

1 Tuesday, 15 February 2011

2 [Prlic Defence Closing Statement]

3 [Open session]

4 [The accused entered court]

5 [The Accused Pusic not present]

6 --- Upon commencing at 9.02 a.m.

7 JUDGE ANTONETTI: [Interpretation] Madam Registrar, could you

8 please call the case.

9 THE REGISTRAR: Good morning, Your Honours. Good morning,

10 everyone in and around the courtroom. This is case number IT-04-74-T,

11 the Prosecutor versus Prlic et al.

12 JUDGE ANTONETTI: [Interpretation] Thank you. This is Tuesday,

13 and I greet everyone, the accused, the Defence counsel, the members of

14 the OTP and everyone helping us.

15 I will now give the floor to Mr. Karnavas for his closing

16 arguments.

17 MR. KARNAVAS: Good morning, Mr. President; good morning, Your

18 Honours, good morning to everyone in and around the courtroom.

19 On my way back home to the office after the court, I realised

20 that I did in fact misspeak, and I want to set the record straight. My

21 colleague, in fact, Ms. Suzana Tomanovic, asked me why did I omit to say

22 or how I could have forgotten to point out that the Prosecutor did, in

23 fact, bring one expert from the region, and that was Professor Ribicic,

24 who sits on the Supreme Court or the Constitutional Court of Slovenia.

25 And it dawned on me that the reason that I had forgotten is because what

1 he produced was not an expert report, nor was he an honest expert. His

2 expert report and his testimony as to the analysis that he was supposed

3 to do on the Croatian Community of Herceg-Bosna and the Croatian Republic

4 of Herceg-Bosna were primarily based on two fundamental concepts or

5 rumours or precepts, however you want to call it, the first one being

6 Karadjordjevo. He had read it in a newspaper. Everybody knows that

7 Karadjordjevo happened and what happened, and of course on

8 cross-examination you may recall I pressed him a little bit and asked him

9 if he believed what he read in the newspaper, and his answer was yes, at

10 which point I pointed out that his father, who was a general under Tito,

11 was reputed in the newspapers of having exterminated hundreds of Croats

12 at the end of World War II when the British turned them over to Tito.

13 Now, perhaps his father did in fact commit those atrocities, but,

14 of course, one should not take that at faith value just because it's in

15 the newspaper. And of course you may recall there was no reaction.

16 The point I was trying to make, that newspaper articles and news

17 media is not evidence upon which you should make a report.

18 Secondly, and more importantly, almost the entire thesis of the

19 gentleman's report was based on one and only one presidential transcript,

20 and that was, I believe, the 27 December 1991. Now, keep in mind what is

21 happening during that period. Bosnia-Herzegovina is still part of the

22 Rump Yugoslavia. Croatia is being attacked from Bosnia-Herzegovina. Not

23 by but from. And, of course, Bosnia-Herzegovina is unable to do anything

24 about it, and the situation does look precarious, and there is a

25 discussion and that is in the presidential transcript. However, when the

1 international community gets involved and when we see the Cutileiro Plan
2 and when we see that there's a referendum based on the criteria that had
3 been set out by the European Union, European Community, the Croats in
4 Bosnia-Herzegovina voted for independence. It was based on the Croatian
5 vote as well as the vote of the Muslims that Bosnia-Herzegovina becomes
6 independent and Croatia immediately recognises its independence.
7 Thereafter there are a string of presidential transcripts, and I
8 dare say, Your Honours, that it merits reading all of them. It's a lot
9 of material. The Prosecution translated bits and pieces, and when I say
10 bits and pieces, a sentence here, a paragraph there, a couple of Pages
11 here, omitting parts that obviously would be essential, essential, for
12 the trier of fact to understand the content and the context of the
13 discussions that were going on. But more importantly, if the gentleman
14 is asked to do an analysis because he's a constitutional expert as to
15 what it is that this Croatian Community of Herceg-Bosna and the Croatian
16 republic thereafter, what it is and how it was founded, one would expect
17 that the analysis would be done based on the legislation that was being
18 produced at the time, the same way, I dare say with some humility, is the
19 attempt that we took in trying to convey to Your Honours how it came
20 about, by looking at the documents and letting the documents speak for
21 themselves, not looking at a presidential transcript.
22 But it goes one step further. When it was pointed -- the report
23 he made was in 2000. It came out that later on all these presidential
24 transcripts were made available to the public. The gentleman knew that,
25 and yet you would think that if he's coming back to do -- to be -- to be

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1 examined and cross-examined, and since he relied on one transcript which
2 was provided to him by the Prosecution, and this is presidential
3 transcript P00089. That's the one I'm referring to, the December 27,
4 1991. So why not look at the other documents? Why not look at the other
5 archives.
6 And let me give you just one brief example because I don't want
7 to belabour the point, but now that we have WikiLeaks, it appears that we
8 are finding out a lot of information because it simply wasn't available,
9 and based on this information new opinions have to be drawn.
10 Recently in the United States, for instance, it's been released
11 by the government that at the end of World War II the United States was
12 actively involved in protecting high-ranking Nazis because they had
13 valuable assets for the United States, their knowledge, their
14 capabilities, and what have you. That was kept secret. It wasn't until
15 recently, and I'm speaking within the last couple of months, that the
16 report was actually revealed, and inside the report there's some
17 information about a fellow named Demianiuk who was in Ohio, reputed to
18 have been a guard at one of the most atrocious camps, and it turns out
19 that at least the information that was in that report it would appear
20 that he was being charged for the wrong crimes or at least for crimes
21 that he had not committed.
22 The point I'm trying to make is if you're going to be doing an
23 academic expert report for Your Honours to rely on, you have to be
24 honest, and you have to be focused. That may have been okay as a
25 political science project, maybe as a historical project, but if you're

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1 coming in as an expert and you're saying that, "I am an expert in the
2 area. I'm an expert in the region. I'm an expert in the law." And, of

3 course, keep in mind that on cross-examination I had to point out that he
4 didn't even understand that municipalities in Bosnia-Herzegovina, as in
5 the rest of Yugoslavia, had Official Gazettes, and that was one of the
6 reasons that he also thought that this was being established as a mini
7 state, because after all, whatever -- they had established an Official
8 Gazette.

9 So I wanted to set the record straight and pre-empt the
10 Prosecution from -- and they would have rightly so in pointing out that I
11 had omitted to pointed out that they had indeed called one particular
12 expert, and I do apologise. I didn't intend to misrepresent anything to
13 the Court. It simply slipped my mind because I don't view the gentleman
14 as an expert, unlike, say, for instance, others they may have brought. I
15 may not agree with them, but I think that they were experts in their own
16 rankings.

17 With that, let me turn now and pick up where we left off
18 yesterday, and I'm going to go quickly. We're going to start off with
19 Ray Lane.

20 We spoke a little bit about the gentleman, and what is important
21 simply for this gentleman's -- to round him up, there are two particular
22 documents, Your Honour. The first one is P01303, and the other one is
23 P01309.

24 Now, you may recall that after January 15, 1993, the ECMM got
25 involved to try to figure out what happened, and there was a lot of

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1 testimony that was taken from Mr. Beese and Mr. Lane. Lane immediately
2 went up to Zagreb. Beese followed. Nobody consulted anybody from the
3 HVO HZ-HB. But thereafter there is a meeting that takes place, and a
4 gentleman gets involved. And I don't know if these documents are
5 protected, but in any event, Mr. Lane represents that this gentleman
6 named Bissu [phoen] gets involved and has a rather heated discussion with
7 Mr. Prlic. And supposedly Mr. Prlic has indicated that he issued an
8 order.

9 Now, if you look at P01303 and we look at paragraph number 4, it
10 describes the meeting, nothing about it being heated. And then it says
11 that if we look at "as a matter of at," it should be "fact" probably, "as
12 a matter of fact, order was given on Saturday to Colonel Siljeg to stop
13 immediately any attacks and obey two orders."

14 Fair enough. But then as we heard, and this was a constant
15 sticking point, some of these reports would then go to the next level,
16 and the next level, their responsibility was to corollate these reports
17 and maybe to rewrite them a little bit and move them up, up the chain.
18 So we then look at P01309, and here if we look at paragraph 16,
19 we see the ECMM head of RC Split again met Mr. Prlic, HVO president, in
20 Mostar in order to express deep concern over Gornji Vakuf. And pay close
21 attention, Your Honours. Mr. Prlic said that he had ordered the HVO
22 commander in Gornji Vakuf to stop all attacks immediately.

23 Let me park here for a second. It went from an order that went
24 out to that he had ordered. And, of course, if we look at this
25 particular document that now is at a higher level and from there it's

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1 going to go even higher, one would assume from this particular passage
2 that what was communicated that, in fact, Dr. Prlic said to the
3 gentleman, "I ordered them." Therefore, we can draw the conclusion that
4 he was capable of if not de jure, de facto of issuing orders, military
5 orders. And this is a classic example, and there are many more, and I

6 merely point it out in order for the Trial Chamber to be skeptical and to
7 be ever mindful. But what was revealing when Mr. Lane was here, much to
8 his credit, much to his credit, a lovely guy. He said he was taking his
9 jog in Scheveningen, and there he realised that he had never even been at
10 the meeting. And he came into court. It's in the transcript, Your
11 Honour. It's -- this was a discussion that took place on Page 23784 to
12 23786. I point that out. Here he's testifying and he puts it in his
13 statement, and then he's jogging. There must be something about
14 Scheveningen beach, but anyway, he came in, and he confessed error, and
15 we are grateful for that.
16 Now let me move on to Beese. And we all remember the gentleman.
17 He had arrived a month after Lane, and by his own admission he learned
18 the ropes and learned who was whom and how things worked from Mr. Lane
19 himself. And I leave that for you to decide how much information you
20 could have gleaned from Mr. Lane as far as what was really happening.
21 I don't want to go into too much on this gentleman. There is a
22 whole passage concerning the ultimatum. It starts at -- I believe it's
23 5299 and it goes all the way to 5304, and I leave it for you to -- to
24 review, because out of -- I'm out of time, so I won't go into it. But I
25 would like you to focus on something that was mentioned in the

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1 Prosecution's brief in relation to paragraph 229, paragraph 229 of the
2 Prosecution brief, and all I wish to say at this point in time is to
3 bring to the Court's attention that they should be ever mindful of the
4 cross-examination by 5D on Pages 5229 to 5236. Document 5D00524 and
5 5D00 -- 52 -- 5D00534.
6 And of course, Mr. Beese indicated how complex the situation was,
7 there are uncontrollable elements that needed -- and you needed to be
8 careful in order to solve the situation. This goes to whether when it
9 was brought to their attention that crimes were being committed, whether
10 something was actually being done, and the impression that -- that has
11 been given is that nothing was done once that information was passed on,
12 and so I bring that to your attention, and you can see the reference in
13 paragraph 5229 of the Prosecution's brief.
14 Let me move on to BF. And I must apologise to the translators
15 for moving rather quickly.
16 BF, again we talked a little bit about this particular witness.
17 I want to point out two matters, one dealing with Prosecution's brief on
18 243, 243. And we may all recall that there was this meeting on 18 April
19 1993, in Mostar, and at that meeting Pellnas arrived at some point. The
20 purpose of the meeting, Your Honours, can be found in document P09589.
21 It is a letter from Dr. Jadranko Prlic wherein he sets out the agenda.
22 There's nothing about atrocities in Ahmici or anywhere else which the
23 Prosecution may be insinuating in order to show that somehow Dr. Jadranko
24 Prlic is connected to those events, but, rather, we see in the letter,
25 P09589, there are five items, and -- and then if we go, Your Honours, to

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1 the gentleman's testimony on transcript Page 26000, 26000. I posed the
2 question to him which was:
3 "Q. Would it be fair to say that this was the proposed agenda,
4 and if we look at this, if indeed this is the proposed agenda by
5 Dr. Prlic, that these all relate to civilian matters or matters dealing
6 primarily with civilian life that would obviously benefit all.
7 "A. Yes."
8 And then he goes on to say:

9 "I have no problem in saying that Dr. Prlic was a contact person
10 of great quality, and I relied on him a lot. All those documents that
11 were sent to me clearly indicate that he was a good working -- that he
12 had a good working relationship, at any rate, between him and I."
13 That -- that's on to Page 26001.
14 Now, in relation to this event, Your Honours, just very briefly
15 if we could turn on -- turn our attention to Mr. Pellnas. If you may
16 recall, that's the general who came. He had written a book and had made
17 some pretty ugly remarks in his book, and he more or less acknowledged
18 that they were sort of unflattering to the people that he was describing,
19 but what is interesting is the fact that when he arrived, he noted on
20 Page 19600, that he unexpectedly met Ganic there. So it wasn't some sort
21 of a pre-arranged meeting.
22 On 19602, he indicates that it was -- he was extremely poorly
23 briefed by the ECMM. He says on 19603 that Ganic and Boban made an
24 agreement to create conditions, and -- and then at some point he was
25 pushed a little bit. He talked a little bit about Mostar, that he

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1 indeed -- there was a discussion on the maps, that Mostar was to be
2 considered as the capital under the Owen-Stoltenberg Plan for the
3 Croatian republic, and then there is this exchange on 19625 to 19630 in
4 relation to document 1D01551 where he confirmed that the Muslims were not
5 interested in peace in December 1993 and wanted to continue fighting
6 because they were gaining ground. And I point that out, Your Honours,
7 because again part of our thesis has been that as the war develops, it
8 would appear that the Serbs are doing whatever they're doing, but the
9 Muslims are not terribly interested in actually trying to resolve the
10 situation until they have figured out how much land they want to have for
11 the purposes of -- of sitting at the negotiating table.
12 And there is documentation, and maybe we'll get to that, where
13 they also have aspirations to get to the sea. And by that what I mean is
14 not Neum but having a deep-water port. That was pointed out when we --
15 when I questioned Mr. Watkins. Initially he had said at one point that
16 they did not want to go to the sea because that would have broken up
17 Bosnia-Herzegovina, but then there was this exchange, and there is --
18 there are documents that show that they -- they had aspirations just as
19 the Serbs had aspirations. And, in fact, that was one of the primary
20 reasons. It's not my -- I'm not going to get into it. I assume others
21 will. But that was the primary reason why Croatia had to be careful of
22 its borders, especially early on when Dubrovnik was being attacked. I
23 mean, there was a purpose for that. It wasn't that they just wanted to
24 destroy the historic city.
25 Now, with Watkins, what is interesting -- and this is in relation

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1 to paragraph 372, paragraph 372. If we look at this paragraph and look
2 at the very last line, it says:
3 "In a meeting with ECMM on 31 October 1993, Prlic said that
4 'Bosnia-Herzegovina would never exist as a state.'"
5 And we see footnote 846, and 846 is P06303.
6 Now, if we go to that document indeed we will see that. However,
7 and here is where my little discussion yesterday about the purpose of the
8 Prosecution is not to win but to do justice.
9 You may recall that I cross-examined the gentleman, and during
10 the cross-examination, I confronted him with this particular -- with this
11 particular document, and I posed a series of questions to him, and it's

12 on Page 18927. And this was after I had laid the foundation where he had
13 noted that Mr. Prlic's door was open at all times. They had discussions.
14 He was pragmatic. He was trying to be helpful. And here's what the
15 gentleman -- so at this point, having locked him in more or less, laid
16 the foundation, now I'm inching in to see whether he will come clean.
17 So now my question is:
18 "Q. Do you allow for the possibility, sir, that perhaps you're
19 missing one particular word, and that word may be 'unitary,' would never
20 exist as a unitary state?
21 "A. Yes. That is the way I would interpret what he said to me,
22 is that it would not remain as a unitary state with its authority all
23 vested in Sarajevo but would be some other configuration, as most likely
24 a three-republic confederation.
25 "Q. All right. But he never called for the eradication."

