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1 Wednesday, 6 May 2009

2 [Open session]

3 [The accused entered court]

4 [The Accused Prlic and Coric not present]

5 [The witness takes the stand]

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

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

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

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

13 Thank you, Your Honours.

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

15 Today is Wednesday, 6th of May, 2009. Good afternoon to
16 Mr. Stojic, Mr. Petkovic, Mr. Pusic. Good afternoon to you,
17 General Praljak, and good afternoon to the Defence counsel, Mr. Scott,
18 Mr. Stringer, and all their associates and the people assisting us.

19 I'll first give the floor to the Registrar. He has an IC number
20 for us.

21 THE REGISTRAR: Thank you, Your Honour.

22 2D has submitted its response to the Prosecution's objections to

23 their request for admission of exhibits tendered through
24 Witness Dragan Juric. This list shall be given Exhibit IC1008. Thank
25 you, Your Honours.

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

2 Before we continue with the examination-in-chief, the Trial
3 Chamber, through me, has three things to say.

4 The first thing: The Trial Chamber invites General Praljak's
5 Defence, through his counsel, Mr. Kovacic, to download, before the
6 hearing, all the documents that he plans to put with their questions.

7 All the documents have to be in the e-court system so that the Registrar
8 can call them up. Of course, we settled the issue by using the ELMO, but
9 in principle, it is better to send the document to the e-court system
10 before the hearing begins. So make sure it is done.

11 Secondly, with regard to time, in order to avoid any possible
12 misinterpretation as to the way time is recorded, when a Judge puts a
13 question on a given topic, obviously enough, the time is not going to be
14 taken out of the accused's time. However, the accused has to give a
15 concise and brief answer to the Judge's question. Last time, by way of
16 an example, Judge Prandler asked a question on Croatia and Hungary, and
17 Mr. Praljak answered close to half an hour. That's far too much. If the
18 Trial Chamber is of the view that the answers are too long, we might take
19 the time out of the overall time allotted to Mr. Praljak. So please,
20 Mr. Praljak, do make an effort. Do try to answer briefly when the Judges
21 put questions to you.

22 Now, if, following a question that was ill put by the lawyer, or
23 if it's a leading question, or if Mr. Praljak sort of answers all over
24 the place, the time taken to settle the objection, because Mr. Stringer
25 is bound to get on his feet and put an objection, that time is going to

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1 be taken out of the accused's time. It's not going to be taken out of
2 the time given to Judges, especially if a Judge does intervene in order
3 to correct the problem and invites the accused to answer, but then it is
4 taken out of the time given to the accused.

5 Thirdly, towards the end of yesterday's hearing we had an
6 exchange of arguments on the fact that the Judges noted that
7 General Praljak often sort of spilled over or went beyond the scope and
8 went into general topics. There was a suggestion made by Mr. Karnavas.
9 He invited Mr. Praljak and his lawyer to focus on the facts and possibly
10 to go into general issues on a case-by-case basis. The Trial Chamber
11 renews its invitation to Mr. Praljak. He is to answer questions
12 especially based on facts, because facts are the primary concern of
13 Judges. We expect Mr. Praljak, and it is in his own interest, to give us
14 precise information on facts that he was given to know, that he knows,
15 and that he's likely to give us information about, so that the truth can
16 be established. Any speech that will go really all over the place will
17 have to be focused again.

18 Let me give you an example. If we are to deal with control of
19 soldiers, we expect Mr. Praljak to tell us what is his first-hand
20 knowledge and experience on the issue. We know that he went to the

21 front-line, he told us so, and he can say, This is the specific problem I
22 was faced with when I was on the front-line. There's no point in telling
23 us about Hagel, Kierkegaard or Engels in order to speak about that topic.
24 Do stick to the facts, because that's what we are interested in, because
25 when we draft the judgement, we have to say whether the military

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1 commander did communicate to us specific facts. Any psychological or
2 political reference in this instant case will have very little, if any,
3 probative value.

4 Therefore, the Trial Chamber once again invites the accused, as
5 was pointed out yesterday by Judge Trechsel, to focus to the facts.
6 There may have appeared some kind of divergence of views among the
7 Judges, but that is not so. We all, each and every one of us, want
8 General Praljak to focus on the facts.

9 If at any time or at a given time he may say, Yes, in terms of
10 command, I had to deal with drunkards for this or that reason, that he
11 can say, but he's not supposed to start a theory on alcoholism. That is
12 of absolute no interest whatsoever.

13 So this is just by way of reminder so that the hearing can unfold
14 as best as possible, to avoid incessant objections, for Mr. Praljak to be
15 able to develop his line of defence in a serene and calm way, without
16 being interrupted; so everyone can take notes and listen to him; so that
17 his lawyer can ask questions of him in a clear fashion; so that the
18 answers be brief and clear. All this first proves to be established.

19 This is what I wanted to say, and I do hope that everybody

20 understood me, everybody has funded the issue, and I hope, Mr. Praljak,
21 that you will make an effort, keeping in mind primarily the following
22 guide-lines: I have to focus on facts. I have to provide clear and
23 brief answers.

24 This is not a university campus. We cannot go on forever on each
25 and every topic in the world. This is a criminal court, and it is a very

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1 specific case. We, as Judges, we have to make findings. That's the
2 reason why you have to answer the questions that are put to you, without
3 going astray into fields that may be of interest, but are very remote
4 from the facts of the case.

5 So I hope everybody got my message.

6 Mr. Kovacic, you may proceed.

7 MR. KOVACIC: [Interpretation] Thank you, Your Honour. Good
8 afternoon to all.

9 We understand your instructions, and we will do our best to
10 comply with it, although to a large extent we have now completed our
11 introduction in which we tried to indicate the general backdrop against
12 which certain events unfolded.

13 Just in order to inform the Chamber, the question was raised
14 yesterday about what documents Mr. Praljak was referring to when he
15 talked about the calculation regarding the shells that fell on East
16 Mostar and the calculation based on SpaBat reports, and then also the
17 artillery/ammunition expenditure by the JNA, or according to standards
18 defined by the JNA. The numbers are IC00559. That's the first document,

19 where Praljak quite simply calculated or added up all of the shells --
20 the amounts of shells recorded by SpaBat in their ECM reports in the
21 second half of 1993.

22 The other one is 3D01727, are the ammunition expenditures
23 according to JNA standards, general standards used by armies, providing a
24 general idea of what an artillery unit would normally use up in
25 situations such as these. These are the document references, so you can

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1 have a look now.

