegovic, when he comes here, what we
14 said in the beginning. There can be no discussion about them
15 establishing military and civilian government in areas that used to be
16 within the Croatian Banovina."
17 Praljak proudly admitted to the Bosnian Serb leader Ratko Mladic,
18 in a meeting on 5 October 1992, also involving Prlic and Stojic -- so you
19 had -- at the same meeting with Ratko Mladic on the 5th of October, you
20 have Praljak, Prlic and Stojic. And Praljak says, There's no agreement,
21 the Croats have no agreement with Izetbegovic. The agreement between --
22 he abbreviates "T" for "Tudjman" and "AI," "AI" being Alija Izetbegovic,
23 we submit -- does not contain anything, it's an empty agreement.
24 Looking back, Tudjman confirmed more than a year later, in a
25 meeting on 21 September 1993, that he had not reached any agreement with

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1 Izetbegovic in July 1992:
2 "We tried to sign -- as you know, I signed an agreement with the
3 Muslims in the summer of last year. We proposed a military agreement to
4 Izetbegovic that would allow the legal engagement of the army. He did
5 not accept it. Since we did not have a military agreement, we were in a
6 delicate position with our Croatian soldiers. We are at war, and we must
7 not say we are at war. However, we are sending them there. The people
8 would not have it, and they deserted, et cetera. We cannot take them to
9 court, because that is the way it is, politically."
10 In short, by at least July/August 1992, Tudjman, Susak and the
11 Herceg-Bosna HVO political and military leaders, including the accused,
12 knew or had every reason to know the nature and circumstances of the
13 conflicts surrounding them and the fact that ethnic violence had taken a
14 strong and tragic hold on the former Yugoslavia by this time, with known

15 patterns of attacks on towns and villages, mass expulsions, wide-scale
16 destruction, the confinement and mistreatments of prisoners, and the
17 movement of populations, including refugees and other displaced persons.
18 As Miller reported:
19 "Any moderately-informed person living and working in the former
20 Yugoslavia could not but have known of these developments and reports and
21 the characteristics and practices involved in the Balkan conflict."
22 The actions of the warring sides through the middle of 1992
23 showed very plainly that killings of civilians, forced expulsions, and
24 widespread destruction would ensue should any ethnic group try to
25 subjugate another in Bosnia and Herzegovina.

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1 Further, Tadjman, Susak and the Herceg-Bosna HVO political and
2 military leaders, including the accused, knew that Izetbegovic, the BiH
3 state authorities and the vast majority of Muslims did not accept
4 Herceg-Bosna, and were, in fact, becoming ever more vocal, ever more
5 active, in their opposition to it. Tadjman and the others knew they had
6 no political agreement with the Muslims. Tadjman and the accused faced a
7 decision point.
8 And I'll tell the Chamber, I propose to end here on this point
9 this evening, but I'm being very transparent. This is what we consider a
10 fundamental point in the chronology. This is a turning point.
11 By August/September 1992, before Prozor in October, Tadjman and
12 the others knew they had no political agreement with the Muslims.
13 Tadjman and these accused faced a decision point. Herceg-Bosna and the
14 Banovina were not going to be accomplished peacefully. Muslims were not
15 going to go peacefully. The BiH authorities and Muslims were not going
16 to lay down. They would not simply go along. Tadjman and the accused
17 could either back away from their project, perhaps even thinking or
18 saying to themselves, Well, nice try, boys, but it didn't work, or they
19 could take it to the next level, knowing that if they did so, the same
20 and even worse phenomena of ethnic death, destruction and displacement
21 that were already occurring all around them would follow from and be the
22 horrible consequences of their decision. Tadjman and the accused could
23 either back away from the project, Nice try, or they could take it to the
24 next level. Unfortunately for tens of thousands of Muslims and Croats
25 who would be affected one way or another, losing sons and daughters,

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1 fathers and mothers, brothers and sisters, and everything they had,
2 Tadjman and the accused chose the latter course, leading to increased
3 tensions and escalating conflicts, which resulted only a few weeks later
4 in the crimes at Prozor in late October 1992 and would, tragically, take
5 the parties into war in 1993.
6 Thank you, Your Honours.
7 JUDGE ANTONETTI: [Interpretation] Very well.
8 As you know, we will resume tomorrow at 9.00. I wish you a good
9 night's rest.
10 --- Whereupon the hearing adjourned at 6.58 p.m.,
11 to be reconvened on Tuesday, the 8th day of
12 February, 2011, at 9.00 a.m.
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