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1 And then there was something in the transcript about
2 ratification, but:
3 "He never called for the eradication of Bosnia-Herzegovina as a
4 state.
5 "A. No."
6 But then he goes on. And sauce for the goose, sauce for the
7 gander. He goes on to say:
8 "No, but one could conclude by setting up a self-styled republic
9 within the existing state, you could be sending some pretty strong
10 signals about the break-up of Bosnia, but certainly he was not talking at
11 that time within the existing international borders."
12 But then, of course, you need to go further, the whole point of
13 context, because if you go further into the discussion, you will find,
14 Your Honours, that I confront him with a series of documents that relate
15 to the ongoing negotiations and what was happening in Bosnia-Herzegovina
16 at the time as a result of the Owen-Stoltenberg Plan. And -- and based
17 on that, I was able to show him a series of documents which showed that
18 yes, indeed, the -- even in Sarajevo we have a draft document for the
19 establishment of the Republic of Bosnia. And then he -- the gentleman
20 had to confess that he was not terribly well aware of all of these
21 documents.
22 So you may wish to consult, in addition to what I've already
23 said, documents 1D01338, 1D01159. This is from the -- this is from
24 the -- Lord Owen's book. 1D01436, 1D01532, P04611, and 1D01535. And so
25 I do suggest that you look at all of that.

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1 And I talked a little bit about going to the sea, and perhaps I
2 might have something that might help us out here. First, I would also
3 like to draw your attention to P05709, which goes into this whole
4 discussion about constituent nations, and there is a discussion with
5 Mr. Watkins on this, but if we look -- if we look at P05709, at the
6 bottom of paragraph 2 it says -- and this is Hadzihasanovic. So we're
7 talking about the highest -- high commander in the ABiH. So talk about
8 career -- about command climate.
9 "Bosnia had existed for a thousand years, and people abroad were
10 giving a lot of money, 'not only help from Islamic countries as some in
11 the West think.' He added that there was something that Europe had not
12 noticed. 'Who gave the Croats and Serbs who live in Bosnia to call
13 themselves Croat and Serbs? They are merely Roman Catholic Bosnians or
14 Orthodox Bosnians.'"

15 Now, this is telling because if you have a unitary state, and
16 there is no such thing as being a constituent nation, then that means
17 it's one person, one vote, and that means that the majority always win.
18 Now, if we look at the census, the Croats were 17.3, and the
19 constant struggle for the Croats was to make sure that nobody leaves so
20 that they retained their constituent status as opposed to losing it and
21 becoming a national minority. But here, this is what is being passed on
22 to the Westerners who may not have an abiding appreciation.
23 And if we go on in the same document on paragraph 10, it says:
24 "Comment: Hadzihanovic is clearly an intelligent man, soft
25 spoken, articulate, polite, but quite convinced in his views and

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1 opinions. He made clear that elements of the BiH at least have the will
2 and capacity to continue the fight until they achieve their goal. We
3 also implied that money was not a problem (with donations coming from
4 abroad), and if he is also -- if he is reflecting Izetbegovic's view,
5 peace is a long way off."
6 And of course this is October 7, 1993. And another document that
7 may be somewhat related to all of this is P07290, and here it says M9,
8 this is in -- where it says "political," under paragraph number 1,
9 political, second paragraph.
10 "M9 and M2 met Safet, army staff officer 4th Corps who stated
11 the Muslims were not ready for peace until they had access to the sea.
12 He hoped they would be achieved by political means but ventured that
13 Armija would take it by force if necessary."
14 And this is 21 December 1993.
15 Now, if I move on to the next witness very quickly, it's
16 Mr. Thornberry, who also fits into this category of command climate,
17 because he's at the very top. He's in Croatia, Zagreb, I believe, or
18 Split, and he's at the top of the food chain at least for UNPROFOR and
19 civil affairs, and of course his view was that everybody knew, it was a
20 fact of life, it was a fact of life, that Croats were trying to carve up
21 piece -- carve out a piece of BiH. That's on Page 26217.
22 Well, if that's what people are getting planted into their mind
23 by the very top when they first arrive for their orientation and then
24 they arrive at scene, that's the prism by which they will all view the
25 events. Very few were capable of seeing past that.

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1 When questioned, when questioned, what was rather telling, on
2 Pages 26219 to 26220, he was totally unaware of what's in the Vance-Owen
3 Peace Plan. In fact, when I began questioning the gentleman, he looked
4 around. He primarily focused towards the Prosecution hoping that they
5 would stand up and object as if I had been discussing something that was
6 so secret and so private and we were doing it in open court that this was
7 improper. And then we came to find out that he was just utterly
8 uninformed.
9 What is also interesting is he -- that he did visit this hospital
10 in Nova Bila, and that can be found in 26223 to 26224, and he gave his
11 impressions, and he said that it wasn't exactly like Mostar, East Mostar,
12 but it was very grim, improvised -- it was grim, improvised, unhygienic.
13 And this was almost the direct opposite description that was provided by
14 another gentleman that was him, DZ. Now -- and DZ was within the same
15 organisation.
16 I point that out merely to show that how is it possible for DZ to
17 more or less make some representation that this is sort of a staged

18 situation and somebody superior to him come here and say, "Well, it
19 wasn't as grim as East Mostar but it was pretty bad." I leave that for
20 you to consider.

21 Now if I go to paragraph 213. And in order to appreciate this
22 paragraph, you have to also make reference to 217, and in -- in this
23 paragraph, 213, you will see that we have the Prosecution claiming that
24 there was an ultimatum that was issued by Dr. Jadranko Prlic, okay. And
25 then what is cited is -- that's in 314. I apologise. But it starts --

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1 the context -- it starts at 213, and then it goes on to 214. And we see
2 over here it says:

3 "BritBat officer Alistair Rule confirmed that Andric read out a
4 statement at the 14th January meeting which required the Muslims to lay
5 down their arms and accept HVO control Gornji Vakuf. If the ABiH didn't
6 agree the demands of Andric, threatened to flatten Gornji Vakuf."

7 And then if we go on to 214. I don't have it handy here. Well,
8 I do, but it's not readily available. It talks about the special
9 ultimatum from -- on 14 January by Dr. Jadranko Prlic.

10 Now, why is this important? Well, if we have a 14 January
11 ultimatum, then all the other stuff that we heard from General Praljak
12 about the 15th ultimatum may be a confabulation, because the fix was in.
13 Ultimatums were already going and heading that way. That's number one.
14 Number two, if it's coming from Dr. Jadranko Prlic, then
15 obviously he's -- he's on top of the food chain. He's in control of the
16 military, and he can issue orders.

17 Well, be suspect, Your Honours, because that's -- that's not what
18 the evidence tends to show.

19 Now, this document, P09803, which came in under 92 bis, was also
20 a -- was also -- this was a statement. Yeah. The gentleman was
21 questioned in the Kordic case, and at the time this was document 298 --
22 2985, I believe, and when he's questioned -- this is the question that
23 was posed to him:

24 "I understand, of course, that it was a long time ago that you
25 therefore have difficulty in remembering the exact words of

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1 Colonel Andric, but I will show you a document which is milinfosum which
2 is of the 16 January 1993, in which -- which is a document, Z2985 of 16
3 January 1993."

4 This is the document that the gentleman is shown. And then I
5 invite your close scrutiny attention to the testimony by Agic in the
6 cross-examination. He talks about -- initially he says that, well, three
7 documents came. Then it was three parts of a document. He says that the
8 document contained Dr. Jadranko Prlic's signature, and of course then
9 when it was brought to his attention that it could not contain a
10 signature because in the manner in which it was transmitted a signature
11 could not come over in that manner. Then under -- by a question with
12 Judge Antonetti, he says, well, it was just his name.

13 When you look at that, obviously the gentleman is going with the
14 flow, whatever suits the purpose. But most importantly, there is no
15 document. They show him the document of the 16th. There's nothing
16 concrete that shows that on the 14th, Dr. Jadranko Prlic sent the
17 gentleman something. And then you have to look at paragraph -- paragraph
18 2 -- 217, because if you look at paragraph 217, you will see that it's
19 the same document that is used now for January 16.

20 Now, maybe this is one of those errors, but of course they're

21 relying on testimony.
22 I submit that while it's okay to make reference to the gentleman,
23 it would have been good to point out also that there is no document.
24 This gentleman is merely saying that some sort of a ultimatum was sent,
25 but they're showing him a document that was 16 -- that was sent 16

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1 January that actually contained something on the 14th January of which he
2 had a meeting on the 14th. It's humanly impossible unless he's got some
3 kind of a time machine. And I just point that out, Your Honours, for
4 your attention.
5 Now, if we go on to the next topic, this has to do with cleansing
6 the borders. It's -- when we hear the word "cleansing," we tend to think
7 of the worst. And it is an abhorrent word in the context in which we
8 have come to see it around the world in these days. But sometimes,
9 depending on the context, it may not be nefarious to use that particular
10 word. There's nothing sinister about it. And in this instance, I dare
11 say, that is exactly the case.
12 Now, there is a presidential transcript, and in the presidential
13 we have this exchange, but now I want to refer to paragraph 8 of the
14 Prosecution's brief, and I'll read part of it. It begins by saying:
15 "The evidence proves that all the accused, as well as other
16 members of the JCE identified in indictment paragraph 16 knew and
17 intended to persecute -- to -- intended the persecution, deportation, and
18 forcible transfer of the Bosnian Muslim population would be committed by
19 brining about demographic changes necessary to achieve their objectives."
20 "... demographic changes necessary to achieve their objectives."
21 And then it goes on:
22 "The conduct, statements, omissions in writings of the accused,
23 as well as those of Croatian President Tudjman, HZ-HB Mate Boban, HZ-HB
24 Vice-President Anto Valenta and others, make this clear."
25 And then we see in footnote 7 they're citing P00089, and they're

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1 citing Page 35. But you actually have to go a little bit before what is
2 being cited in order to understand the conversation. And this is where
3 I'm talking about -- I talked a little bit about yesterday in the manner
4 in which this brief was constructed. And keeping in mind I'm not -- many
5 of the presidential transcripts we had -- we translated them.
6 The exchanges goes like this: This is Boban, and this is the
7 part that was omitted.
8 "The founding municipalities obeyed HZ-HB, Croatian Community of
9 Herceg-Bosna, now have a population which according to the census is
10 55 per cent Croatian, 27 per cent Muslim, 9 per cent Serbian, and the
11 rest are none of the above. However, because municipalities in
12 Bosnia-Herzegovina were created similarly as in Croatia by composing
13 Serbian and Muslim population in the territory of Croatia or vice versa,
14 by cleansing border areas, particularly border areas of Herceg-Bosna,
15 this creates approximately 65 per cent of Croatian population in
16 Herceg-Bosna."
17 Now, after -- at some point we -- we saw that Mr. Kljuic came,
18 and he testified. He was directed to this particular document, but he
19 was never asked, never asked, to comment on this particular passage. I
20 believe I did point to the gentleman during my cross-examination, but
21 Mr. Kljuic, who also attended that particular meeting, also had some
22 remarks of his own, and these remarks were brought out by the Prosecution
23 in -- during the cross-examination -- during the direct -- I'm sorry,

24 during the direct examination, and we see he's testifying on P0098, 27
25 June 2006, starting at Page 39 -- 3943.

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1 "Furthermore, inside --" this is where he's commenting:
2 "Furthermore, inside Bosnia-Herzegovina we should redraw several
3 municipalities which the -- which the partisans set up to our detriment.
4 We should transfer Dubravici to Travnik or Jajce where it used to be.
5 Other areas, Ravno, for example, should be transferred to Neum. In this
6 way, gentlemen, we would get more space, and finally in this united
7 country we will have a more natural border."
8 Now, this is the Prosecution's own witness, the person they say
9 is moderate, and he's saying the same thing as Boban. Partisans as we
10 all know, or should know -- now, if we go further on, it says -- there's
11 a question and answer, and he's being asked -- and this is part of his
12 answer:
13 "Well, you see, during the Communist era, many Croat settlements
14 were abolished as municipalities in order to join them on other national
15 entities that were the majority. There was a municipality of Ravno in
16 Popovo Polje in Eastern Herzegovina, for instance, which was Croatian
17 traditionally, a Croatian municipality traditionally, but in 1967, it was
18 abolished and joined to Trebinje. Now in Trebinje, already at the -- at
19 that time you had an absolute Serb majority and very Orthodox political
20 leaders with a Communist label, but they were pronounced when it came to
21 Serb interests, and so the municipality began to atrophy, and the Croats
22 began to move. They moved out of Trebinje and so on."
23 And then if you -- he goes on to talk about other areas.
24 Now, I point this out because this gives context to what Boban is
25 saying. They're both saying the same thing, maybe slightly different,

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1 but now we have this qualification from Mr. Kljuic, and I dare say if
2 we're going to put a label on this -- on the cleansing and try to show
3 that somehow they're trying to geographically engineer something, we need
4 to put it into context. And I also invite the Trial Chamber, in relation
5 to this particular paragraph, particularly on the issue of borders, to
6 look at the testimony that was given by Mr. Sancevic on 25 May 2008,
7 Pages 28578 to 28583, where he discussed, among other things, P01544.
8 And you might recall Mr. Sancevic talked about Usora, when the people of
9 Usora wanted to leave and it was brought to President Tudjman's
10 attention, and President Tudjman said, "No, stay there. Make sure that
11 the women and children stay there because the fighters -- well, you know,
12 the Croat men will stay there because if the women and children leave
13 then the men will leave and then there won't be a Croatian community in
14 that area any more. Traditionally that's where Croats are living. If
15 you withdraw and you go someplace, you will no longer have Croats there."
16 Then Martin Raguz, a Defence witness, 31473 to 31440, and he
17 discussed P07500, and he was cross-examined extensively by the OTP.
18 General Praljak, he testified on 16 July 2008, Pages 43207 to
19 43212, and then 43234 to 43239, where he was answering a question
20 Judge Antonetti.
21 And -- and I do want to mention also one brief matter in relation
22 to this particular paragraph, and we've seen it elsewhere in the brief.
23 Ante Valenta's name comes up, and he had written a particular text. In
24 this text he puts out his views, and, of course, there's two or maybe
25 three communications that he has with Dr. Jadranko Prlic.

1 Watkins, in his testimony, was questioned and indicated that at
2 no time, Dr. Jadranko Prlic, that he ever heard espouse anything about
3 population movements or geographical engineering or whatever the case may
4 be.

5 In any event, what we wish to point out, and we brought it out
6 during the -- during our examination, and I'm referring to P00021, first
7 of all the Prosecution only translated part of it. The rest of it you
8 will find in 1D01538. And the reason we printed -- we translated the
9 rest of it was for context, context.

10 What is important is the following:

11 "On the basis of the decision of the Ministry of Education,
12 Science, Culture, Physical Culture, Sarajevo, number 02-413-150, dated 22
13 August 1991, exempt from paying sales tax."

14 Now, that's important, because it shows that this was considered
15 an academic book, which is why there was no taxation on it. And we
16 suggest that you look at it -- you look -- and look at the context in
17 which the book was written. But besides that, if this gentleman
18 harboured any ideas of his own, and simply because he wrote a book, that
19 in and of itself does not mean that Dr. Jadranko Prlic shared those views
20 or that this gentleman or anyone else or anyone in the HZ-HB acted on
21 them. And also, maps that were in that particular book were used as
22 sources and have been used as sources. And as I do recall, one -- there
23 were some maps that were even provided to the gentleman from
24 Zulfikarpasic. It's one word. It's amazing.

25 Anyway, I'll move on to the next topic, Your Honours. And I

1 apologise if this is not sort of the oratorical expectations of the Bench,
2 but this is the best I can do.

3 If we move on now to paragraphs 365 to 373, sort of in a
4 general -- in that area, but I'm only going to discuss paragraphs 371 and
5 paragraph 373.

6 And if we look at 371, Your Honours, it says towards the bottom:

7 "Prlic said that: 'To expect BH to function as a unitary,
8 independent state was unrealistic and that if two nations do not agree to
9 some state and they are constituent nations and then the state cannot
10 ever be -- be discussed.'"

11 And it's footnote 841, 841. But again it's taken out of context,
12 and you have to look at -- this is from an interview, and you have to
13 look the entire passage in order to get the flavour and maybe go even
14 further.

15 Dr. Prlic said that:

16 "To expect BH to function as a unitary, independent state
17 was unrealistic -- was --" I'm sorry. Here's the interview:
18 "Some of the Muslim leaders saw the recognition of BH as an
19 independent state as the achievement of a so-called Muslim state or
20 unitary BH which is not suitable to the other two nations in any variant.
21 There is no state in a world with more than two constituent nations that
22 is not a composite state. Yugoslavia was a federation, and, as such,
23 disintegrated. To expect BH to function as a unitary, independent state
24 was unrealistic."