2 WITNESS: SLOBODAN PRALJAK [Resumed]

3 [Witness answered through interpreter]

4 Examination by Mr. Kovacic: [Continued]

5 Q. [Interpretation] Good afternoon, Mr. Praljak.

6 A. Good afternoon, Mr. Kovacic.

7 Q. I would like to go back a little or, rather, complete our
8 discussion on a topic that arises from your CV. I would like to ask the
9 Registrar to hand to us the folder entitled "CV" or biography, personal
10 information.

11 A. Before that reaches us, I would like to thank the Judges, and I
12 would like to explain that it was by no means my intention to cast my
13 bales of wisdom around this courtroom. Everything I was trying to say
14 and all the information that I was trying to get in had one motive at the
15 root. I mean, a mental desire was to show what happened to us and what
16 happened to others and to try to show the correlation between these
17 events, why we did what we did, why we couldn't have done any better or

18 why we couldn't have done any worse. I will try to abide by your
19 instructions, but please do by all means understand that my intention was
20 only this: To try to view a complex situation, such as a war, from the
21 greatest possible number of different perspectives.

22 Q. Thank you very much. General, several questions to go through.
23 I think the fastest way to do this would be for you to go to the CV
24 folder, biography folder, documents and all of your appointments and
25 dismissals in 1993 in Bosnia and Herzegovina.

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1 Before that, I would just like to ask you a preliminary question.
2 What was your status in 1992 in Bosnia and Herzegovina? As you have
3 pointed out before, you spent some time there and then spent some time
4 elsewhere. You would come and go throughout that time. What was your
5 official capacity in Bosnia and Herzegovina in 1992?

6 A. Back in 1992, it was on the 10th of April, 1992, that I was
7 appointed commander of a front that we referred to as
8 South-Western Herzegovina. **I remained in that position, I believe, for a**
9 month and a half, after which a replacement arrived and I went back to
10 Croatia **to work as assistant minister for IPD.**

11 Q. Could you now please go to this folder that I handed to you. The
12 first document that I'm about to show to you is P02604. This is an
13 exhibit already. It has been tendered and admitted. Could you please
14 just say, in a couple of words, what this document really is?

15 A. This is an application in which I request the Ministry of Defence

16 of the Republic of Croatia to enable me to go to Bosnia and Herzegovina,
17 to fight there, as the aggressor by this time was very powerful already.
18 I also asked for my dismissal from the Croatian Army.

19 Q. And when exactly did you file this application?

20 A. The 1st of June, 1993.

21 Q. Thank you very much. Can you please move on to the next
22 document, 3D00278, another exhibit, but just in order to put everyone in
23 the picture.

24 A. The 15th of July, 1993, our application was granted. A decision
25 was made by the Personnel Administration section of the Defence Ministry

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1 of the Republic of Croatia, dismissing me or discharging me from myself
2 duties with the Defence Ministry.

3 Q. The next document is P03683, and this should be seen jointly with
4 3D00279. Let's try to look at these two at the same time. The documents
5 are identical, but I think I can allow myself to say, and this is not
6 giving evidence, the first P document, as everyone has learned so far, is
7 from packet communication, and the next one is the original signed by the
8 person who produced the document. Can you please explain what that
9 document means?

10 A. The 24th of July, 1993, the supreme commander of the HVO, Mate Boban
11 appointed me commander of the Main Staff of the HVO. In this document,
12 Major General Milivoj Petkovic informs the units of the HVO of the HZ-HB
13 that my appointment to the post of commander of the Main Staff of the HVO
14 was made and that I was hereby appointed to that position by Mate Boban.

15 Q. Right, thank you. Next document, just to put this on the record
16 clearly. As of that date when this information was forwarded, you were,
17 de jure, commander of the Main Staff of the HVO of Bosnia-Herzegovina;
18 right?

19 A. Yes.

20 Q. The next document up is P06235. Can you please look at that
21 document. The 20th of September, 1993, what did you do then, or, rather,
22 what did you request in this document?

23 A. I submitted an application to the Commander-in-Chief of the
24 Armed Forces of the Croatian Republic of the HB, Mate Boban. I forwarded
25 the same document to the defence minister as well, although I don't

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1 really think he was the defence minister at the time, but the charge
2 d'affaires of the Defence office.

3 These errors, however, are something I tended to take in my
4 stride. It wasn't written up with absolute accuracy. That was the
5 nature of the times. We just didn't mind some of these small slip-ups
6 and errors. I stated that a condition of discopathy was something that
7 affected my health, my poor health at the time, and I requested to be
8 dismissed as the Commander-in-Chief of the Main Staff of the HVO by the
9 15th -- by the 5th of November, 1993. I also said that by that date, I
10 will have handed over all my duties to the deputy commander of the
11 GS HVO, General Milivoj Petkovic, or another officer appointed to that
12 position.

13 Q. I think a question arises naturally here. General, before the

14 Chamber poses the question, I think I might as well do that myself right
15 away. From the end of July, throughout August, September and October, as
16 we now see, you were a commander. You told us about your experience
17 throughout that time about the war and all of that, yet here you state a
18 medical condition as a reason for you leaving. What was your mental and
19 physical condition after those three months of fierce fighting and war?

20 A. It's difficult to define my condition with any amount of
21 precision. One couldn't really say that my poor health was the only
22 reason for my decision to leave. I was quite tired. It had been a very
23 demanding period. We hardly got any sleep at all, and the war raged on
24 incessantly. The HVO at the time was an army facing a lot of problems.
25 There was an offensive that had been launched by the BH Army across a

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1 very large area. There was the problem of getting supplies into
2 Central Bosnia, into Vitez and Kiseljak. Another problem was getting the
3 supplies through to Zepce.

4 Most of the problems were supply problems. The greatest problem
5 we faced was the attrition felt by the soldiers. There were too few
6 soldiers in our ranks. The front-line was very broad, and there was
7 overstretch as well. Mobilisation, itself, was a disaster, the simple
8 reason being it wasn't possible to have a normal mobilisation
9 implemented. Summons were issued, but if someone failed to respond,
10 there was nothing we could do to force them to take up their posts.
11 Anyone was free to do as they pleased, in one word. Anything that we
12 might term state authority or civilian authority, or all of those bodies,

13 were helpless and they could do nothing about that. No steps to take.
14 The HVO, or what remained of it, the people still fighting were, to all
15 practical intents, volunteers. Efforts were made by Bruno Stojic and by
16 me, but they hardly yielded any substantial results. That was the one
17 thing.