25 And then he's asked another question, and he says:

1 "A composite state remains the only variant."

2 "A composite state remains the only --" keep in mind that we
3 heard Switzerland was the model. So that's -- we've heard testimony on
4 that. Then he goes on:
5 "If two nations do not agree to some state and they are
6 constituent nations, then that state cannot even be discussed."
7 So you have to -- so now when we tease it out and we see the
8 entire context, it's slightly different.
9 And then he goes on:
10 "Croats in the Croat leadership in BH are a serious partner and
11 stand behind what they sign and say. If we signed the Vance-Owen Plan,
12 then we are ready to implement. With its voice, the Croatian nation
13 contributed to the recognition of BH. The Croat nation is for BH, but a
14 BH set-up according to modern principles that will respect the interest
15 of all three nations. At the same time, the Croat nation is ready for
16 all possible options that may emerge in the future. We are ready to
17 protect the interests of our nation in any variant."
18 Now, when he's talking about "nation," it's about the constituent
19 status of it.
20 So we ask you to look at that in context, but also consider
21 1D01312, which is a report from the Secretary-General on the
22 International Conference on the former Yugoslavia, and this is dated 11
23 November 1992. And if you look at paragraph number 34, it talks about
24 the third party supports a middle position, being the Croats from BiH.
25 Paragraph 37, the co-chairmen also recognise, however, that "a

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1 centralised state would not be accepted by at least two of the principal
2 ethnic confessional groups in Bosnia and Herzegovina."
3 Here, at least, whoever wrote this gets it. They seem to
4 understand what a nation is, what a constituent peoples are.
5 And then if we go to 38, paragraph 38 it says:
6 "Consequently, consequently the chairmen believe that the only
7 viable and stable solution that does not acquiesce in already
8 accomplished ethnic cleansing and in further international unacceptable
9 practices, appears to be the establishment of a decentralised state.
10 This would mean a state in which many of its principal functions,
11 especially those directly affecting persons, would be carried out by a
12 number of autonomous provinces."
13 Now, if we look at what was proposed by Lord Carrington and
14 Cutileiro, and then if we look at what was proposed by Mr. Vance and
15 Mr. Owen, and then the Owen and the Stoltenberg, they all have one thing
16 in common, and that is, first of all, these are international proposals.
17 These are not the Croats coming and saying, "This is it. Take it or
18 leave it." That's the first point.
19 But the second point, and more importantly, you have a gentleman
20 who won a Nobel Peace Prize, no small matter, who was involved in
21 actually drafting the constitutional principles, Ahtisaari, and he's
22 still in -- based on his principles you find in the Cutileiro and in the
23 Vance-Owen Peace Plan. Especially the Vance-Owen Peace Plan, they took
24 it from there, and they decide we would go with this variant that was
25 being proposed. So this is what this is all about.

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1 Now, sandwiched -- or sandwiched in between 371 and 373 is 372,
2 which is the passage that the Prosecution just puts in there at the very
3 last line where I noted where they quote:
4 "Prlic said that Bosnia-Herzegovina would never exist as a

5 state." Out of context.
6 Now we go to 27 -- 373, and when we get here, and I want to focus
7 your attentions -- your attention, Your Honours, to the latter part where
8 it says:
9 "Prlic told the group we need to agree on two, three things
10 today. Muslims are the common enemy. There are two, three ways to keep
11 them down. First, militarily by breaking their backbone. The military
12 commanders should say that in both Brcko and Usora. Secondly, a blow
13 against the legitimacy of BiH because the world recognises Alija
14 Izetbegovic and his government."
15 All right. Now, we address this issue in our brief on paragraphs
16 305 to 312, because you have to look at it in context. What is being
17 said, what is happening to the Croats, what the Muslim leadership is
18 doing at the time, which is advancing, advancing, attacking, attacking,
19 and forcing the Croats to leave and leave and leave, and they're
20 negotiating, supposedly, but not until they've decided how much is
21 enough.
22 But let's go back. This is -- let's go back to 1D00814. This is
23 Lord Owen's speech of December 16, 1992, because this is an important
24 factor, because here he says:
25 "One of our concerns is that the Bosnia and Herzegovina

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1 government is, sadly, increasingly becoming representative only of the
2 Muslim population."
3 Now, you heard testimony from Mr. Akmadzic. He was here, and he
4 expressed not just his opinion but what he experienced at the time. But
5 this is 1992. So the fact that in 1994 they're saying this government in
6 Sarajevo is illegitimate, in a sense, is correct. But then look at what
7 Mr. Akmadzic, his testimony on 18 June, 2008, paragraph -- on Pages 29514
8 to 29517, when he's commenting on document 1D02940, remember we talked
9 about Biden, Vice-President Biden. And there is an exchange of letters,
10 and Izetbegovic sends a letter which says that he has been elected to
11 stay on as president beyond the two-year term, and, of course, you have
12 to look at, Your Honours, 1D02994, which is the constitution of the
13 Socialist Republic of BiH, which was in effect what was being used as --
14 and you look at Article 358, and here it says:
15 "In the event of war or imminent danger of war, the term of
16 office for members of the Presidency, members of the Presidency, may be
17 extended until overall conditions make the election of new members of the
18 Presidency possible." And I underscore "members."
19 Then if we look at P10509, the BiH Presidency Rules of Procedure,
20 and we look at Article 19:
21 "The president of the Presidency shall be elected by the
22 Presidency among its ranks to the mandate of one year, it may be elected
23 to another consecutive term."
24 Now, in this exchange, of course, Dr. Prlic makes reference we
25 should go maybe with Abdic. Abdic, of course, is the person that won

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1 33.25 per cent of the votes in the 1991 elections, Izetbegovic having won
2 27.96. And it was the Croat vote on the Presidency that allowed
3 Izetbegovic to serve a second term, and now it would appear that he
4 simply didn't want to -- to move on. Or 1990 elections. I misspoke a
5 moment ago, Your Honours.
6 And I think that more or less concludes what I wanted to say.
7 You may want to look at Mr. Akmadzic's testimony on this matter

8 and other matters. And we suggest, we suggest or submit that
9 Mr. Akmadzic came here and was tested under cross-examination. He
10 participated at the negotiations. Look at the literature. Look at the
11 evidence. He is not the hard-line nationalist that he is being described
12 as. But he wanted things set straight, and Izetbegovic stayed beyond his
13 term. For better or for worse, that was the case. And then it was
14 misrepresenting to Mr. Biden that he had been elected. And that's in the
15 transcript as well, Your Honours, because I questioned him on it.
16 Now, if we could go on to a matter dealing with paragraphs 490
17 and 491. This deals with the destruction of property. And of course in
18 both instances it would appear that the Prosecution is relying on -- is
19 relying on the testimony or the credibility -- I'm sorry.
20 One second, Your Honours.
21 [Defence counsel confer]
22 MR. KARNAVAS: My apologies, Your Honours.
23 On 490 what is being cited is P05554, and what we wish to bring
24 to your attention, Your Honour, is our final brief which, which is one --
25 at paragraphs 185, 200, and 220. Also look at 1D02705, 1D02706. And of

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1 course in particular 1D2703. In this particular document, you will see
2 that in April 23, 1993, they're organising an event in Neum, and it's a
3 scientific meeting, and Dr. Prlic is one of the presenters.
4 The other thing that I wish to bring out to your attention, Your
5 Honours, and I apologise for the confusion, is that this document P05554,
6 if we look at it and you see on the second Page it's forwarded to the
7 Croatian Republic of Herceg-Bosna Administration, and so it is not quite
8 accurate to suggest that it was sent to Dr. Prlic, that it was forwarded
9 to him, and there is no -- there's no evidence that he actually received
10 the document. I'm merely pointing it out for precision purposes.
11 Normally we've seen documents where it's -- you'll see either
12 Dr. Jadranko Prlic's name or his title, but here it's to the
13 administration, and he's not the administration.
14 The next area deals with Croatisation, Your Honours, and this was
15 an issue that came up in a variety of ways. We talked about the money
16 issue. There's of course the language issue as well. And the paragraphs
17 that I wish to focus on -- well, first of all, it's paragraph --
18 paragraph 9, footnote 9, and the OTP is citing an article from 25
19 February 1995, and we see this same source as footnote 774 in paragraph
20 345. And we suggest and submit that what you may wish to consult are the
21 following documents for purposes of context, and that is 1D0040. This is
22 a decision on appointing of the commission to change the names of the
23 streets, because the assertion was that all the names were changed and
24 that was another way of Croatising the area.
25 1D00439. This is 6 November 1992, decision on change of names of

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1 the streets in Mostar.
2 1D00662, 20 November 1992. This is a decision commission of
3 names and rename treats.
4 And 1D00462, 30 December 1992, decision on naming and renaming
5 the streets and the squares of Mostar.
6 So we ask you to look at all of that when considering this
7 particular paragraph.
8 Also, on paragraph 437 there's this whole issue about Mostar
9 University, Mostar University, and it is being alleged on 43 -- paragraph
10 437, Prlic fully supported the transformation of Mostar's university into

11 a Croat institution sharing the HZ -- HVO HZ-HB meeting in October and
12 November 1992, which unanimously adopted decrees naming and re-organising
13 Croatian university -- the Croatian university in Mostar, formerly the
14 Dzemal Bijedic University.
15 Now, that's their submission. However, evidence was adduced to
16 show that that's not so.
17 Now, in order to appreciate it, you have to look at P00672, the
18 minutes of the meeting on October 30th, and there are some conclusions
19 there. But also go on to P00716. This is 6 November 1992. So we're
20 talking about literally six or seven days afterwards. And then look at
21 P00714, 6 November 1992, and this is an excerpt from the Narodni List
22 Official Gazette, the decree about establishment and work of University
23 of Mostar during the threat of war or state of war, and the title of it
24 is "Decree on the Establishment and Work of the University of Mostar
25 during war or threat of war," and under Article 2 it says: "The name of

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1 the university shall be as follows. The name of the university shall be
2 as follows: Republic of Bosnia-Herzegovina, Croatian Community of
3 Herceg-Bosna, University of Mostar, University of Mostar." Not Croatian
4 University, but University of Mostar.
5 Then in the same paragraph the Prosecution says:
6 "Not surprisingly 42 Muslim professors left the university and
7 those who remained insisted on using the 'old' system."
8 But then you have to look, and we submit that -- for contextual
9 purposes and to be fair to both sides, that you look at 1D02804, and this
10 the 23 November, 1993, list of employees who wished to continue working
11 at the University of Mostar. This is November 1993. And Palameta's
12 testimony, he was one of our witnesses, of 29 September, 2008, at Pages
13 32819 to 32823.
14 The third part of this particular paragraph that I wish to point
15 out deals with the language issue. Now, there -- I -- I don't know
16 whether this is a contested issue in the minds of the Judges, but it
17 seems to be something of a contested issue in the mind of the
18 Prosecution. They seem to be up the impression that prior to the war or
19 even during this period there was a language, an official language, a
20 recognised language with a name for the Muslims, the Bosniaks, and it
21 would appear that there wasn't. There's no document that they produced
22 to show that there was a recognised language. There was Serbo-Croatian
23 and Croatian Serbian as one of the official languages among others, but
24 there was nothing designated. And there's a rather interesting exchange,
25 in fact, and we'll get to that, hopefully, where -- this is brought up to

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1 Izetbegovic and Mr. Akmadzic is talking about it, and, you know, in
2 this -- this is in 17 June 2008, on Page 29432, where they're
3 discussing -- it's about 1D2663. There's a tape recording of the
4 presidential session, the Presidency of the RBiH.
5 "President, one can call language his language whatever he wants.
6 We should not ban that. We will probably say that one can call the
7 language we speak whatever he wants, Serbian, Croatian, Bosnian. Let
8 them call it whatever they want. Of course, there are other
9 repercussions here. It needs to be stated in graduation certificates
10 which language it is, a mother tongue. Very well. This issue is
11 forwarded to the commission."
12 In other words, what the name, this language that they're going
13 to have now.

14 And then on Page 29436 to 7 of the transcript.
15 "Q. If we go to the next Page, this is what you say," meaning
16 Akmadzic, "and I think this might be relevant to this whole discussion.
17 "Akmadzic: One thing should be born in mind, that every nation
18 has a right to give its language its own name."
19 And then the question is:
20 "Can it be called after something else?
21 "In any case, every nation that speaks a certain language has a
22 right to give it its own name. Austrians and Americans have never
23 exercised that right."
24 And then we hear Izetbegovic, and then that was the exchange
25 that -- that I just gave.

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1 So the -- what I would suggest, Your Honours, is to look at
2 transcript Pages 2191 to 2192, 2501 to 2503. The first one was
3 Izetbegovic. The second one is Smajkic. Then look at transcript Pages
4 32772 to 32774. And then -- and I believe that would be -- I think
5 that's it for this -- for this matter, Your Honours.
6 Okay. I'm dealing with -- I apologise if I'm jumping around.
7 I'm trying to give you a flavour, some vignettes, Your Honour, so you can
8 get the gist of what I was saying yesterday, because at the end, as I
9 noted, it's not what I say, it's what's in the evidence, and I'm hoping
10 that I'm providing some assistance to the Trial Chamber, as awkward as
11 that may be at times.
12 Paragraph 445. Paragraph 445, the Prosecution says:
13 "By various laws adopted during the period, the Prlic
14 government," the Prlic government. You see, now we're affixing the
15 government to him simply because he has the title of president.
16 "Asserted authority and control -- authority to control
17 Herceg-Bosna's borders," in quotes, "including the location of border
18 crossings and prescriptions of the necessary crossing papers. They also
19 required that all persons on HZ-HB territory register their domicile with
20 the HVO authorities within 15 days of arrival."
21 And so for the first part, you know, on the -- for this part,
22 Your Honours, they cite P01580, and, of course, if we look at Article --
23 Article 1, we see that it is based on the law on registering the domicile
24 and residence of citizens, and it's based on the Socialist Republic of
25 Bosnia and Herzegovina existing law. So they're tweaking it in a sense.

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1 Then you have to look at Articles 2, and because of the shortage
2 of time you have to look at -- I wouldn't go too much into it, but look
3 at Article 5. Article 5 states:
4 "Citizens having the status of a refugee or displaced person in
5 the territory of HZ-HB and other citizens whose domicile was in their
6 place of residence until April 1, 1992, shall remain -- shall retain
7 their place of domicile."
8 So there's no change in demographic structure. "Shall retain
9 their place of domicile." They're recognising that people have left. So
10 if you abandon your flat, you abandon your property and you come over
11 here. So that's what they're saying.
12 Exceptionally -- and I think that's all I need to say at this
13 moment on this, so I invite your attention to look at that very
14 carefully.
15 If we could take a break, Your Honour, at this point.
16 JUDGE ANTONETTI: [Interpretation] Very well. Let's have a break.

17 I was checking the time count. So far you've used 4 hours and 10
18 minutes, so after the break you will have 50 minutes left, 5-0, 50
19 minutes left because you were given five hours altogether. And now we'll
20 have our 20-minute break.

21 --- Recess taken at 10.27 a.m.

22 --- On resuming at 10.50 a.m.

23 JUDGE ANTONETTI: [Interpretation] Mr. Karnavas, you have the
24 floor.

25 MR. KARNAVAS: Thank you, Your Honour. If I may make a minor

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1 request. If I could have a ten-minute warning so that I know I have ten
2 minutes coming up to my finishing of 50 minutes that are remaining, I
3 would most appreciate it.

4 The last two chapters I will deal with -- I'm told that
5 translation didn't hear what I just said, which is, Your Honours, if you
6 could give me a ten-minute warning, I would appreciate it.

7 Now, the last two chapters -- there's no translation, Your
8 Honour. I hope the clock has stopped.

9 Testing one, two, three, one, two, three. Can anyone hear me?

10 Okay. I think it's a go. Okay. I believe we're okay.

11 All right. The last two chapters we'll be dealing with, one is
12 the prisons, and then I'm going to go through somewhat of a chronology of
13 Dr. Prljic's functions and his actions during that period of time, and --

14 Now, with respect to the issue of prisoners and detainees,
15 there's a section in the Prosecution's brief. Among others, there is a
16 section on paragraphs 302 to 307 where they discuss the Mrksic and the
17 Celebici cases, and I will get to that shortly. I will make a very short
18 presentation. Since we're not in an appeal court sort of setting, I
19 don't want to be lecturing to the Trial Chamber as to what the law is.