18 The other thing was something that bothered me in a particular
19 way. In a way, the influence of the municipalities and the municipal
20 leaderships on the army had grown in the meantime. It was difficult and
21 sometimes even impossible to get an order implemented. People were
22 trying all sorts of tricks. Some of the municipalities not directly
23 affected by the offensive coming from Uskoplje and so on and so forth
24 were simply too glad not to provide soldiers for the front-line, and they
25 didn't make enough of a general effort required to not lose the war, to

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1 not be defeated.

2 The main duty of an operative commander in an army is not to lose
3 a war, as simple as that, to not be defeated by whoever attacks you.

4 Q. Thank you very much. Can you please move on to the next
5 document, 3D00280 --

6 JUDGE TRECHSEL: If I may just go on with the question you've
7 actually asked, Mr. Kovacic. It was to the health problems.

8 You have said that you had cardiac arrhythmia and discopathy.
9 Did you make that up or was there any evidence? Did you have medical
10 records to support that?

11 THE WITNESS: [Interpretation] My condition goes back to before

12 the war. I suffered from serious discopathy-related problems. There
13 were times when I would spend 30 days entirely unable to move, just lying
14 on the floor. The condition of my spine is still very poor, but I try to
15 keep going. Even in the middle of war, I was sometimes strapped by poor
16 mobility, unable to walk or move about, and I received all sorts of
17 treatments by various people, who administered shots to improve my
18 condition and so on and so forth.

19 As far as my heart is concerned, physiologically speaking, my
20 heart is all right, but there were problems there simply because of the
21 enormous strain that I was under. But as this discopathy condition
22 developed, the problem became quite serious. I was still up to the
23 effort and the strain, and I would like to explain this later on, but
24 there was now some sort of a lull and the Muslim offensive had lost
25 momentum by this time. It hadn't quite been crushed yet, but had lost

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1 momentum. I believed that a replacement was a good idea at the time.

2 JUDGE TRECHSEL: Thank you.

3 MR. KOVACIC: [Interpretation] The document I called was 3D00280.

4 Q. Can you please clarify what this document is about? It is a
5 result of what, exactly?

6 A. It's the result of a request that I made. The date we see is the
7 8th of November, 1993. Mate Boban, the Commander-in-Chief, relieves me
8 of my duty. All the information is there. He hereby appoints
9 Colonel Ante Roso as my replacement.

10 Q. If we look at item 1, at paragraph 1 of this document, it seems

11 to suggest that Boban relieved you of your duties pursuant to your own
12 request, which is obviously the request we looked at several minutes ago
13 about your illness, but he said as of the 29th of October, 1993, whereas
14 the document itself bears the date of the 8th of November. Does that not
15 mean, in practical terms, that the earliest you learned about this
16 document was the 8th of November?

17 A. No, no, that is not correct. It reads pursuant to a personal
18 request, the filing number dated the 29th of October. That was the date
19 I filed my request, and then on the 8th of November my request was
20 granted. There is no misunderstanding here at all.

21 Q. All right. The 29th of October is the date of the document that
22 you previously submitted. Okay, thank you very much.

23 Paragraph 2, Boban hereby appoints a new commander; is that
24 right?

25 A. Yes. I said that, didn't I?

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1 MR. KOVACIC: [Interpretation] Thank you very much.

2 JUDGE ANTONETTI: [Interpretation] General, I have a somewhat
3 delicate question to ask you, but I have to do my job; and I can't ignore
4 certain things.

5 As you know, the Judges have been involved in this case file for
6 years now. As a result, we are aware of several documents. We can see
7 these documents that establish, in a clear fashion, that on the 29th of
8 October, you asked to be relieved of your duty for health reasons. All
9 the following documents are going to make your request more specific,

10 going through the administrative channels, because you're going to be
11 relieved of your post following your request. That's one way of reading
12 these documents. But as a judge, I have to verify certain things.

13 You know, as well as I do, that the attack on the village of
14 Stupni Do occurred on the 23rd of October. That is six days before you
15 requested to be relieved of your duty. Here in this courtroom we heard
16 the US ambassador, remember him, and he said clearly - I'm quoting from
17 memory - that they'd asked Tudjman to relieve the people who were
18 responsible of their duties. There are two possibilities.

19 I remind you that you are under oath and you said that you would
20 tell the whole truth. Therefore, whatever you say may commit you. So
21 two types of situations may occur. The first one is that you really were
22 ill and indeed, as you said, you had to relinquish your position because
23 it was very hard, you have to be on deck 24 hours a day, and as was said
24 in this document, you felt you were not up to the task. That's one first
25 way of looking at the reason why you left your position, but there may be

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1 another one, and I have to look into it with you.

2 That second possibility is that as soon as the international
3 community was informed of what happened in Stupni Do, you know there's
4 feedback going through various channels, and we know that Mr. Tudjman was
5 informed, also because he had secret services working for that very
6 purpose, and he was perfectly in the know of everything that happened.
7 Therefore, you were given to understand then that you had to go, and in
8 order to avoid problems, the classic solution is to say that one is ill

9 and one has to leave.

10 So, Mr. Praljak, you are under oath today. What was the real
11 situation on the 29th of October, 1993?

12 THE WITNESS: [Interpretation] Your Honours, whatever I say under
13 oath, so help me God, I really am saying the truth, the whole truth, and
14 nothing but the truth. Nobody, neither President Franjo Tudjman, nor
15 Mate Boban, asked me to leave for any reason at all.

16 It is true that the reasons, as stated, that is, discopathy and
17 arrhythmia, are not the relevant reasons why I asked to be dismissed.
18 About Stupni Do, this could hardly be the reason. I have nothing to do
19 with Stupni Do. All the activities, until the last day or the eve before
20 my departure, I signed an acceleration of my insistence that this be
21 solved.

22 General Petkovic was exhausted, and he wanted a few days of leave
23 to go home, and I granted him that leave. The exact dates will be stated
24 afterwards. And I signed that document on the day when I was dismissed.
25 I believe it was the 8th of November, 1993.

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1 The true reason for my departure was that I did not approve the
2 quantity or the huge effort -- or the efforts made to avoid losing the
3 war. This refers primarily to the late Mate Boban and his organisational
4 leadership of what was called the HZ-HB. I don't want to say that I did
5 not approve of the policy that was -- of the time, because I was a
6 soldier and he signed all relevant international agreements and so forth,
7 but a great portion of the population did not take part in the war or

8 didn't take part in a sufficient -- to a sufficient extent.