20 Well, actually it wouldn't be a bad idea, but I think I first would like
21 to discuss the documents that I believe may assist the Trial Chamber in
22 its deliberations, and I would -- with respect to the Heliodrom, because
23 the issue has come up that the ODPR was responsible for certain things,
24 and without going into any details, I will leave it up to the Trial
25 Chamber to determine what, if any, authority the ODPR had at the

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1 Heliodrom.

2 We submit that it had no authority. It did provide assistance to
3 the extent that it could, that it did not order anybody to go there, nor
4 did it have the authority, nor did it have the powers to do so. I
5 believe in our brief we cited that they had 12 employees, and there
6 hasn't been any documents -- there haven't been any documents showing
7 that the ODPR had the authority to order anyone and to give orders,
8 particularly to, say, the civilian police or the military police or the
9 military or other civilian organs, but I leave that up to you, Your
10 Honours.

11 With respect to the Heliodrom, that's 9 May 1993, the events that
12 followed, we -- we submit that you should read 5D01004. There is no date
13 on this particular document. It's a letter from Mr. Tadic to
14 humanitarian organisations.

15 Two, read P02293. It's 11 May 1993. It's an UNPROFOR report.

16 P02344, 12 May 1993. There's an agreement on cease-fire.

17 5D02016. This is a list of persons leaving the Heliodrom.

18 4D00 -- 4D00307. This is another report.

19 P02533, 2D01321. And that would be the order, Your Honours, for

20 that particular topic.

21 Now, we all know what happened on June 30th, and I'm sure others
22 will be addressing that issue, but with respect to prisons and those
23 topics, as to the events that happened after June 30th, we invite your
24 close scrutiny, attention, to the following documents in the following
25 order. By that I mean if you read them in that order, Your Honour, not

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1 that we're trying to manipulate the mind, but we believe the narrative,
2 the actual narrative, comes out from that order, because there is a
3 sequencing of events, and of course you have to take that into
4 consideration with other evidence. So we're not suggesting that you read
5 it in the abstract, but it would be P03292, P09843. And Mr. Raguz's
6 testimony of 28 August 2008, and that would be Page -- Pages 31529 to
7 31536.

8 As the events progress, we see certain developments, and then we
9 see the involvement to some extent of the HVO HZ-HB and -- and the
10 efforts that were undertaken by the HVO HZ-HB, the collective, to
11 alleviate the situation once it became known.

12 Now, we've heard testimony from Mr. Buntic, of course, and -- but
13 the order in which I -- we submit may be useful, helpful, to the Trial
14 Chamber is P03560. This is the 19 July 1993 minutes of the HVO HZ-HB.
15 P03573. This is the 20 July 1993 minutes of the 47th session of
16 the HVO HZ-HB. This is a report from the commission, because in the
17 previous document we see that a commission was to be formed.
18 And -- and in connection with all of this, we had Mr. Buntic who
19 testified, and that is on Pages 30575 to 30583. That was on 10 July
20 1993. Now, there may be -- this was in 2008, Your Honours. I apologise.
21 I'm getting a little tired.

22 So there may be other passages in Mr. Buntic's testimony. We're
23 not -- we're not suggesting that you only read that section, but anything
24 else that you may find useful. And if we have omitted something, it
25 doesn't mean that we're trying to keep you from reading it. It's just

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1 that there's so much that we can do within the time constraints.
2 Now, we also wish for you to read P07341. This is from July --
3 22 July 1993. Tomo Sakota is appointed to the post of the co-ordinator
4 for inmates and prisoners of war on the territory of the HR HB by
5 Mate Boban, the Supreme Commander, and there is a report -- this is from
6 the report by Mr. Sakota that is made, actually, on 26 December 1993. So
7 if I have it right -- if I have it right, and I apologise if I've
8 confused everybody, his report shows that on this particular day, his
9 report of 26 December, that he was appointed on the 22nd of July to that
10 post.

11 Then, Your Honours, there is P03958. This is 5 August 1993.

12 There is 17 -- there is P04266 of 17 August 1993. This is an order of
13 Obradovic to send to wardens of the Gabela prison.

14 Then the next document is 1D01675, 18 August 1993. These are the
15 working minutes -- these are the minutes of the working meeting of the
16 HVO HZ-HB.

17 Then P0 -- P04841, 6 September 1993, minutes of working meeting,
18 again of the HVO HZ-HB.

19 1D01320 of 14 September 1993. And then in this particular -- in
20 this particular document, this is when Ganic and Silajdzic are appointed
21 in their capacity as commissioners to intervene and to assist in
22 resolving this issue.

23 After that, we have P05104. This is 15 September 1993. This is
24 an order from Mate Boban, and it says that on the duty -- on the duty of
25 all HZ-HB armed force units to fight exclusively a defence war in order

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1 to protect the integrity of the Croat territories, and then I quote:
2 "Based on the authority determined by the provisions of
3 Article 30, paragraph 1 of the Decree on the Armed Forces of the Croatian
4 Republic of Herceg-Bosna, Official Gazette number 6/92, as the supreme
5 commander of the armed forces of the Croatian Republic of Herceg-Bosna, I
6 hereby order the following," and under number 3:
7 "In the prisoner of war detention centres where the conditions
8 required by the international war /as printed/ law and the Geneva
9 Convention are not ensured, they should immediately be introduced as --
10 introduced, and prisoners of war must be treated in accordance with the
11 provisions of the Geneva Conventions and all humanitarian standards."
12 So this is Boban's order, 15 September 1993, P05104, invoking
13 Article 30.
14 The next document is P05138, 17 September 1993, and then 4D01067.
15 Again, that's 19 September 1993.
16 So if you -- the next series of documents are directly related to
17 the closing of Dretelj, and -- and for this series of documents, Your
18 Honour, we suggest the following, along with others may assist you, is
19 P05219, 20 September 1993. And this is an ECMM document. Then P05304,
20 23 September 1993. And of course -- and the transcript of a witness, DD,
21 which is transcript Page 14491 to 14493.
22 Now, along with that, the next series of documents go to show the
23 reports that are now going to Mr. Mate Boban as a result of the order
24 that he issued on 15 September 1993, which was P05104. And for that,
25 Your Honours, I draw your attention to 2D00926, 22 September 1993;

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1 5D01079, 23 September 1993; and 2D00412, 28 September 1993; and then
2 50 -- 5054 -- I'm sorry. P05485, 29 September 1993. And then, Your
3 Honours, think it would be useful that you read the report from a
4 Prosecution witness, Mr. Biskic. I think he was a brigadier. The
5 document is P06695. The document is dated 17 November, 1995. And in
6 this document, I'll read a part of it although we urge you to read all of
7 it, but it says at one point:
8 "In the Herzegovina area, there are currently two prisons,
9 detention units containing exclusively prisoners of war and persons
10 detained for security reasons, and these are Heliodrom, Mostar with a
11 2.600 detainees, and Gabela, south of Capljina, with 1.100 detainees.
12 He goes on to say:
13 "Actual accommodation potential of the aforementioned prison is
14 that there are up to 1.200 prisoners in Gabela and up to 800 prisoners in
15 Heliodrom. Therefore, there are about 1.600 prisoners who are over the
16 number. The proposal for opening new accommodations in the tobacco
17 station in Citluk that could take it up to 2.000 prisoners. We emphasise
18 that talks have been held with the relevant people from Citluk, but this
19 proposal has not been estimated as acceptable. For all this -- for this
20 reason, through the Department of Defence of the municipalities of Citluk
21 and Siroki Brijeg, also tobacco station, it is necessary to gain
22 agreement for the use of these facilities as they are adequate regarding
23 the location in the facilities."
24 So would appear that even as late of 17 November 1995, Biskic is
25 having more or less the same problems -- I mean November 1993. I

1 apologise, Your Honours, he's experiencing the same sort of problems that
2 we heard from Defence witness Buntic. And you might recall when
3 Judge Trechsel posed a question, I don't know if you recall that,
4 Judge Trechsel, but it was, "Well, couldn't you sort of go to the
5 municipality and commandeer a warehouse or a location?" And basically
6 the answer was that it was up to the municipality. The municipality had
7 the authority to dispose of its property, and so it wasn't something that
8 they could just take. So ...

9 Now -- okay. The next set of documents, Your Honour, along with
10 this line is P07096. This is a -- the decision to close all detention
11 centres in the territory of HR HB, and this was 10 December 1993.
12 P07234, 18 December 1993.

13 P07668. This is a document of 22 December 1993.

14 Then the decision -- then P07341, which is 26 December 1993. And
15 here in this particular document, and I'll burn up some time on it, it
16 says at the end -- at the end Tomo Sakota who was appointed to the post
17 of co-ordinator for inmates and prisoners of war on the territory of
18 HR HB by President Mate Boban, you know, there are -- to implement the
19 agreement between the Foreign Minister of the Republic of Croatia and the
20 president of the republic concerning the disbandment of detention camps
21 on the territory of the republic, he's submitting this report, and he
22 says:

23 "Mr. President, I believe it clearly transpires from the
24 above-mentioned instances that the reasoning and policies of the
25 municipal authorities do not coincide and are not co-ordinated with the

1 order and commands you have issued with a view to protecting the interest
2 of the Croat people and that those who suffer in the process are the
3 individuals who conscientiously and honestly perform their tasks."

4 He goes on to note:

5 "I am of the opinion that in order to protect the interests of
6 the Croat people, a more energetic action is required in the future to
7 prevent such negative phenomena, to improve mechanisms of co-ordination
8 between the top leadership and local authorities."

9 And -- but the document is there for you, Your Honours, to read
10 in its entirety.

11 Now, with those documents in mind, and keeping that I don't
12 believe I have much more time left, with respect to the two -- to the two
13 cases that the Prosecution has raised, with respect to -- to the
14 paragraphs 302 to 307 of the Prosecution's final brief where they submit
15 that Dr. Prlic was bound by and breached his duty to protect the
16 prisoners and is guilty of aiding and abetting crimes by omission, first
17 and foremost, we've always maintained that as president of the HVO HZ-HB,
18 Dr. Prlic did not have the authority to issue orders and to direct people
19 on his own. Everything was done by the -- by the collective. So it's
20 the HVO HZ-HB itself.

21 Setting that aside, for the Prosecution to establish that
22 Dr. Prlic was bound by and breached the Mrksic duty, it must prove both
23 that Dr. Prlic was a state agent with physical custody of prisoners, and
24 B, throughout the period of the indictment, Dr. Prlic had the ability to
25 protect prisoners and that he did -- he did not -- and that he did not

1 fail to act on that ability.
2 Dr. Prlic was not a state agent, and neither was the HVO HZ-HB.
3 They did not exercise custody over those prisoners. They were not the
4 ones that set up those facilities. So that is our fundamental position,
5 our starting point.
6 Now, I'll move on. With respect to the Celebici case that was
7 cited, and this is -- this deals with the civilians, and I believe that
8 it's rather obvious that what is permissible, that if civilians are posed
9 to be a danger, there are circumstances which may warrant that they be
10 quarantined. Not -- that they are in danger, but they pose a danger.
11 They pose a threat. And I think it's also -- I think we all can agree
12 that whenever someone is detained, whether he's a prisoner of war or
13 civilian, whoever has custody has certain obligations to afford them the
14 adequate protections ability adequate procedures. I don't think there's
15 much in dispute there.
16 So with that in mind, again our position is -- our position is,
17 Your Honours, that Dr. Prlic had nothing to do, and the HVO HZ-HB had
18 nothing to do, with the setting up of these facilities. It's certain he
19 had nothing to do with the civilian population being quarantined. And
20 I'll leave it at that.
21 Now, there is evidence -- there is evidence, of course, that at
22 one point the HVO HZ-HB did become involved in trying to alleviate the
23 situation, and our position is that the fact that they -- once they
24 learned of what was going on that they acted. That in and of itself does
25 not mean and should not be interpreted as having custody. Offering

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1 assistance does not necessarily mean that you had that authority all
2 along.
3 The Prosecution makes light of the fact that this was discussed
4 at the meeting and nobody wanted to take responsibility. Keep in mind
5 that this is a private meeting. Minutes are being kept, and they're kept
6 in a very transparent fashion, but they're not open to the public. And
7 they're having this discussion, and upon learning it, they try to act on
8 it immediately. And the fact that they take action and they try to
9 alleviate the situation does not necessarily mean, and this is our
10 submission, that they took on a burden and, therefore, should suffer the
11 consequences.
12 I think the evidence is rather overwhelming to the extent of what
13 efforts were made once they learned of it and the actual inability to
14 make radical changes immediately because they were not the detaining
15 power. And, of course, once Boban issues the order, all that does is
16 make it a little bit more possible for those who don't have actual
17 custody and don't have actual authority to provide further assistance.
18 And so we submit that if, for instance, there is a decision or a
19 conclusion that says ODPR should go over here and try to provide
20 assistance, that doesn't mean in and of itself that the Croatian
21 community -- the HVO HZ-HB, that that is indicia that they had the
22 authority, the power to act upon, and that they failed to exercise their
23 authority.
24 And because of time constraints, Your Honour, I had planned a
25 half hour presentation, it's come down to rather three minutes on this

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1 issue, but I don't see the matter as something that needs to be discussed
2 any further on rebuttal and surrebuttal, but if the opportunity were to
3 arise, I would it.

4 Now, I wish to turn to the very last part of my presentation, my
5 closing argument, our closing argument. Nothing can ever be done without
6 Ms. Suzana Tomanovic. She's the de facto lead counsel on this Defence
7 team.

8 Dr. Prlic, as we saw from his -- from his background in our
9 brief, had a rather distinguished career, and, you know, the Prosecution
10 said, "Well, you know, he does a disservice to himself by pointing out
11 what he did, what he has accomplished."
12 Well, first of all, we don't shy away -- Dr. Prlic does not shy
13 away of the fact that he has been an accomplished individual and that he
14 has been in the limelight and has offered a tremendous amount of his
15 talent and energies to public service. And so we start with that. But
16 now rather than going into his background as to what happened before he
17 comes into the scene, I just want to focus a little bit and rather
18 quickly -- as the war approaches, we see that he's appointed or he's --
19 they've approached him to be appointed the governor of the republic -- of
20 the Republic National Bank in order to introduce the new currency. And
21 it's -- in fact, it's Boban himself it would appear that withdraws that
22 appointment, but it shows you that he is a man that they look at as being
23 accomplished, as being competent, and being trustworthy, because after
24 all, this is a rather important position. And he discussed this in -- on
25 5 May 2008, when he spoke. It's on transcript Page 27488, and of course

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1 you can look at -- at -- also to the testimony of 1DAA on 2 June 2008,
2 transcript Page 28901 to 28905.

3 Then what I would like you to focus on is the fact that on 12th
4 September 1992, 1D01558, we see that there's a letter of -- by
5 Dr. Jadranko Prlic to the president of the government to review certain
6 documents. And so again in a very transparent manner. There's nothing
7 secret. They're not in some cellar where they're trying to plot away.

8 And you see from the letter it says:

9 "Since the daily life in the liberated areas require that these
10 legal vacuums be filled, the Croatian Community of Herceg-Bosna was
11 forced to pass regulations in these fields with the remark that all of
12 these regulations were passed as temporary regulations and that they are
13 limited to the period of war and imminent threat of war."

14 You heard of testimony from our witnesses. The Prosecution can
15 make light or make whatever they wish of them. The bottom line is there
16 were some vacuums that were created. There's no currency. You know, if
17 you want to impose a fine and the fine is designated in a currency that
18 don't exist, then how can you implement that particular law. So that's
19 what that was about.

20 Then -- okay. Look at 1D02014 and 1D02685. The first one is --
21 this is a report, a request for the share of the commodity loan provided
22 by Turkey. So Dr. Jadranko Prlic, again, is -- is communicating with the
23 government of the Republic of Bosnia and Herzegovina, and, of course, he
24 gets a response, 1D02685, and this is a response from the deputy prime
25 minister, Mr. Turajlic, and if you look at it:

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1 "Your request for using a loan from Turkey."

2 And it says at the bottom that -- it says:

3 "We --"

4 Well, it says:

5 "We have considered carefully your request of 5 October. We
6 hereby inform you that this loan has still not been approved."

7 And then it ends:

8 "We also wish to confirm the RBH government's firm decision to
9 use part of this loan should it be approved to cover the needs of the
10 armed conflict also in this area."

11 So again, you see that there is this involvement with the
12 authorities.

13 Now, we go to the next document which I very briefly point to
14 your attention is 1D02077, and here this is from a newspaper. It's
15 entitled -- it's dated 9 October 1992, and we see Izetbegovic press
16 conference in Mostar and his views of the Muslim-Croatian relationship.
17 So we have Izetbegovic himself. He's down there. And one of the things
18 that he talks about, at least it's in the article, and take it with a
19 grain of salt because it's a newspaper, or a pinch, or whatever, or a
20 pound, it says:

21 "He also announced that soon members of a co-ordination committee
22 would be appointed to co-ordinate military operations between Croatia and
23 BiH against the joint Serbian Montenegrin aggressor. Members have
24 already been appointed by the Croatian side and the BiH side has agreed
25 that two representatives of the BH Army and one HVO representative should

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1 be appointed from their side. The HVO will appoint its representative
2 in -- in a day or two."

3 And then it goes on:

4 "Izetbegovic stated that soon a single command of the armed
5 forces of BiH would be established consisting of the leaders of BH Army
6 and the HVO. The President of the HV Presidency described the
7 establishment of this council of Muslim of Herzegovina as an
8 understandable reaction to what the Croatian side has done, but an
9 unacceptable path towards the resolution problem in BiH."

10 And then you can read the rest of the article, but basically on
11 this particular matter we had -- we had one witness testify, and that was
12 Mr. Akmadzic, and you can find that on 29416 to 29422. On that
13 particular matter, Your Honours, it would be Pages 29438 to 29440.

14 Now, on financing. On financing, there's two documents, 1D02944
15 and 1D02948, and yesterday I touched upon it briefly, but this was --
16 this again shows you that there is this sort of relationship between the
17 HVO HZ-HB and the -- the authorities in Sarajevo.

18 Now, we did have a gentleman by the name of Primorac who
19 testified, and of course the one document we see his signature, that's
20 1D02948, and here you can -- we also see in the other document, 1D02944,
21 about nonresidential accounts, and under number 3, budget of Croatian
22 Community Herceg-Bosna in BiH dinars. So this is something that we
23 suggest it may be worth considering, and also consider Mr. Primorac's
24 testimony from Pages 29935 to 29937.

25 Then we see that on 17 November 1992, there's a -- there's a

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1 decision to appoint Dr. Prlic into -- as a commissioner, and this is
2 1D0898, and it says:

3 "To appoint and authorise Dr. Jadranko Prlic, the president of
4 the Croatian Defence Council to represent the government of the Republic
5 of Bosnia and Herzegovina."

6 And this is in -- we see the date is 17 November 1992. And along
7 with this document we draw your attention to 1D02147, which is a power of
8 attorney, again by Akmadzic, and it says here it provides Dr. Prlic for
9 the following powers: For Dr. Prlic, president of the Croatian Defence

10 council of the Croatian Community of Herceg-Bosna to represent the
11 government of Bosnia-Herzegovina in the territory of the Croatian
12 Community of Herceg-Bosna. By these powers, Dr. Jadranko Prlic,
13 president of the HVO HZ Herceg-Bosna is empowered to represent," and then
14 it goes on.

15 The point we're making, Your Honour, is this is November 11,
16 1992. Akmadzic is part of the government, and we don't see any documents
17 saying that Mr. Akmadzic acted outside his authority. So he's acting
18 within his authority, and again we see the involvement of Dr. Prlic.
19 So -- and we do suggest that you read Mr. Akmadzic's testimony, which is
20 on Page 29422 to 29429. Also read the testimony from Raguz about --
21 where he testified concerning document 1D00898, and that testimony is on
22 transcript Pages 31263 to 31265. And Zoric, Damir Zoric. Yeah, I think
23 he was our second or third witness. And he testified at Pages 27919 to
24 27920.
25 Now --

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1 JUDGE ANTONETTI: [Interpretation] Mr. Karnavas, you have ten
2 minutes.
3 MR. KARNAVAS: Okay. Let's see if we can wrap it up. No
4 salutations at the end, I guess.
5 Now, the -- one of the things that I wish to bring to your
6 attention is the events that happened in Medjugorje. And if you may
7 recall, Your Honours, that there was this meeting on 18 May 1993, you
8 know. Now, this is rather important, okay, because -- because of the
9 date. And there you have a meeting, and you have Lord Owen, you have
10 President Tudjman, you had Alija Izetbegovic, you had Mate Boban, and you
11 had others, and there in that meeting it was rather significant, because
12 this was going to be the commencement, in a sense, of the VOPP in some
13 form, in some form. And it is at that meeting that Dr. Jadranko Prlic is
14 vested with some -- he's appointed to effectively be an acting prime
15 minister. And we saw the documents, and we -- BiH prime minister. And
16 we saw the documents -- we saw -- heard the witnesses and saw documents
17 which showed that immediately upon this appointment he began to exercise
18 his mandate or at least to attempt to exercise his mandate, and there is
19 a series of communications.
20 Now, for this, I don't have time to go into it, but I invite your
21 close scrutiny and attention to 1D01595 which are the minutes from the
22 meeting at Medjugorje along with 1D02404, P02441, P02441, yes, and then
23 also look at 1D1520, 1D01587, 1D01586. This is the appointments.
24 1D01596, 1D01598, 1D01597, 1D01599, and then interestingly enough,
25 4D0766, and in this particular -- this document, and I will discuss it

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1 very briefly, here we see the reaction of Halilovic, because obviously
2 Halilovic, who is on the military side, just doesn't want to go along
3 with the programme. And we see it from the very first paragraph:
4 "Having analysed the situation after the adoption of the plan of
5 the big powers on resolving the crisis in the RBH, the SVK of the RBH OS
6 conducted an analysis and concluded while backing the stance of its
7 Supreme Command in the president of the Presidency on the unacceptability
8 of the proposed plan, to table its own proposal for adopting the new
9 situation and circumstances."
10 And see -- so here we see the top military commander virtually
11 saying to the civilians, "We don't like what you're doing and we have a
12 counter proposal," but it goes on and you must look at 1D01600, then look

13 at 1D02323. This is a public statement on the Croatian Muslim Democratic
14 Party regarding the Medjugorje agreement. This was a big event. It's
15 2323, I'm told -- I'm sorry. It's it 2322. Then it's -- then look at
16 1D01589. This is a letter from Bisera Turkovic, she was the ambassador
17 in Croatia for BiH. 1D01601. And then 1D01602; and this is a letter
18 from Dr. Prlic to Izetbegovic and Boban regarding the consultation for
19 the appointments of the government. But then as a consequence of --
20 apparently Halilovic did not want to see that any agreement take root,
21 you can look at 4D00766. This is the ABiH attack and the consequences
22 that follow. And we suggest that you also look at 2D01407.
23 Now, the last thing I want to talk about is -- very briefly is we
24 saw a particular witness that came here, and -- and he was DZ. Now, he
25 had a lot of things to say; some good, maybe some not so good. We had

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1 one witness criticise him for pretending to -- for the cameras. He had
2 some certain opinions, but what we learned from this particular witness,
3 what we learned from this particular witness when he came here, because
4 he had his own bundle of documents, and like many of the witnesses they
5 show up with documents even though the parties are trying to be diligent,
6 and from those documents what we gleaned was that this gentleman was
7 involved with Dr. Prlic clandestinely, you know, secretly, in trying to
8 resolve the situation in Mostar, and in a sense we have sort of like a
9 little shuttle diplomacy going on.
10 Now, before that we see from DZ that there's an issue that he
11 communicates between Dr. Prlic and Mr. Silajdzic, and for that, Your
12 Honours -- okay. For that, I believe you need to look at Pages 26682 to
13 26685, and in conjunction with that look at 1D02097 and 1D02098. I point
14 this out because this gentleman who was working with this international
15 organisation approaches Dr. Prlic. Dr. Prlic is now getting involved
16 with -- with Mr. Silajdzic, and it would appear that because his -- his
17 involvement and -- and obviously you can see from all the efforts later
18 on with -- with -- with Mostar, that because of that somehow we're going
19 to say, well, Dr. Prlic has all this power. Well, could it be, could it
20 be that Dr. Prlic is the kind of person that wants to see a BiH that is
21 for all -- that is for all three constituent nations and that is willing
22 to do his bit when necessary and risk his neck? And that's what we see
23 there. But with Mostar, what's most important is that nobody else knows
24 about it. So you have the other witness that came in, BF, and part of
25 his testimony was that BF -- one minute, Your Honour. If I may finish my

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1 sentence. BF came in and said Dr. Prlic was coy. You couldn't really
2 get a straight answer out of him at times. (redacted)
3 (redacted)
4 (redacted)
5 (redacted)
6 I think if you look at that, Your Honours, you will see who
7 Dr. Prlic is and what he was trying to do and how he was trying to be a
8 positive force, and he wasn't a thug as was described by the Prosecution.
9 And with that, Mr. President, I want to thank Your Honours for
10 giving me this extra minute, of course, but I want to thank Your Honours
11 for over the past five years for their indulgence and their patience. I
12 know I tested everybody's patience. I do want to thank everybody who has
13 assisted us, and I want to pay special tribute to Ms. Suzana Tomanovic.
14 Thank you very much.
15 JUDGE ANTONETTI: [Interpretation] Very well. Now for the Stojic

16 Defence. Mrs. Nozica, are you ready to start, or is it Mr. Khan.
17 MR. KHAN: Mr. President, we are. If I may just take the dais.
18 MR. STRINGER: Excuse me, Mr. President. I apologise for the
19 interruption. While we're at this juncture, though, it's just -- I just
20 received an e-mail. I think that we need a redaction in the transcript
21 that's just -- there's been a reference that requires redaction. I think
22 it was made inadvertently but should probably be dealt with.
23 JUDGE ANTONETTI: [Interpretation] Very well. Could the legal
24 officer please check this and tell me about it, tell me which Page and
25 which line needs to be redacted. It's probably right before the end of

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1 Mr. Karnavas's closing arguments.
2 JUDGE TRECHSEL: Page 51, line 21.
3 JUDGE ANTONETTI: [Interpretation] Very well. Page 51, line 20 to
4 22.
5 Very well.
6 [Stojic Defence Closing Statement]
7 MR. KHAN: I'm most grateful, Mr. President and Your Honours.
8 Hopefully as far as the -- the scheme of the next five hours is
9 concerned, it's intended that I will address Your Honours until the
10 break. After the break, hopefully lead counsel will address you until
11 the end of today, and then tomorrow we will divide the time up between
12 the two of us.
13 It's perhaps correct to say that one of the distinctive features
14 of this case has been the overarching joint criminal enterprise that has
15 been pled by the Prosecution. Now, I've never been a fan of the doctrine
16 of joint criminal enterprise, not when I was in the Prosecution as a
17 junior lawyer, nor today, and that comes from a simple belief that one
18 should take the Statute in its plain form. Article 7(1), of course,
19 describes modes of participation. But for better or for worse, the
20 doctrine of joint criminal enterprise is clearly part of the landscape of
21 this Tribunal, rejected, though it has been, by the International
22 Criminal Court. And there has been some vacillation in the scope of
23 joint criminal enterprise that emerges from a review of the jurisprudence
24 from this court, but it may be correct to say that the high watermark has
25 been reached, and the tide fortunately, is receding to more normal and

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1 reasonable levels.
2 What is clear, and this is the holding from the Brdjanin Appeals
3 Chamber, is that the doctrine is not to be applied so as to give rise to
4 guilt by mere association. That is not enough. All the elements of the
5 offence must be proved by the Prosecution. And it's trite to say that
6 everything is in dispute. The Defence of Bruno Stojic denies everything
7 except that which has been specifically and unequivocally pleaded.
8 But perhaps another defect of the doctrine of joint criminal
9 enterprise being pled in this overarching manner is that it may have the
10 potential to squeeze out every other theory. Everything, ultimately, is
11 reduced to xenophobia, hatred, virulent racism, and the whole panoply of
12 human emotions seem to be side lined, and it's common knowledge, Your
13 Honours, as experienced Judges know that everybody is motivated by
14 different things. Some individuals may have an idealistic but pragmatic
15 view as to a political solution, and such individuals of nobility may,
16 however rarely, rise to the challenge in times of war. But similarly we
17 see from the jurisprudence of this court and from history itself that
18 warfare can give rise to opportunists, war profiteers, ideologues, and it

19 has the capacity to bring out the best and the worst in human nature.
20 But, Your Honours, in reviewing the doctrine of joint criminal
21 enterprise, it is, in my respectful submission, important to look at the
22 actual facts that the Prosecution adduce. Now, this is not an empty
23 chairs argument that my learned friend Mr. Scott alluded to in his
24 eloquent opening submissions, but it is the simple plain truth, that this
25 has been investigated for many years, many years before an indictment was

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1 issued, and the architects that the Prosecution put forward, Tudjman and
2 Boban and Bobetko, none of those individuals are here. Indeed, Your
3 Honour, on occasion the case seemed to be taking so long I thought that
4 some of us may not be here either at this day, but fortunately the case
5 is drawing to an end.
6 But the other reality of reducing everything to simply hatred and
7 racism, persecution, discriminatory intent is a matter for history,
8 because it seeks to transpose today's norms back to the 1990s, not long
9 after the Cold War had ended and the huge challenge that faced the
10 international community, seasoned diplomats, never mind the people of the
11 former Yugoslavia, in trying to come to terms with a disintegrating
12 country that had lived for far too long under authoritarian and a
13 totalitarian, in some respects, regime.
14 Your Honour, my learned friend Mr. Scott said at the end of his
15 submissions that this is an opportunity, your best chance to say, "Never
16 again." Well, Your Honours, this Court is not, and international
17 criminal justice, is not, of course, a panacea for all ills, and the sad
18 reality is that the lack of political will, a Europe that had not come to
19 terms with new realities, competing political and economic as well as
20 ideological interests allowed this huge inaction to take place on
21 Europe's doorstep in the early 1990s, and indeed many commentators have
22 said that this very court was created to fail. It was created as a fig
23 leaf by some countries to show that they were doing something and to
24 disguise the naked inaction by these so-called superpowers of Europe.
25 Your Honours, all of this background needs to be considered, in

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1 my respectful submission, but also before I go to the substance, move on
2 to the substance, one would also need to recall some basic evidentiary
3 considerations that may be of utility to Your Honours in seeking to weigh
4 and sieve and assess the morass of documents and evidence that you will
5 have to grapple with in the months ahead.
6 Now, the first, in my respectful submission, is the issue of
7 adjudicated facts. On some occasions it seems to me that adjudicated
8 facts is -- are recited as some kind of ritual incantation and as if they
9 are dispositive of the facts that are detailed. That, of course, is not
10 the case. Everything is in dispute. The Prosecution at every moment
11 have the burden of establishing beyond real doubt all the facts that are
12 necessary in order to support the various charges that they allege
13 against my client.
14 Now, Your Honour, the Milosevic appeals decision on the
15 jurisprudence is clear, that that evidence can be -- doubt can be cast on
16 that evidence depending upon what Defence evidence is adduced.
17 Now, this is the paradigm case dealing with Croatia, the longest
18 case, the most documents, the most witnesses, and we have the benefit of
19 a very experienced set of Judges, and I would ask in all humility that
20 Your Honours be very slow in abdicating your own independent analysis and
21 the morass of evidence that you will deal with simply on the

22 determinations that other Trial Chambers have come to, perhaps with the
23 benefit of a far more limited amount of evidence that has not been
24 subjected to as much scrutiny.
25 Your Honour, the other is -- the other guide-line, perhaps, is