9 It seemed like my boys and I were fighting for I don't know who.

10 And there was this meeting in Split where I made a demand for Mate Boban
11 to leave his function, because for one thing he was in Grude rather than
12 in Mostar, the offices were in a poor state, and it all looked as if we
13 were in a back woods. I criticised his organisational efforts, and among
14 other things I demanded commissioners to be appointed for individual
15 municipalities. There was a type of democracy that resulted in total
16 chaos.

17 For my whole life, or at least as long as I can think back, I was
18 all in favour of democracy, but when you have meetings in municipalities,
19 discussing pointless topics and drafting senseless letters, without
20 making a real effort, and I can state from my personal experience that
21 the limited attack was focused and that the will behind it was to reach
22 the Adriatic coast, and these boys, and we're talking about the second
23 year of warfare, were completely exhausted, and behind the front-line
24 there was easy living going on. And you will be able to see, in the
25 documents we're about to show, there were two meetings immediately before

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1 my departure, meetings of the army commanders, and these contained the
2 demands that were made from the civilian authorities for us to avoid
3 losing the war.

4 Just let me finish, Your Honours. Jadranko Prlic opposed --

5 JUDGE ANTONETTI: [Interpretation] Very well, Mr. Praljak. Let me
6 stop you there, because you will have the opportunity to come back on

7 this, but you fully answered my question. You told us that independently
8 of your health, you also had a disagreement with Mr. Mate Boban. This is
9 on the record. And you also told us, under oath, that your departure had
10 absolutely nothing to do with what happened at Stupni Do, which was the
11 purpose of my question.

12 Now, as to the details and, you say, the two meetings in Split
13 and so on, I'm sure we'll revisit the matter.

14 Mr. Kovacic.

15 MR. KOVACIC: [Interpretation] Thank you, Your Honours.

16 Q. Perhaps you should just finish your sentence, Mr. Praljak.

17 A. I would just like to say something I consider quite significant.

18 After the war, Ambassador Galbraith held a political speech,
19 I believe it was in Slavonski Brod, as if he was in a banana republic.
20 He was trying to show off his wit, trying to teach everybody --

21 MR. STRINGER: Can we clarify whose clock this testimony is on,
22 whether it's the Trial Chamber's or whether it's the accused's time?

23 Thank you.

24 MR. KOVACIC: It was my question. No problem.

25 JUDGE ANTONETTI: [Interpretation] The time of the accused.

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1 THE WITNESS: [Interpretation] I wrote that this was not a decent
2 thing to do, that we were a sovereign country, and that ambassadors even
3 of our great and powerful countries cannot hold political speeches in
4 public places and on squares. And Galbraith said, Why is this man, who
5 brought down the Old Bridge, taking the floor and speaking? And -- but I

6 was eventually the one to apply for being dismissed, and this has nothing
7 to do with Stupni Do. I also wrote a letter to UNPROFOR. This has
8 already been shown, but it will be additionally clarified.

9 MR. KOVACIC: [Interpretation]

10 Q. Thank you. General Praljak, the next document is 3D00948. This
11 is a hand-over document between you and General Roso. It is dated
12 November the 9th. Tell me clearly how this hand-over took place. Was it
13 on the 9th of November, how long it took, where it took place?

14 A. This hand-over took place on November the 9th at 7.35 or
15 7.40 a.m. at Grude. There's my signature. Nothing to add there. And on
16 the previous day, on the 8th of November, in the afternoon, around Livno
17 I met General Roso, and I described the situation at the front-line to
18 him and everything I considered important for that commander.

19 Q. What did you do after signing this document on the 9th of
20 November in the morning hours?

21 A. I sat in my car and drove home to Zagreb.

22 MR. KOVACIC: [Interpretation] Thank you.

23 JUDGE ANTONETTI: [Interpretation] General Praljak, this document
24 on the handing over of duties at 7.45, November 9, you told us earlier
25 that the day before on November 8, you talked with General Roso about

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1 ongoing matters. As far as you remember, are you sure that you told him
2 everything? Do you remember that you told him everything, that you drew
3 him the full picture of what was happening, giving him details as to the
4 positions of the HVO on the field, as to the problems occurring at the

5 time, as to the operations that had to be conducted, maybe as to the
6 sanctions that were to be taken? So when you handed over the duties, did
7 you do it according to the state of the art?

8 THE WITNESS: [Interpretation] Your Honour, all the data, all
9 facts, I precisely gave to General Roso, and that wasn't difficult to do
10 because he had been a member of the HVO before. He was a commander of
11 Livno. He was also in Mostar after my departure, when it was liberated.
12 So he was a man who knew the situation relatively well. He wasn't far
13 from the events. And in the headquarters, in a room of the deputy chief
14 of staff, General Matic, who was a retired general of the JNA, in his
15 office he got an exhaustive account of mobilisation issues and what I
16 knew about Stupni Do, so he was acquainted with everything that I
17 considered important at the time.

18 THE INTERPRETER: Microphone for the Defence counsel, please.

19 MR. KOVACIC: [Interpretation] Thank you.

20 Q. General, let us just help the others to avoid asking unnecessary
21 questions. When you're saying that General Roso had been in Mostar
22 earlier, and you mentioned after your departure, which time are you
23 referring to?

24 A. The year 1992.

25 Q. Thank you. For the sake of the transcript, this document,

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1 3D00948, which we have just looked at, is identical to 3D06556, which is
2 already an exhibit.

3 General, the last document in this small set is 4D00834. I

4 believe we've seen it before. So it's 4D00834.

5 I'm being warned the one that I mentioned before, 3D00948, is
6 identical to P06556. That is the correction that I wanted to make, this
7 latter document being an exhibit already.

8 Let us return to 4D00834. According to our registers, this is
9 the last document that you signed in your capacity of -- sorry. Yes, in
10 fact, it's correct. My copy is poor. Please say if it is or it isn't.

11 A. This is a document that was drafted for General Milivoj Petkovic
12 for the simple reason I can explain.

13 When I was appointed the chief of the General Staff of the HVO, I
14 had been down there a little earlier in June and early July, until
15 November the 10th. I was a Boksevic, but we'll come to that, in 1993,
16 and I knew the military situation thoroughly. It is important to explain
17 that, speaking about the situation. There was always the tendency to put
18 things into order formally, so -- and there is written evidence of that,
19 et cetera.