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1 how to treat the evidence of co-accused. For example, Mr. Prlic has, of
2 course, given a statement. Now, it's the principle of human rights law,
3 in my respectful submission, that the evidence of a co-accused cannot be
4 evidence against another co-accused unless that co-accused has the
5 opportunity to confront and challenge that evidence. Now, unfortunately
6 we did not get that opportunity with Mr. Prlic. Of course, we thought 20
7 hours were set aside, 20 hours, for Mr. Prlic to give evidence, and he
8 was given that 20 hours, but as, of course, is his right, he decided, it
9 seems, not to give evidence, and we for Mr. Stojic have been denied the
10 ability to cross-examine Dr. Prlic and challenge him as to aspects of his
11 accounts that we take -- that we clearly dispute.
12 And indeed I had to smile when my learned friend Mr. Scott, in
13 his opening, talked about the shifting burdens or, rather, the shifting
14 blame that he has identified between the different Defence teams, because
15 I remember on many occasion the Prosecution standing up when it came to
16 the allotment of time. And they said, "Well, there's only one Defence
17 here. We're the Prosecution, and there's one Defence. There's no
18 justification for the Defence to be given the amount of time that was
19 allocated." It's clear that there are fault lines. It is clear that
20 there are frictions between the different accused, and I make no bones
21 about that, but Your Honours must decide whether or not every account is
22 false or whether there is an account which Your Honours see merit in and
23 Your Honours see that that account has the advantage of truth.
24 Now, Your Honours, in relation to Generals Praljak and Petkovic,
25 of course, they took up their right to give evidence in the box and for

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1 quite some time they were subjected to cross-examination. Now, in
2 relation to them I would say that a guiding principle, a rule of thumb,
3 however crude, would be that when one is assessing their evidence in the
4 box and their prior statements, evidence or declarations against interest
5 can be more readily accepted by Your Honours than evidence which seeks to
6 inculcate or blame a co-accused, and where Your Honours discern an
7 attempt to shift an account or to put responsibility in the court of
8 another co-accused, Your Honours should stand back and pause and think,
9 Is that the truth? Is there reason for that change in account or is it
10 simply motivated by the understandable desire of self-preservation? Your
11 Honours will decide in due course.
12 Now, Your Honours, for Mr. Stojic, we don't subscribe to the view
13 of Mr. Karnavas, who said yesterday he is not going to ask you to go in
14 his direction. It's too late for that. Your Honours, we have every hope
15 and every expectation that you will listen carefully to our submissions,
16 and we hope to persuade you, we hope to give you pause for thought and
17 for Your Honours to come to the conclusion that this case, for all its
18 length, is not as straightforward, not as clear-cut as the Prosecution
19 would have you believe.
20 What is this case about? Well, Your Honours, the Prosecution put
21 it very clearly in paragraph 1, Page 1 of their final brief. This trial
22 is about the individual criminal responsibility of each accused based
23 upon their roles in the plan to establish a Croatia -- a Croat-based
24 entity, the Croatian Community of Herceg-Bosna on the territory of

1 Croatia case. We've heard it for many years. It sounds good, a
2 plausible theory if the evidence is read in a certain way, but is it the
3 truth? When one subjects that theory that the Prosecution cling lovingly
4 to, is it supported by the cold, hard reality of the evidence and
5 documents that have been presented before Your Honours? We say no.
6 The Prosecution say this, I say to you the words of my learned
7 friend, the very able Ken Scott:
8 "I say to you concerning these accused that they may have looked
9 like church-goers on Sunday, but when they were doing what they did, when
10 they were planning and instigating and promoting and ordering and
11 supporting ethnic cleansing, they were thugs. They were thugs."
12 High rhetoric, indeed. Strong on adjectives, but the Defence say
13 weak on evidence.
14 Now, Your Honours, in a very erudite closing submission by the
15 Prosecution, they referred to a whole variety of authorities, from
16 President Cassese's articles, to Goethe, to Eichmann and Hannah Arendt
17 and "the banality of evil," but if the Prosecution are correct to cite
18 the Goethe, that the behaviour -- the behaviour is a mirror in which
19 everyone displays their own image, one perhaps can pause and ask what is
20 the behaviour of Bruno Stojic? Who is the man that has been sitting in
21 your courtroom these years. Is he the kind of man that had a proclivity
22 to commit these kind of heinous acts that are alleged by the Prosecution,
23 or are the Prosecution, out of a desire to prove their case, out of the
24 highest of motives no doubt, simply reading everything the wrong way?
25 Your Honours, where I come from in Pakistan, there is a saying:

1 When one is jaundiced, everything seems yellow. And it is my respectful
2 submission that so ardent are the Prosecution, so ardent do they cling to
3 their theory, such is their certitude that they have it right that they
4 have not been willing to stand back and look at any other option, and
5 that is the essential and fundamental mistake that has been made in this
6 case and, Your Honours, the Defence for Mr. Stojic ask that Your Honours
7 do not fall prey to that danger.
8 Your Honours, before I go on may I just ask what time we're
9 taking the break so I don't overrun my time.
10 JUDGE ANTONETTI: [Interpretation] Well, it's around 12.30
11 normally. 12.30. So you have half an hour.
12 MR. KHAN: So, Your Honours, I'm going to try and cover quite
13 some time in the next half hour.
14 The Prosecution very rightly have in their passionate speech
15 talked about the victims in this case, and the evidence that one reviews
16 is tragic. It scars the very soul. It really has been in many respects
17 a -- a stain on human consciousness that in this so-called modern age,
18 this Age of Reason, such tragedies, such crimes, such depravity can
19 occur. And I'm instructed by Bruno Stojic on his clear instructions to
20 offer not his cynical or opportunistic ritual incantation to you of
21 apology to the Court or his sorrow at people suffering but to genuinely
22 say that the story that's been told and the suffering that befell all the
23 people of the former Yugoslavia, Croats, Serbs, and Muslims is something
24 that has touched him, and it is not something that we take glibly in
25 asserting unequivocally that he is not guilty in relation of -- to each

1 and every count on the indictment.

2 Now, Your Honours, a number of witnesses have been brought by the
3 Defence, and I'm not going to repeat all of Mr. Karnavas's comments about
4 the witnesses that are available, but when assessing who is Mr. Stojic,
5 it's important to realise that when the Prosecution talked about two
6 Muslim witnesses, it was Mr. Stojic that brought those witnesses. It was
7 those two Muslim Bosniak officers that bravely and in open session came
8 to this court, knowing the charges that are alleged, to speak up, to be
9 the voice of Bruno Stojic.

10 Now, there's no ownership in suffering. The Prosecution do not
11 love or empathise with the victims more than we do on the Defence. They
12 do not love or empathise with these victims more than Mr. Stojic,
13 whatever they may think. But certainly, Your Honours, certainly it would
14 be arrogant of us to think that we have more empathy than individuals who
15 entered harm's way to fight against the injustice and suffering that was
16 being preyed upon the people of Bosnia-Herzegovina. And so in assessing
17 the weight to be accorded to the evidence of these witnesses, Your
18 Honours, we would urge you to look at the fact that they gave evidence
19 openly, without protective measures. General Hamid Bahto is in Sarajevo
20 openly, and he was unequivocal in his comments about Bruno Stojic.
21 The same applies to General Makar. General Makar, of course, is
22 a Croatian, but he was a member of the Armija.
23 Nedzad Cengic, a Muslim, gave evidence, and Your Honours will
24 recall what he said and I will touch upon that a bit later.
25 Your Honours, this is not a man that had displayed in his life

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1 prior to the conflict or afterwards a jot of discrimination or at least
2 no rabidly anti-Muslim, anti-Bosniak sentiment that the Prosecution would
3 have you believe on their account.

4 Now, Your Honours, Davor Korac, of course, was a direct superior
5 of Bruno Stojic when he worked in the Ministry of Interior and he gives
6 evidence, and Your Honours may recollect it, that during his time in the
7 Ministry of Interior Bruno Stojic intermingled equally with Serb and
8 Croat and Muslim, and he gave the example of, socially, Bruno Stojic
9 meeting with Mr. Mandic and Mr. Delimustafic, and, Your Honour, that was
10 in his evidence on the 2nd of April, 2009. I'm not going to give all the
11 transcript references. It's in our brief.

12 But, Your Honours, that evidence was not alone. It wasn't just a
13 single swallow that makes the summer, because Tomislav Kresic, of course
14 a friend, a friend, we accept that, a friend of Bruno Stojic, gave
15 evidence in court. He was subject to cross-examination, that before the
16 war Bruno Stojic had very good friends that came from a variety of
17 religions and ethnicities, including Muslim and Serb. And again, that
18 was on the same date. That he employed Muslims in public utilities.
19 And, Your Honours, that evidence, which the Prosecution may, in fairness,
20 they may say, "Well, these people would say that if there is a personal
21 acquaintance," must be viewed as solid evidence, as reliable evidence, as
22 authentic and believable evidence, as the truth, as the truth, when it is
23 read against three other witnesses that I will speak to you -- speak
24 about in due course.

25 General Hamid Bahto came very confidently to the Court, and he

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1 said that:

2 "I came here voluntarily, of my own free will, without coercion

3 from anybody, and came to testify to the advantage of the man who helped
4 my people, my people, in 1992 and 1993."

5 This is not insignificant evidence that the Prosecution would try
6 to dismiss. It's not important. It's a tangent issue. We say
7 absolutely the contrary. It is essential for at least two reasons. Both
8 in relation to the nature, the motivations of Mr. Stojic. Is he this
9 rabidly racist individual motivated by hate and arrogance, or is he
10 somebody else?

11 And secondly, on the main issue of the actual material
12 assistance, the arms and the co-operation that were extended by the
13 Croatian Community of Herceg-Bosna to the Army of Bosnia-Herzegovina at
14 the time, and that goes to the ultimate issue of whether or not the
15 Greater Croatia theory of the Prosecution is well supported.

16 Your Honours, the Defence closing brief is peppered with examples
17 of Bruno Stojic's interactions and dealings with Muslims, and I give
18 simply one example. Rather than sidelining or overlooking or looking
19 down on his Muslim colleagues and brothers, the evidence is clear that he
20 promoted them. For example, he appointed Ramo Omanovic as the Muslim
21 [indiscernible] Commissioner in Mostar, and Anton van Grinten, the ECMM
22 monitor is very clear that he never heard Bruno Stojic say anything
23 derogatory about Muslims.

24 Now, despite that evidence, the Prosecution seem to be stubbornly
25 insistent that they have it right. And it's very pertinent to note that

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1 in their closing brief, when it deals with Bruno Stojic, the first thing
2 that they cling to is this famous or infamous transcript. And, Your
3 Honours, the Defence has vigorously as possible sought to show this
4 transcript for what it is, that it was not a serious conversation upon
5 which any reliance can be had. But the Prosecution say no. They say no.
6 It's extremely important, and -- it's extremely important in shedding
7 light on the motivations of Bruno Stojic, because they say it cannot be
8 coincidence that this conversation is taking place at the same time they
9 say that Boban is meeting Karadzic in Graz.

10 Well, Your Honours, the first point is what was agreed in Graz?
11 What was agreed? Let's look at the submissions of the Prosecution and
12 their final brief and search out their case as to what was the nature of
13 that agreement. There's some conjecture, some supposition, some
14 hypothesis. What is the evidence?

15 In the Defence's respectful submission, the evidence does not
16 help the Prosecution at all. In fact, their own witness, Josip Manolic,
17 their own witness, not ours, that they called said that the parties
18 agreed that they disagreed. This is the very pivotal moment that the
19 Prosecution will seek to hang a conviction of Bruno Stojic on. But, Your
20 Honours, as we've said in our brief, if one looks for a moment at the
21 text, it simply cannot support the Prosecution's contention. Apart from
22 the clear references to families and all the "ha has" that Mr. Ken Scott
23 referred to, it's very clear on any view, on any view, that -- on any
24 view that this is not a serious conversation. But, Your Honours, the
25 first three Pages can be disregarded until Mr. Stojic takes the phone.

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1 Now, Your Honours, what this does show is that there are
2 participants in this court that display the most virulent and undesirable
3 and reprehensible views of other ethnicities and religions. That is to
4 be deprecated on a personal level, but the fact that -- the fact that
5 Bruno Stojic takes part or speaks on the telephone with people that have

6 terrible views cannot be used against him. It's not evidence against
7 him. Your Honour, the transcript, of course, is P00185. Because, Your
8 Honours, if one sees a terrible comment by Mandic talking about a nice
9 new Sarajevo in which the beautiful mosques and the beautiful synagogues
10 will be no more, does Bruno Stojic pick up that rabid comment and run
11 with it? Does he use that opportunity to reveal some of his racist
12 views? He changes the topic. "Why are you shooting over there? Over
13 here?" And, Your Honour, he changes the topic. He says, "Why isn't
14 there a way to solve this peacefully? Is there a way to resolve this
15 peacefully?" And he's very clear. He's not talking about resolving the
16 situation in his backyard peacefully. He's talking about Sarajevo. He
17 says, "Well, this in Sarajevo, is there a way of solving the tragedy, the
18 suffering for the people in Sarajevo peacefully?" And the Prosecution
19 ignore this, gloss over it, move ahead. No, our theory is correct. Our
20 theory is correct. Stojic says, "You cannot come to the Neretva valley,"
21 but the Prosecution say there is a deal: One side of the Neretva for the
22 Serbs one side the Croats and the poor Muslims the middle, but Stojic is
23 saying don't come near the Neretva valley. The Prosecution turn away
24 from that inconvenient piece of evidence.
25 And when a meeting is referred to, Mandic talks about, "It's all

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1 right. I think an agreement may happen." Bruno Stojic does not say I
2 know about that meeting. I know something is going on. He says, "I
3 don't know. I have no idea." And rather than disclosing some kind of
4 cosy alliance, some kind of conspiratorial brotherhood between the Serbs
5 and the Croats to eat up the Muslim people of Bosnia-Herzegovina, what
6 does it reveal? Bruno Stojic tells Mico Stanisic, "Talk to that fool of
7 yours. Talk to that fool of yours. He's really out of his mind. I'm
8 serious." And that's Karadzic. Hardly close bedfellows, hardly a view
9 of respect. Hardly on any analysis of the evidence a cosy alliance or
10 nascent agreement. Indeed, he says, Bruno Stojic says, "Rest assured,
11 Karadzic should get those pipe dreams out of his head."
12 Your Honours, nothing supports, not one piece supports this
13 Prosecution's case on this pivotal piece of evidence that they have
14 elevated above so many other pieces of evidence that it starts the
15 section of Bruno Stojic's alleged liability.
16 Now, Your Honour, going back to the Banovina. In the binders
17 before you, you see a map, the first document is a map of the Banovina of
18 1939. That's P09276.
19 Now, Your Honour, it's very clear that in Bosnia-Herzegovina, or
20 at least with regards to the Croats in Bosnia-Herzegovina, the Banovina
21 issue is something that is a matter of jest. It seems to be a point
22 where people are ribbed. But, Your Honour, be that as it may, Stanisic
23 says, "We will give you --" this the bottom at -- three-quarters of the
24 way down Page 4 of the transcript of the conversation: "We will give
25 you," now look at the map, Your Honours, "Visoko, Vares, Kakanj, Zenica.

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1 We'll give them to you." And Bruno says, "You can't give us what's ours.
2 That is the Banovina of 1939."
3 Well, Your Honour, the Prosecution pin their case that this is
4 about the Banovina of 1939. And if the Prosecution really say this is a
5 serious document, and if they really say that Bruno Stojic is motivated
6 by that serious sentiment, wouldn't one expect those areas to be within
7 the Banovina of 1939? They are not. They are not.
8 So, Your Honours, this transcript, this interview, must be viewed

9 with a great deal of circumspection.
10 Now, Your Honours, when it comes to other areas of the agreement,
11 and I'm being far too slow, but, for example, if one touches
12 Karadjordjevo agreement and the effect on Tudjman's policy, many things
13 can be said and a lot of arguments are put in the brief, a lot of
14 documents, but what strikes me is this: That if such an agreement really
15 took place, why does Bosnia exist? Why does Bosnia-Herzegovina exist
16 today? Who was the cavalry that was ready to ride to the rescue of the
17 people of Bosnia-Herzegovina in 1991 or 1992 or 1993? No one. The
18 evidence is very clear that Bosnia had no arms. It was ill-resourced.
19 It was ill-prepared. And it was that, in large measure, coupled with the
20 JNA attack on Croatia from Bosnian territory, and Alija Izetbegovic
21 saying that, "This is not our war," and then the Croats in Ravno being
22 attacked and nobody coming to their rescue that gave rise to the
23 formation of the Croatian Community of Herceg-Bosna. But, Your Honours,
24 if such an agreement was taken, is anybody seriously saying in common
25 sense, dispassionately, objectively, standing back, is anybody really

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1 saying that Belgrade and Zagreb could not have eaten Bosnia-Herzegovina
2 alive and it would have been no more today. In fact, the very existence
3 of Bosnia-Herzegovina is the best evidence that that agreement never
4 existed. It has taken the place of a legend, legendary status and much
5 more importance is given to it than it deserves.
6 And Your Honours, the evidence is clear that after these
7 agreements, after Graz, after Karadjordjevo, if there was such agreements
8 why were the constant conflicts between the Serbs and the Croatian
9 Community of Herceg-Bosna? Why? That very conflict gives the lie to the
10 suggestion that such an agreement existed. And, Your Honours, similarly,
11 why did the Croatian Community of Herceg-Bosna, why did Croatia keep on
12 giving assistance to Bosnia-Herzegovina? It was that assistance that
13 kept Bosnia-Herzegovina alive in those difficult hours. And, Your
14 Honours, Prosecution witnesses themselves have accepted that 80 per cent
15 or 90 per cent of the ordnance and the fuel and the materials that kept
16 the life pulse of Bosnia beating came through Croatian territory. So why
17 did that take place if, in fact, there was this idea to annex
18 Bosnia-Herzegovina and put the Bosnians in the middle of the Neretva
19 River.
20 Your Honours, a theory, however much work has been done on it,
21 however much analysis and man-hours have been spent, should not be
22 accepted simply by strength of repetition, simply because strong
23 arguments are put forward asserting this is the truth. This is correct.
24 Your Honours, in our respectful submission, key evidence does not support
25 such a conclusion at all.

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1 Now, Your Honours, throughout the case the Prosecution have been
2 saying that the Defence attempts to show how MTS was given through
3 Croatia to Bosnia-Herzegovina is irrelevant, and we have maintained as
4 forcefully, however deficient we may have been, as forcefully and as
5 honestly as we can that that is critical information, that is critical
6 evidence that Your Honours must not look away from.
7 Now, despite our best attempts, it seems we haven't triggered the
8 Prosecution into action, because, Your Honours, there's nothing in their
9 closing submission in relation to MTS. The only reference is in relation
10 to weapons that are given to the Serbs. Not a line, it seems, in
11 relation to MTS that's given to the Armija of Bosnia-Herzegovina.

12 And, Your Honour, the only other reference in their final brief
13 is to address the transfer of weapons from Croatia to the Croatian
14 Community of Herceg-Bosna. So just looking away at this inconvenient
15 truth that Bosnia was kept alive by the assistance -- through the
16 assistance of Croatia. Now, Your Honour, that is astonishing, and Your
17 Honours will look at paragraph 36 of our brief in which we seek to
18 dissect and detail the importance of MTS.
19 Now, Your Honours, the Prosecution have taken some issue with the
20 agreement of friendship of the 21st of July, 1992, and Mr. Karnavas,
21 towards the end, referred to 1D02147, which is, of course, a power of
22 attorney, in effect, to Dr. Prlic to represent the state. And, Your
23 Honour, at paragraph 36 and 39 of our closing brief, we refer to the 20th
24 of April, 1993, agreement that HVO and the ABiH should be treated
25 equally, and, Your Honour, that's -- that's P01988. And, Your Honour, it

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1 also talks about Mile Akmadzic in May 1993, so the actual president of
2 the Republic of Bosnia-Herzegovina, accepting that the HVO is a
3 recognised element of the forces.
4 So the Prosecution might not like it. They may try to say,
5 "Well, the Friendship Agreement was conditional." Well, it's not. It
6 doesn't say that the forces of the HVO will be an integral part of the
7 army if this happens, and the Prosecution have pointed out it was very
8 carefully drafted. They say that the HVO is an integral part. And, Your
9 Honours, in reviewing the veracity of that assertion, and Your Honours
10 perhaps will have recourse to 2D00628, which details that after the
11 conflict, in June -- well, in June 2004 -- yes, in June 2004, that
12 pension rights were given to all members of the HVO. And in fact, the
13 Pusic brief refers also to 6D00014, that all HVO documents and HZ HB
14 documents have been declared to be legal.
15 Your Honours, this is not some kind of illegal territory that the
16 Prosecution would have you believe. At least it's not a criminal entity
17 that the Prosecution are trying to establish, and that's the important
18 point, because even when one looks at Tudjman and looks at various
19 comments he made, it's reality, however much we might not like it, that
20 every scenario was discussed not just by Tudjman or Milosevic or
21 Alija Izetbegovic but all world leaders as to how do you cope with a
22 disintegrating country like Bosnia-Herzegovina?
23 Now, Your Honours, in some ways it's very similar to Pakistan and
24 India, because the whole raison d'etre of partition after the Second
25 World War was disagreement between Jinnah in Pakistan and Nehru in India

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1 and the fear that one person one vote will not safeguard rights where
2 people vote on confessional or sectarian or religious or ethnic lines,
3 because the result of it, when people are -- when there's not true
4 democracy, when there's not true democracy, so people vote for the best
5 person for the job, what happens is there is a continuation of a rule of
6 a majority, and that's what the Croatian people in Bosnia-Herzegovina
7 were concerned about. They wanted to secure their rights.
8 Now, Your Honours, that's not criminal. What the Prosecution
9 must prove is that that -- that they went beyond a certain limit and
10 engaged in criminal conduct to safeguard their rights. Your Honours,
11 that, we say, they have failed to do.
12 Your Honour, that is signified by many pieces of evidence, but in
13 fact, if one looks at the Defence brief, you will see that on many
14 occasions, rather than seeking to pull away from the Republic of

15 Bosnia-Herzegovina, the Croatian Community of Herceg-Bosna, in fact,
16 wished to get closer to it. And, Your Honours, at paragraph 41 of our
17 brief, we give an example of where deeper relations were wanted with
18 Bosnia and Herzegovina.
19 Now, Your Honours, there's a lot to cover, but let me just refer
20 to two documents very briefly before the break. Your Honours, the first
21 is 2D9. It should be the next document in your folder, and this is
22 relevant to the Prosecution assertion that Croatia was absolutely focused
23 on fighting and dismembering and annexing part of that territory and
24 making a Greater Croatia. Now, what this document shows, dated the 15th
25 of July, 1993 -- the date's important. 15th of July, 1993. Is that the

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1 republic of Bosnia-Herzegovina, the enemy, according to evidence that's
2 been referred to out of context by the Prosecution, are requesting to
3 establish a logistics department of the Supreme Command Staff of
4 Bosnia-Herzegovina armed forces in Zagreb and in Split.
5 Now, Your Honours, at the bottom of the first Page you'll see the
6 name of Azim Karamehmedovic.
7 Now, Your Honours, if you go to the next document, which is
8 2D196, you will see this same person, Azim Karamehmedovic, four months
9 earlier, on the 15th of March, 1993, requesting assistance with the
10 transport of equipment to the central logistics base of the Bosnian Army
11 in Visoko. And, Your Honours, rather than being dilatory and tardy and
12 obstructing and being difficult, as one would expect from a country that
13 is seeking to be at war or as following a two-track policy, in a
14 remarkable turnaround time, 2D -- the next document 2D527, shows that the
15 very same day that request is approved.
16 Now, this is a remarkable display of efficiency.
17 Your Honours, perhaps if, for all his excellent work, if the
18 registry had displayed this efficiency, we may have been paid since
19 November. But it's a fantastic degree of co-operation from Croatia. It
20 doesn't support the Prosecution's theory that Croatia in fact was seeking
21 to carve up part of that territory.
22 Of course, the evidence can be viewed and twisted and looked in a
23 certain way that would give a decent enough case to the Prosecutor, but,
24 Your Honour, that is not the test. The test, of course, is that where
25 the joint criminal enterprise relies upon circumstantial evidence, it

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1 must be the only reasonable conclusion.
2 Your Honour, that's the finding from the Haradinaj judgement, and
3 I'll quote from it:
4 "The Prosecution is required to present direct evidence in
5 support of its JCE allegation. In the absence of direct evidence --"
6 So pausing there. Of course it's possible to rely upon only
7 evidence.
8 "In the absence of direct evidence, the inference from
9 circumstantial that there existed a JCE with the objective, with the
10 objective, to commit such crimes must be the only reasonable conclusion
11 on the evidence."
12 Your Honours, in our respectful submission, and this is my last
13 comment before the break, the Prosecution have not established that there
14 is no other theory to explain this conduct except a criminal, planned
15 joint criminal enterprise. Your Honours, that is one of many reasons why
16 Bruno Stojic must be found not guilty in relation to these counts, and
17 why the Prosecution evidence, through all their hard work and diligence,

18 simply doesn't withstand close scrutiny.
19 JUDGE ANTONETTI: [Interpretation] It is now time to have a break.
20 We shall have a 20-minute break.
21 --- Recess taken at 12.35 p.m.
22 --- On resuming at 12.55 p.m.
23 JUDGE ANTONETTI: [Interpretation] The court is back in session.
24 Ms. Nozica, you have the floor.
25 MS. NOZICA: [Interpretation] Good afternoon, Your Honours. Good

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1 afternoon to everyone in the courtroom.
2 Before I start my final arguments, I would like us to be
3 absolutely sure about the transcript, although we have already
4 intervened, but I would like to repeat this for the record. Page 69,
5 line 24, instead of the word "illegal," the word should be "legal." And
6 then on Page 62, line 4, the word "Kvesic" should be replaced by the name
7 "Tomislav Kresic."
8 Your Honours, we are very grateful to all the witnesses who have
9 come here to testify on behalf of Mr. Bruno Stojic, and I allow that my
10 learned friends, as well as all the other foreigners in the courtroom,
11 have certain problems with our family names, which explains this error.
12 Your Honours, I will now continue and deal with paragraphs of the
13 Prosecutor's final submission dealing with the criminal responsibility of
14 Bruno Stojic. However, before I start dealing with that part, I would
15 like to say to the Trial Chamber that I, as Mr. Bruno Stojic's counsel,
16 was most unpleasantly surprised with an inappropriate gesture by the
17 Prosecutor who, in his final argument, mentioned Mr. Bruno Stojic's
18 grandson.
19 His Honourable Judge Trechsel said that we come from the
20 continental law system where certain freedoms do not exist when it comes
21 either to the Prosecutor or the other parties in the proceedings. The
22 freedom of expression in our courtrooms of that kind would certainly
23 cause a reaction or even a request for contempt of court if somebody
24 dared to expose family members of the accused within the context of a
25 claim that the accused is guilty of certain charges.

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1 I don't think that that was appropriate. We believe that it was
2 inappropriate to find on the record of the largest proceedings that have
3 ever been conducted before any international court, and it will be
4 inappropriate for this ten-month old child who cannot be guilty of
5 anything, just like my client is not guilty of anything because there is
6 a presumption of innocence. So it will be inappropriate for this
7 ten-month old child to find himself in the historical records.
8 I know that the Anglo-Saxon system allows for a lot of things,
9 but in the system that we come from, some things are absolutely
10 inconsiderable. It is absolutely inconsiderable for a prosecutor to say
11 in their final brief the six accused, that they are criminals. It is
12 inappropriate and unacceptable for the Prosecutor to say about Witness NO
13 that he is a war criminal, and he says that only because that person had
14 come here to testify on behalf of the Defence.
15 The Prosecutor may praise other witnesses whom he had not called
16 and he used to contradict the -- the Defence case. However, to call
17 somebody a war criminal without them being ever charged or convicted, we
18 believe that this is a disgrace.
19 Your Honours, I wish on behalf of in Bruno Stojic's defence to
20 state this publicly, because I believe that this causes unrest among the

21 people in the area of Bosnia-Herzegovina who are tuned into this -- these
22 proceedings.
23 My learned friend said that the Stojic Defence expressed
24 sympathies towards all the victims, and I repeat that, but I would also
25 like to add to that that victims, whenever possible, to hear that an

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1 accused be found guilty if they indeed are guilty and not if they're
2 innocent. A victim does not want just anybody to be found guilty of
3 charges. If that happens, those people stop being victims.
4 There are certain things that we -- that were said in this
5 courtroom that we deem inappropriate. For example, when these six
6 accused were compared with Nazi criminals and all the other
7 qualifications uttered by the criminal. I believe that the Honourable
8 Trial Chamber will see that as a razzle-dazzle that lawyers engaged in to
9 prove something that was not proven in these proceedings. And now I'm
10 now going to move on to deal with certain paragraphs in the Prosecutor's
11 final brief.
12 In paragraph 528, the Prosecutor presents Exhibit P2690 and P3038
13 to claim that Stojic's statements contained in the exhibits express a
14 strong desire to achieve a unified Croatian homeland and that those two
15 proclamations issued by Bruno Stojic had mobilised Bosnian Croats.
16 Your Honours, the two statements were a reaction on the part of
17 the HVO to the most fierce attacks by the BiH Army in June 1993, and
18 cannot be brought into connection with any of the Prosecutor's
19 conclusions.
20 In order to demonstrate that the Prosecutor's claim is not
21 justified, let's look at document P2690 that you, Your Honours, have in
22 your binder.
23 Mr. Bruno Stojic's Defence has prepared the binders for the Trial
24 Chamber, a binder that contains all the documents that we are going to
25 mention. I will always give you the number for your perusal.

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1 Your Honour, the date of this statement is very important. The
2 statement was issued on the 9th of June, 1993. This statement, which was
3 a reaction to an ABiH attack against the HVO in Central Bosnia, as I've
4 already stated, and as has been explained in paragraph 417 of our final
5 brief, two crucial things arise from these statements and those two
6 crucial things are quite different from the Prosecution case.
7 The first is a fact that the HVO was not prepared for the war
8 with the ABiH. This arises clearly from the sentence: "We did not
9 prepare for this war, but we have to accept it," which means we were not
10 prepared for a war against the ABiH. However, the ABiH was the one that
11 fired the first bullet and started the war. This is very important both
12 for the JCE, as well as for what the Prosecution charges Bruno Stojic
13 with in this particular paragraph.
14 Second of all, from the part of the statement I would like to
15 quote:
16 "There will be no retreat before anybody. Whoever opens fire at
17 you is your enemy, and you have every right to return fire."
18 Your Honours, this is another clear sign that the HVO considered
19 the BiH Army its ally up until that particular attack. In other words,
20 the HVO, up to then, did not consider the BiH Army its enemy.
21 Let's now talk about document 3238. A lot was said about this
22 document during the -- during Mr. Prlic Defence case. Sometimes in my
23 brief I'm going to use just the family name. I don't think that this is

24 particularly polite in reference to the accused. However, my time is
25 very short, and it doesn't allow me to give the full names or the

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1 person's titles.

2 In paragraphs 223 and 231 of the Prlic Defence final brief, it is
3 stated that the Defence Department within the structure of the HVO HZ-HB
4 had a very specific position due to its special relationship -- or,
5 rather, a special relationship between the Defence Department and the
6 president of the HZ-HB, and because of the fact that the president of the
7 HZ-HB, in keeping with Article 30 of the Decree on Armed Forces, was in a
8 position to transfer his authorities on the head of the Defence
9 Department.

10 The Prlic Defence dealt with Article 30 even earlier today, and
11 I'm going to come back to that article tomorrow, but before I start
12 analysing the report from document P3038, I would like to say that the
13 Prlic Defence adheres to the assumption that Bruno Stojic had
14 authorities, and the fact of the matter is such authorities do not exist
15 and are never documented. In no documents are such authorities
16 documented.