20 The military situation on the ground was very bad for us. I
21 organised a general staff which probably wasn't in existence anywhere
22 else. That was a special problem to General Matic, who was used to
23 things as they were done in the JNA. There was the chief of the
24 General Staff, the deputy, then there was also the commander of the
25 General Staff and his deputy, and all that because you may want to think

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1 that the commander of an army sits in an office, that he gets
2 information, issues orders, and these orders are obeyed, but that wasn't

3 really how it was. And if things aren't like that in reality, then you
4 cannot pretend that things are what they are not.

5 At that moment, the commanders, myself, Petkovic, and the others,
6 had to go to the field, leave their offices, and forget about usual
7 procedures and impressions of the army as something that functions
8 perfectly. I understood, which will be corroborated by witnesses, that
9 our main problem would be the attack by the BiH Army from the direction
10 of Uskoplje and Rama, which would have meant a complete defeat of the
11 HVO, so I went there.

12 The area of Mostar and the south should have become the
13 responsibility of the Chief of General Staff. What was his name again?
14 Tole. And General Petkovic was to concentrate on avoiding the fall of
15 Kiseljak, Vares and Central Bosnia. I even appointed him as the
16 negotiator because there were many people from the international
17 community and UNPROFOR and monitors and journalists. Everybody wanted to
18 talk to you and have meetings. So it wasn't simply possible in wartime
19 conditions, especially given the situation as it was at the time.

20 After returning from Kiseljak, General Petkovic was really
21 exhausted, and he applied for five or six days of leave. I didn't give
22 him as much, I gave him less, but he was in a way much better acquainted
23 with the situation, and I signed this command. I believe it was the last
24 command I signed -- the last order I signed.

25 Q. Thank you. And you said that you left for Zagreb on the

1 9th of November. My question to you, General, is whether later, during

2 the war, you ever returned to Bosnia-Herzegovina.

3 A. Yes. In January 1994, but without being appointed, I came of my
4 own accord. I went to Uskoplje because the situation hadn't improved --
5 didn't improve after my departure. On the contrary, I believe that it
6 even aggravated. The Army of BiH again were growing stronger than the
7 HVO around Uskoplje. I think that I can say with justification that I
8 was a good commander and that the soldiers appreciated me and were fond
9 of me - because I spent most of my time with them, and they asked me to
10 come and help them; and I came in January 1994.

11 I reported to General Roso and the commander of the zone of
12 operation who at the time was General Vrbanac, and I stayed there and
13 fought, and I think the results were good. This lasted for three or
14 three and a half weeks. And when our success became obvious, in the
15 tactical sense, Alija Izetbegovic suggested a truce again. So whenever
16 the ABiH was successful, its commander and Alija Izetbegovic would break
17 the cease-fire that was in place, but whenever we had a tactical
18 advantage, such as in Uskoplje, they propose a cease-fire, which I
19 accepted, and we also respected it.

20 MR. KOVACIC: [Interpretation] Thank you.

21 JUDGE TRECHSEL: A very tiny question, Mr. Praljak.

22 When you went back in November, how were you dressed?

23 THE WITNESS: [Interpretation] I wore military clothes; no
24 insignia, though.

25 JUDGE TRECHSEL: No insignia of your grade?

1 THE WITNESS: [Interpretation] No.

2 JUDGE TRECHSEL: Thank you.

3 JUDGE ANTONETTI: [Interpretation] General Praljak, this is the
4 first time I hear about this. So you told us that you came back to
5 Uskoplje in January 1994, and now you're telling us that you fought for
6 three weeks, but I had -- I thought I understood that on November 9, when
7 you went back to Zagreb, **you were reintegrated into the Croatian military**
8 structure because as you told us earlier, you said you were to be working
9 on the archives. I'm sure you'll tell us later on, what you did during
10 that period of time, but then for three weeks you suddenly leave your
11 official job in Croatia. **Did you get a leave of absence or were you --**
12 was it a desertion or were you on vacation? How did it happen that you
13 suddenly managed to leave your job and go for another country for three
14 weeks?

15 THE WITNESS: [Interpretation] Your Honour, that's exactly what I
16 tried to speak about in the introduction.

17 If you separate things like this, one country, another country,
18 et cetera, I tried to explain that there was -- in Croatia, there was one
19 theatre of war, but I was also a citizen of Bosnia-Herzegovina. I did
20 not desert, and I didn't take leave either, but according to the basic
21 principle in force in the Croatian Army, namely, that if a volunteer
22 wants to go to fight to Bosnia-Herzegovina, he will be enabled to do so,
23 for the simple reason that such was the general attitude, so there was no
24 coercion, there was no order to do so, but whoever wanted to go to fight,
25 to Bosnia-Herzegovina, Croats or Muslims, were enabled to do so and their

1 place -- their position was waiting for them upon their return. So this
2 was in force for everybody else, including myself. And after returning
3 to Zagreb, **I was asked to set up the archives of the Croatian Army,**
4 because the document that there was was in -- completely disorderly. I
5 told them that I know nothing about archiving, but what I can do is make
6 an effort to gather -- collect as much material as possible, so I can be
7 in charge of collecting documents and then I will find people who know
8 what to do then.

9 So we first made a manual on archiving, and then we got
10 facilities in a barracks in Zagreb **that was suitable for archiving.** Then
11 we had to collect three-dimensional objects, as well as films, tapes,
12 et cetera. But when I again learned that the situation was relatively
13 critical and that a breakthrough was imminent, I went there of my own
14 free will.

15 If the Croatian state had wanted to sanction me, it could have
16 done so, but there was no will to do so. Anyway, nobody could have
17 stopped me from going there, because I considered Bosnia-Herzegovina my
18 home, as well as Croatia, **and you cannot divide this war into one -- one**
19 **war into two separate wars.** This mechanical separation that you are
20 applying, as a Westerner, Your Honour, resulted in the attitude, Okay,
21 let's pacify the situation in Croatia, **and then we can turn to**
22 **Bosnia-Herzegovina.** But this war wasn't waged by countries; it was waged
23 by the JNA and the Serbian political thought, directed against anybody

24 who was not Serb, be they Muslims, Croats, or Slovenians at the beginning
25 of the war. This war didn't have a character as the thing you think it

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1 has.

2 JUDGE ANTONETTI: [Interpretation] Okay, I cut you short. You say
3 it was of your own free will. Fine. But you can imagine that for a
4 Westerner, and this gives rise to many questions, well, you told us, you
5 know, that for Westerners, it's very hard to understand a number of
6 things. It's true that it's very hard to understand all this, but I'm
7 sure that we'll be enlightened in due time.