17 The Prlic Defence claims in their brief and in their final
18 arguments that the president of the HZ-HB had to transfer his authorities
19 on Bruno Stojic when orders were issued on the implementation of
20 mobilisation on the 30th of June, 1993. We are talking about Article 30
21 of the Decree on Armed Forces, which was adopted under P588.
22 Bruno Stojic didn't have, nor did he have to have, any
23 authorities transferred onto him from the president of the HZ-HB in order
24 to able to issue this order. At the time when that order was issued, at
25 the moment when the document was issued as a single act signed by

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1 Jadranko Prlic, that was clear to Jadranko Prlic, because he would not
2 have put his signature at the bottom of that document if Bruno Stojic had
3 done anything that would have been contrary to these authorities. He
4 would not have omitted to refer to an alleged Boban's transfer of
5 authorities.

6 We saw from Mr. Prlic's Defence brief and final arguments that he
7 discharged very important duties in Bosnia-Herzegovina even before the
8 war. He was a highly educated person and he was not knowledgeable in
9 administrative matters, and I'm sure that he knew that if somebody issued
10 a document on somebody's behalf that a reference had to be made to a
11 document whereby those authorities were transferred onto him.

12 Pursuant to Article 37 of the Decree on Armed Forces, the
13 president of the HZ-HB, Mr. Boban, was the only person with authorities
14 to proclaim mobilisation. He did that, and we can see that in document
15 2D1364, dated the 10th July, 1992, and he did that because of the attack
16 by the Serbian Army and the JNA on the area of Herzegovina.

17 The Defence Department, pursuant to Article 38 of the Decree on
18 Armed Forces, was in charge of preparations and implementation of
19 mobilisation through the administrations and offices for defence which
20 were integral parts of the civilian part of the Defence Department. We
21 provided quite some detail in paragraph 3222 of our final brief.

22 However, even before that the HVO of the HZ-HB, headed at the time by
23 Jadranko Prlic, pursuant to Article 9, item (5) was supposed to issue
24 regulations regulating the way a mobilisation would be carried out.
25 Before I mentioned an order, dated 30th June, 1993, that we had

1 been discussing, was actually an implementation of the mobilisation which
2 was confirmed by Witness Bruno Pinjuh who was the head of the office of
3 defence in Citluk, and that he confirmed on transcript Pages 37279 to
4 37280.

5 Your Honours, why do we claim that the president of the HVO
6 HZ-HB, Jadranko Prlic, knew that Bruno Stojic should not have had any
7 authorities to issue that order? The reason, Your Honours, is this:
8 Bruno Stojic had to have this authority from Boban to issue that order.
9 In that case, the president of the HVO of the HZ-HB, Mr. Jadranko Prlic
10 should also had -- had to have such an authority from the president of
11 the HVO HZ-HB in order to be able to sign the decision Izetbegovic P279
12 -- P707 on the implementation of mobilisation, and in paragraph 1 of that
13 decision it states:

14 "All non-mobilised persons of military age who reside in the
15 territory of the HZ-HB are duty-bound within eight days from the day this
16 decision is published to report to the competent offices for defence
17 where their name is on military records."

18 Your Honours, this decision which was signed by Mr. Prlic in
19 terms of its contents does not differ even the slightest from the defence
20 which is an integral part of P3038. However, by the same token, the
21 president of the HVO HZ-HB, Mr. Jadranko Prlic, should have had an
22 authority from the president of the HVO HZ-HB when at the session of the
23 HVO HZ-HB on the 18th of June, 1993, which he chaired, the following
24 conclusion was reached, and I quote:

25 "Criteria for mobilisation across municipalities should be the

1 same. Mobilisation should be carried out in an equal manner up to a
2 certain year of birth according to the estimate of competent bodies."
3 This is Exhibit 1D1275 and the conclusion can be found under
4 item 2.

5 About the implementation of mobilisation, the HVO HZ-HB discussed
6 that and made conclusions at the sessions mentioned in 1D1669, 1D1672,
7 P2575, and P5799.

8 Neither Bruno Stojic nor the HVO HZ-HB did not have any special
9 authority to implement mobilisation, and this is best corroborated by
10 document number 2D1485, which was signed by Bruno Stojic. In its
11 preamble, that document refers to a decision issued by the government of
12 the HZ-HB, and that decision was issued on the 18th of June, 1993.
13 Therefore, that was a decision issued by the HVO HZ-HB, which obviously
14 on that day discussed the issue of mobilisation. And it doesn't refer to
15 any authorities that would have been vested in Mate Boban in the way that
16 the Prlic Defence wants to show it.

17 Based on those special relations between President Mate Boban and
18 other bodies in the HZ-HB is something that I will be discussing later
19 on.

20 In paragraph 529 of the Prosecutor -- Prosecutor's final brief,
21 the Prosecutor states that Witness DZ testified and said that people like
22 Boban, Stojic, and Prlic expressed a desire to merge the Croatian
23 population from other parts of Bosnia-Herzegovina and form a single
24 Croatian entity and that the Muslim leaders should do the same with their
25 fellow Muslims.

1 The footnote 1206 refers to document number P10367, paragraph 70,

2 which is the witness's statement, the witness being DZ. And this is
3 offered as proof. However, the quoted footnote does not reflect that.
4 Further on, in the same footnote, the Prosecutor refers to
5 transcript Page number 26573. However, the claim is not corroborated
6 even there.

7 The witness didn't testify that he had ever heard that from Bruno
8 Stojic. He said on the same Page, lines 9 and 10, and I quote:
9 "Pogarcic told me something that Bruno Stojic had stated about
10 the surrender of Mostar up to -- before the end of June."
11 On this transcript page, the Prosecutor, in regard to that
12 part of the witness's testimony, showed the witness document P2930 and
13 asked him whether that was a report reflecting the conversation with
14 Pogarcic, who was the head of Mr. Boban's office. Let me just say that
15 for the sake of clarity. So he asked him whether that was a report from
16 the conversation with Pogarcic, and the witness said, "Yes." That
17 conversation allegedly took place on the 23rd of June. So this was a
18 conversation between the witness and Vlado Pogarcic and not his claims
19 and not the claims of Bruno Stojic.
20 Your Honours, I kindly ask you to carefully review this report by
21 Witness DZ, which is P2930. You will see that nowhere Bruno Stojic's
22 name is mentioned. Only Vlado Pogarcic's words are stated there. This
23 is an incredible construct which is actually admitted by the witness
24 himself, because he confirms both his assertion about Bruno Stojic and
25 the document in which Bruno Stojic hasn't even been mentioned.

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1 Your Honours, I submit that this is clearly a false testimony,
2 because it is completely illogical for a witness giving his statement 11
3 years after talking to Pogarcic to remember something that wasn't
4 contained in his report at all. If Pogarcic had really said that, it
5 would have been mentioned in the report.
6 The Prosecution mention Witness DZ zillions of times, and the
7 same goes for his statement, which has been admitted as P10367, and he --
8 it speaks against Bruno Stojic.
9 We will mention all that goes to show his unreliability, the
10 witness's unreliability. We consider that even the Prosecution, after
11 the statement of -- after the evidence of this witness, understood that
12 the witness is unreliable. But they seem -- but maybe after all they
13 haven't understood that, although everybody in the courtroom understood.
14 The witness was shown by the Stojic Defence in the
15 cross-examination all allegations from his evidence about Bruno Stojic
16 which he had confirmed during the examination-in-chief. This has been
17 recorded on transcript Pages 26757 through 26799, but the witness was
18 unable to explain to the Court how he could have stated that when he --
19 when he heard something allegedly, what he heard and from whom he had
20 heard it.
21 What is most important for the testing of the reliability of this
22 witness is that his allegations in his evidence are not contained in his
23 reports which we have also presented to him. That witness's evidence is
24 a mala fide, untrue construct aimed at the impeachment of Bruno Stojic or
25 showing him as unbelievable.

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1 The best evidence for that is paragraph 32 of his statement in
2 which he describes the liberation of the UN interpreters in June 1993
3 when they were taken prisoner at -- in the Konjic pocket.
4 "I think that Stojic directly contacted Konjic," said the

5 witness, "and approved their release. They were released on the same
6 day. Stojic didn't do that of his own free will. I think that because
7 of the conversation with me, he got worried what -- what could be the
8 implications unless the UN personnel is released."

9 This is the end of my quotation.

10 Could we please go into private session now.

11 JUDGE ANTONETTI: [Interpretation] Madam Registrar, could we
12 please move to private session.

13 [Private session]

14 (redacted)

15 (redacted)

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11 Page 52326 redacted. Private session.

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1 (redacted)

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18 (redacted)

19 [Open session]

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

21 MS. NOZICA: [Interpretation] Your Honours, this is an accurate
22 description of the work of this witness, the lack of background
23 information. And it is this very lack of background information that
24 this witness, giving evidence here and making a statement for this
25 Tribunal made up for by fantasising and contriving.

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1 In the same paragraph, the OTP quote the statement of Witness
2 Christopher Beese that Boban and Stojic represented the longings of
3 Croatian nationalists, corroborating it by the testimony of this witness.
4 But this witness's evidence is arbitrary and unfounded for the following
5 reasons: This witness, in his evidence before court, says that he met
6 Stojic five times for 30 minutes each and that it was sufficient for him
7 to make the conclusion that he was a nationalist and a member of the
8 Mafia. After that, he took back part of his statement with regard to the
9 Mafia which was recorded on Page 5365.

10 I would like to point your attention to the fact that

11 Witness Beese, according to his statement, was in BiH from 9 January 1993
12 through 21 July 1993. In this period the ECMM, who was a member this
13 witness was, drafted 96 reports which were admitted by this court as
14 evidence.

15 It is obvious from these reports that only three meetings with
16 Bruno Stojic were held and none was attended by Witness Beese. It
17 follows from their reports.

18 All -- all of these three meetings were such, content-wise, that
19 they do not justify this witness's conclusion about Bruno Stojic in any
20 way. The only remark about Bruno Stojic was made by the witness in
21 report P2620 but not based on a conversation with him, and he alleges
22 there that both in the past as in the present, Bruno Stojic's office was
23 frequented by weapons merchants, many of who hailed from Germany.
24 In the cross-examination, he was asked where he got that
25 information, and he answered that he saw boxes in the office and that

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1 somebody, but he doesn't know who, later said to him that weapons
2 merchants from Germany had been there. So the witness was unable to
3 proffer proof for this allegation, let alone for his allegations about
4 nationalism.

5 If Bruno Stojic had said and did anything that this witness was
6 able to hear, then it must have been recorded in the reports, because
7 that was the practice of all monitors. So we can conclude that the
8 witness has put forward a qualification for which there is no supporting
9 proof and which is contrary to all evidence led. Bruno Stojic wasn't a
10 nationalist then, and he's not -- he isn't one now.

11 I will now refer only to three pieces of evidence, Your Honours,
12 which show his conduct toward the BH Army, which is also contrary to the
13 aspirations of what he calls Croatian nationalists, and this is also
14 accepted by the OTP.

15 Please take a look at 2D311 in our binder. It's an order to
16 issue materiel and technical equipment to the BH Army on 30 March 1993.
17 At the top of the document written in Croatian, we see Bruno Stojic's
18 name, and we see it also on the second Page of the original where Safet
19 Orucevic is mentioned next to Stojic. So these two persons were involved
20 in the delivery of the materiel and technical equipment.
21 We will see from the following document that Orucevic, the person
22 mentioned, was in charge of supplying the 4th Corps with materiel and
23 technical equipment. And I mean the 4th Corps of the BH Army.
24 Your Honours, if you look at the transcript, Pages 12480 and the
25 following, you will see that all this materiel actually made it to the

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1 logistical centre of the BH Army at Visoko, which was confirmed by
2 Prosecution Witness CU. When we look at the date and the quantities of
3 the materiel and technical equipment, we cannot but conclude but that a
4 man took part in this operation who believed in the joint struggle, the
5 joint fight of the BH Army and the HVO.
6 Your Honours, I deliberately failed to mention CU's duties,
7 because that would uncover his identity, but you can check it in the
8 transcript.
9 It's impossible, Your Honours, for a man to participate in this
10 operation of whom Witness Beese says that he's -- he's a nationalist and
11 a representative of the Croatian nationalists' aspirations.
12 Your Honours, let us take a look at the quantities of materiel
13 and technical equipment which on March 30, 1993, contrary to the
14 Prosecution's allegations that the Croatian Ministry of Defence, did
15 provide help or aid in 1992 but not in 1993.
16 The date is extremely important and I will explain why. This is
17 3 million pieces of ammunition, 3.000 automatic rifles, then there are
18 launchers, mines, rockets. These are huge quantities of weapons, and I
19 take the liberty of reminding the Trial Chamber of the fact that the
20 4th Corps of the BH Army, only seven days earlier, had blocked Konjic and
21 arrested 150 HVO members after that, continued arrests which follows from
22 the report of Command Midhat Cerovac, which is Exhibit 4D438.
23 Your Honours, Bruno Stojic knew that, because after these events,
24 he went to Konjic with Milivoj Petkovic to calm down the situation, and
25 that did not prevent him from participating in the operation of supplying

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1 the BH Army with weapons. One part was given to the BH Army in Mostar,
2 as was said by Witness CU on the cited Page of the transcript.
3 Obviously, Bruno Stojic then believed that a joint struggle of the
4 BH Army and the HVO still was possible.
5 I owe you document 2D229. You have it in your binders, Your
6 Honours. It shows that Safet Orucevic was charged to deal with the entry
7 of materiel with the HVO, and according to the opinion of the commander
8 of the 4th Corps, he was successful doing this job until 26 February 1993
9 when this letter was drafted, but even later, as we have seen in document
10 2D311, and we'll see that in the following documents as well.
11 Bruno Stojic's position about the joint fight of the BH Army and
12 HVO, which was possible, and Bruno Stojic's position towards the Muslims
13 and Bosnia-Herzegovina, the position of Bruno Stojic the man, Bruno
14 Stojic the head of the Department of Defence, can be seen from the letter
15 in which he thanks to commander of the MUP special unit of BiH, Dragan
16 Vikić, 2D195. He thanks them, Slobodan Praljak and Milivoj Petkovic, for
17 the armaments sent from Grude to Sarajevo in February 1993. At that

18 time, Sarajevo was occupied by the Serb army and these three accused sent
19 weapons to Sarajevo to defend itself from a possible attack by the
20 Serbian Army.
21 This is what Witness Cengic testified about, Nedžad Cengić.
22 It was then, Your Honours, when Bruno Stojić was convinced that a
23 joint fight of the BH Army and the HVO against a common enemy was
24 possible.
25 I have one more document and a short comment before the break. I

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1 I can see that you're looking at the clock. So if you allow, I will
2 proceed.
3 Furthermore, Bruno Stojić actively participated in sending
4 materiel and technical equipment to the 2nd ABiH Corps on the 1st of May,
5 1993, which is corroborated by documents 2D1107 and 2D1108. The
6 testimony of BH Army General Andjelko Makar also. The references in the
7 transcript are 38447 through 38449.
8 Your Honours, this happened eight days before the BH Army attack
9 in Mostar on the 9th of May, 1993. Even then Bruno Stojić was convinced
10 that a joint fight of the HVO and the BH Army against the common enemy
11 was possible.
12 The opinion of Witness Beese, who also lacked background
13 information and any other observer's opinion based on an impression
14 rather than concrete facts, cannot be -- cannot have more weight than
15 Bruno Stojić's concrete actions that we have shown.
16 Your Honours, I think that it is now time for me to stop, and I
17 will continue tomorrow, if you allow.
18 JUDGE ANTONETTI: [Interpretation] Very well. Indeed, it is time
19 to end the day. So far you used up 1 hour and 40 minutes. You have 3
20 hours and 20 minutes left.
21 Mr. Karnavas.
22 MR. KARNAVAS: Good afternoon -- I guess it is afternoon, Your
23 Honours.
24 In our final brief, we indicated quite clearly that Dr. Jadranko
25 Prlić is innocent and should be acquitted. I sat down without

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1 reiterating it. I think throughout the last five years we've mentioned
2 it over and over again, but suffice it to say since I did omit it before
3 sitting down, that it is our position that there is no evidence against
4 him and he should be acquitted. Thank you.
5 JUDGE ANTONETTI: [Interpretation] Very well. We will resume
6 tomorrow at 9.00. Thank you.
7 --- Whereupon the hearing adjourned at 1.45 p.m.,
8 to be reconvened on Wednesday, the 16th day
9 of February, 2011, at 9.00 a.m.
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