8 Mr. Kovacic.

9 MR. KOVACIC: [Interpretation] Thank you, Your Honours. Just one
10 thing on the transcript. We've gone rather far, but I can locate it
11 relatively easily.

12 Q. Mr. Praljak, when you were answering the question about the
13 document, the last one that you signed, 4D00834, which is on page 19,
14 lines 7 to 8, you spoke about Boksevica. The transcript reads that you
15 had been there, I mean Boksevica, before in June, July, up until
16 November.

17 A. No, no, no. Until approximately the 12th of July only.

18 Q. Thank you. That's clear, then.

19 A. Just a brief addition. Your Honour Judge Antonetti, this goes
20 against my time.

21 General de Gaulle didn't stick to the decisions of the French
22 government either when he decided who to fight and where. He led his

23 troops. When he was ordered not to enter Paris, he was ordered by
24 Eisenhower, he sent Leclaire and the 3rd Army to enter Paris because it
25 was his town and his country, and he didn't heed orders not to do so.

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1 Q. Thank you. And after this departure to BiH in January 1994, you
2 never returned to that country until up to the Dayton Accord?

3 A. That's wrong. I returned when we were liberating Bihac. General Blaskic
4 was the chief of General Staff then. I was asked to do so. The boys asked
5 me to come and be with him while he was doing it, and that's what I did, and
6 I lingered for about two weeks. The liberation of Kupres was done together
7 with the ABiH, which came from the north. That is after the Washington
8 Agreement. And we started liberating the Livno field, the right side of it,
9 and then I returned to Zagreb **again, to my work. And just to finish, I took**
10 part in the Storm operation in the area from Hrvatska Kostajnica to Dvor Na
11 Uni without any high position as a simple soldier again, a private; and I
12 entered Dvor Na Uni with the first tank, and I put the Croatian flag on the
13 bridge which is on the border between Croatia **and Bosnia-Herzegovina. I was**
14 present when Serbian tanks were crushing carts, et cetera, driving over
15 them, leaving Knin; and then I stayed for a while to see to it that the
16 transportation infrastructure be repaired. I took care of the remaining
17 Serbs, put them up, protected them, supplied them with food. I was with my
18 own lads because I had previously fought by their side for 6 months in
19 Sunja, I knew all those soldiers and they had confidence in me, although I
20 had no commanding position. And that was the end of my wartime engagement.

21 Q. Thank you. Just to make the time-frame clear --

22 A. It has nothing to do with Bihac. I was talking about

23 Hrvatska Kostajnica and Dvor Na Uni.

24 Q. Earlier, when you were talking about Kupres --

25 A. Yes, I was talking about the liberation of Kupres and the right

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1 side of the Livno field, Livanjsko Polje.

2 Q. That's the action which you ran together with General Blaskic?

3 A. Correct.

4 Q. And when was that?

5 A. How do I know now?

6 Q. So that's between your --

7 JUDGE ANTONETTI: [Interpretation] Another odd thing. You spoke

8 about what you did as part of the Storm operation. That's a new thing

9 for me as well. But to avoid any mistake, the Storm operation was

10 carried out by the Republic of Croatia, **wasn't it?**

11 THE WITNESS: [Interpretation] Operation Storm was carried out by the

12 Republic of Croatia, **but it was extended also to** Bosnia and Herzegovina.

13 JUDGE ANTONETTI: [Interpretation] Very well. On the 9th of

14 November, you returned to Zagreb. **I guess you had a rank then. What was**

15 your rank in the Croatian Army?

16 THE WITNESS: [Interpretation] I finished the war as a

17 colonel general, but when I returned to BH, I did not have that rank yet.

18 I was major general then.

19 JUDGE ANTONETTI: [Interpretation] My question was very specific.

20 On the 9th or 10th of November, 1993, what was your rank, your precise
21 rank in the Croatian Army?

22 THE WITNESS: [Interpretation] Major general.

23 JUDGE ANTONETTI: [Interpretation] So you were major general. And
24 now you told us that this part of Operation Storm, you were on the first
25 tank, you put up the flag, and you said, I was a simple soldier. Well,

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1 that's where I fail to understand anything at all. How can a general be
2 a simple soldier, standing on a tank?

3 THE WITNESS: [Interpretation] Quite simply, Your Honour, you
4 wanted facts from me all the time, and now I'm giving you facts. You now
5 adjust your theory to the facts. The theory of the army that I
6 understand you want is not a good theory. The fact is, and we're talking
7 now about 1995, the Operation Storm is beginning, I am still a Croatian
8 soldier, but I have no position, no particular duty in that operation.
9 The reason is, among other things, that the harangue that I was the one

10 who had destroyed the Old Bridge **gained humongous dimensions, and even**
11 President Franjo Tudjman believed it, so I addressed a letter to him where I
12 said that I may appear before this Court, or perhaps not, that I would end
13 up on trial; but in any case I had participated in that war for a long time
14 by then, and when the operation started I joined in. I didn't care whether
15 I was there as a general or not. I did not care for the way things were done
16 in the French Army, or the Foreign Legion, or any other army. I went to the
17 place I had been before, near Sunja, to Hrvatska Kostajnica, and of course
18 the boys, the troops that I had been with earlier for six months, were happy

19 to see me, and of course they would obey me. Even commanding officers would
20 obey me. I knew that they would accept my advice.

21 I was not exactly on a tank, to be precise. I was walking along
22 a tank. We wanted to avoid the column of Serbs fleeing to Bosnia and
23 Herzegovina. **We did not want to cut through the column. We watched**
24 their own tanks rolling over the bridge and rolling over the civilians,
25 without any care for their lives. And when I entered Dvor Na Uni River,

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1 I asked for a flag and I hoisted it there on the bridge. I was very
2 happy, very satisfied, very proud; and then I stayed on for another two
3 days because, of course, after the excitement of a successfully finished
4 operation, there is a lot of organisational, infrastructural work to be
5 done, dead bodies to be removed, roads to be repaired; and there is a
6 feeling of general relief, but I never relaxed. I just took up a new
7 kind of work. I issued instructions that were obeyed, although they were
8 not formal instructions or orders as they are normally given in the army
9 and as you understand the army to function. But I said to the men around
10 me: "Let's protect them, get food, let's organise accommodation for these
11 Serbs, let's clear this road, et cetera."

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

13 MR. KOVACIC: [Interpretation]

14 Q. All right. I think we can now move on to another subject, the
15 subject that you had spoken about very briefly in your introductory
16 statement.

17 [In English] I would ask the usher to come here to take the

18 binder.

19 [Interpretation] I'd like to move to the subject of the
20 developments -- political developments in Croatia in 1989 and 1990, the
21 establishment of political parties, and your engagement therein, if any.
22 It's the binder at the very bottom.

23 You're not going to go through documents, General. First of all,
24 I'd like you to tell the Trial Chamber whether you got involved into this
25 political turmoil in those times of change.

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1 A. Let me speak, will you?

2 I belonged to that category of citizens of the Republic of
3 Croatia **who wanted, desired, and thought that Yugoslavia, as we knew it,**
4 **would break up and that Croatia would become an independent democratic**
5 **country that would join the group of Western democracies. We believed in**
6 **Western democracies. We believed that democracy is a name we could and**
7 **were able to accomplish and that we were ready for. I was ready for it,**
8 **and I was quite prepared, without any pathos, to sacrifice my own life**
9 **for it.**

10 I said to the Judge before I can bring -- and I wanted the Judges
11 to understand that whatever I said about Oluja and the Operation Storm,
12 and Boksevica and anything, all that I can corroborate by witness
13 testimony, and I have witnesses to bring. For each of my statements,
14 upon the request by the Court, I can produce concrete evidence.

15 And before the war, I told everyone who was willing to listen, at
16 great length and very insistently, that there would be a war. I went so

17 far as to calculate the number of victims that the Croatian side would
18 have to suffer, and I said that Croatia **would lose at least 50.000**
19 people, and I --

20 JUDGE ANTONETTI: [Interpretation] General, your counsel put a
21 question to you. It was a very interesting question for us Judges. Your
22 counsel would like you to describe the political situation in Croatia **in**
23 1989 and 1990 for our information.

24 As you know, in the indictment there is a JCE, alleged JCE,
25 including Croatian political leaders, so it would be very interesting to

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1 have -- to know exactly what the political situation was like in Croatia,
2 where Tudjman came from; what was his political orientation; to know
3 where you were also. And your counsel is putting this question to you,
4 but now you're going astray. Could you please get back on track and
5 answer the question put to you by your counsel because it is a very
6 important question for us.

7 THE WITNESS: [Interpretation] Your Honour, I am listening to my
8 counsel, but of course it did not begin really in 1988 or 1989. It
9 started long before that and never ceased. There had always been people
10 who ended up in prison in Croatia, **beginning with 1918 [as interpreted],**
11 and it was not a small number. It was an ongoing process of mutiny.

12 Franjo Tudjman appeared at that time on the Croatian stage. He
13 had been in prison before. Marko Veselica, also a new figure, had been
14 in prison for ten years. Seks had also been in jail. Vlado Veselica,

15 who led the HSLs, had been in prison. Most of the people who appeared in
16 the political arena at that time had served jail sentences of 10 or 15
17 years, and then their moment came. They realised that the possibility
18 finally arose for them to realise their political dream.

19 And the other thing is that after Tito's death, Yugoslavia
20 started crumbling like a house of cards. There were huge problems in
21 Kosovo that they stifled back in the 1980s, crushed the demonstrations in
22 the mines. Then they changed the Constitution. It's impossible to --

23 JUDGE TRECHSEL: Mr. Praljak, I recall that you have been warned
24 you are here as a witness.

25 Mr. Kovacic, your lawyer, asked you about the situation in

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1 1988-1989 in Croatia. **That is a time when you were there, so you can**
2 describe facts. Instead of doing this again, you've done something quite
3 different, which we've told you several times that must not do. You
4 posit, you give us a speech as if you were here as a historical expert,
5 but you are not. You are here, as you know and as you have decided, as a
6 witness. So I must insist on what the President already told you. You
7 must not give us historical lectures about what happened in 1918, but you
8 must say what, according to your personal experience, the political
9 situation was in Croatia **in 1988 and 1989.**

10 THE WITNESS: [Interpretation] Your Honour Judge Trechsel, if you
11 find someone who had been involved in politics in any era at any time --
12 but please let me speak.

13 JUDGE TRECHSEL: No, Mr. Praljak, and you are not to argue.

14 Every time a Judge tells you something, you argue, you talk back. This
15 is -- in substance, it is a behaviour which could be regarded as contempt
16 of Court, because it is a lack of respect. It is not for a witness to
17 criticise the advice that Judges give them, particularly if the advice is
18 a recall of the rules which every witness is obliged to follow. And as
19 the Chamber has decided, it also applies to you. So, please, do not
20 start arguing with me, this is not correct, but follow -- answer the
21 question your own counsel has put to you.

22 MR. STRINGER: Mr. President, if I could just offer one
23 suggestion, because it seems to me that Mr. Kovacic is highly skilled and
24 knows where he wants to take the general, and my guess is that he and the
25 general have prepared, and they know where they want to get together.

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1 Rather than asking what's probably a pretty broad question to the
2 general, What was the political situation during those two years, perhaps
3 Mr. Kovacic could lead -- and I don't mean by leading questions, but by
4 asking a series of questions that would elicit shorter answers. He could
5 narrow what would be the answers that they're trying to achieve.

6 JUDGE ANTONETTI: [Interpretation] Mr. Kovacic, you've listened
7 very keenly to what Mr. Stringer said, because he, too, tries to
8 contribute to a useful examination of the witness, so he's asking you or
9 inviting you to ask more specific questions, even to a certain extent
10 leading questions, to make things easier. Of course, we'll be watchful,
11 but you have some leeway, so that Mr. Praljak does remain on track. Of
12 course, it could be interesting to know what happened in 1980, but as was

13 said very well by Judge Trechsel, we are interested in 1988 and 1989
14 because this is going to foreshadow what is going to happen in 1991, so
15 let's remain within that framework.

16 You have ten minutes left before the break, Mr. Kovacic. Go
17 ahead.

18 MR. KOVACIC: [Interpretation] Of course, Your Honour. Just one
19 remark.

20 On two occasions, the general said that this political process
21 had been ongoing from 1980 onwards, and he named the persons who got
22 involved in the political life in Croatia in 1989, and he named a number
23 of people, said that those people had served time in jail, and then felt
24 that now was the time of change, and those were two introductory
25 sentences in response to my question.

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1 THE WITNESS: [Interpretation] I have the right to ask you a
2 question. Do you want the truth from me or do you want stereotyped
3 truth? If you want stereotyped truth, then you don't need me. I
4 participated in these events, and they have a complexity, a dimension
5 that is impossible to reduce to simple formulas. That is simply not
6 true. What you're asking from me is not the truth. The responses to
7 your questions will not be the truth, because this did not start in 1988
8 or 1989, it started a long time before.

9 Your Honour Judge Trechsel, it is not my intention to be
10 contemptuous of the Court in any way. All I am trying to do is to avoid
11 reducing a very, very complex situation to a model which would not

12 reflect the truth. But finally, at the end of the day, there are
13 thousands of books about that. If you don't need me, you can read the
14 books. I'm just trying to paint the picture of the first appearance on
15 the stage of persons who would later become leaders of parties. Don't
16 treat me like this. I'm not an ameba here. I don't want to show any
17 contempt of the Court, all I want is my evidence to be clear, exhaustive,
18 and correct. When the whole of Yugoslavia is on fire, when everything is
19 in turmoil, in a flux, I cannot produce the kind of answer you are trying
20 to elicit from me. Let's admit this book, this Djonlic, show him some
21 things and end of story. I have prepared it.

22 JUDGE ANTONETTI: [Interpretation] General, the Trial Chamber does
23 not disagree with you on this issue, but we know that you're going to
24 call an expert. This expert in history is going to testify, and I'm sure
25 that he'll revisit these topics; all the more reason for you to really

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1 focus on the substance, you see. So really focus on what is essential,
2 because we'll return to such topics. And Mr. -- okay.

3 THE WITNESS: [Interpretation] 1988, 1988, autumn of 1988.

4 We meet --

5 JUDGE TRECHSEL: I'm sorry, but I cannot remain silent. I must
6 protest. I think it is absolutely incorrect, the way you speak to me and
7 try to give me lectures on what I have to do, and asking me questions.
8 This is incorrect, and I must state it, and I have now stated it.

9 JUDGE ANTONETTI: [Interpretation] General, please answer. If you
10 are of the view that you did not offend anybody, just say so. I have

11 noticed that there may be some mistakes in translation that may lead to
12 misunderstandings, so if you want to say that you did not mean to offend
13 anybody, I think you said so, and say it again in order to avoid any
14 misunderstanding.

15 Yes, Mr. Karnavas.

16 MR. KARNAVAS: Thank you, Mr. President, Your Honours.

17 As I understood General Praljak, I don't believe he was trying to
18 be offensive in any way, shape, or form, although something may have been
19 lost in translation. As I understood it, he was quite respectful to
20 Judge Trechsel, though Judge -- General Praljak wished to point out that,
21 one, he was a participant during those events. He's not speaking as a
22 historian, although we're talking about historical facts or historical
23 issues which, of course, lead up to the events later on. And because he
24 lived through that period, he's trying to put context as to what will
25 ultimately follow.

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1 Having said that, I think Mr. Stringer is quite right, that
2 perhaps if the questions are more narrowly fashioned, we can go step by
3 step. Otherwise, it gives the impression that there is some sort of a
4 historical dialogue going on, or monologue, and that seems to be the
5 sense of confusion. And with that, perhaps we could take an early break
6 and consequently perhaps readjust the questions for the best approach.

7 MR. KOVACIC: Your Honour --

8 THE WITNESS: [Interpretation] Just a minute. I was very clear.
9 I said very clearly that it couldn't be furthest from my mind, and I

10 don't know why it wasn't interpreted, to show any contempt or disrespect
11 to the Court. It was simply impossible to understand me in that way.
12 You must have misunderstood me, Judge Trechsel. I simply do not have it
13 in me. On my part, there is no disrespect or contempt of the Court. I am
14 simply on tenterhooks here. There is no historian who could know these
15 things better than I, who lived them for 30 years. I am the expert in
16 these matters. I lived -- I worked through that situation for 30 years,
17 and no historian writing a tacit account of that would be able to show
18 you all the finer points of what actually happened there. And from now
19 on, if you want me, I will go giving you my account in bullet points. In
20 1988, the first gatherings, the first rallies started.

21 Will you give me five more minutes?

22 JUDGE TRECHSEL: If I may just react.

23 MR. KOVACIC: The question was you, Judge, mentioned earlier we
24 would go on break, and now I'm confused. Should General Praljak continue
25 or we go on break?

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1 JUDGE TRECHSEL: I think we're in a pre-break phrase of rounding
2 up the issues that are pending. In my language, one calls this shooting
3 down the cows that are flying in the air.

4 Mr. Praljak, you have just evidenced the point that I was making.
5 You have said, I am the best expert. I'm not disputing that,
6 Mr. Praljak. Who am I to -- I'm not an expert in this, and I will accept
7 that you may be an expert. But these criminal procedures, they are
8 always a bit formal, maybe even formalistic, and the fact is that your

9 role here is that of a witness and not that of an expert. The Rules of
10 Procedure make a clear distinction between the two. The regulations are
11 in different Rules, and it is our duty and our way to serve the fairness
12 of the trial that we insist on these Rules being respected.

13 I quite understand that this is unpleasant for you. You must
14 feel like in a harness, but that's what all witnesses, unfortunately,
15 must experience. And it may be a new experience for you, I can very much
16 imagine. I can even sympathise with your feelings, absolutely. I might
17 be torn apart similarly if I were in your place. But then perhaps you
18 would be sitting here and recalling the Rules to me.

19 Thank you.

20 THE WITNESS: [Interpretation] Your Honours, you have seen, with
21 these documents that are lying here below, the orders, what was done,
22 et cetera. On these questions, I can answer "yes" or "no." If
23 Mr. Kovacic goes on putting his questions, we'll go very quickly. That
24 part is simple. You went there, you did this, you were ill. That's
25 quite straightforward. But this attempt to make a summary finally makes

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1 me explode. How can I compress things any further? If you go on
2 compressing, you are no longer in the area of truth. The compression is
3 too high. There is no model to follow. That's what troubles me here.

4 When we get to the documents, where it's easy, I was here, I did
5 this, I made this order, that's straightforward and quite simple, but the
6 situation in 1988 and 1999 -- sorry, 1989, that is very complex. But
7 I'll try to make that shorter.

8 Thank you very much. I will abide by your instructions as much
9 as possible.

10 JUDGE ANTONETTI: [Interpretation] We're going to have a break
11 now, but please think it over for a few seconds.

12 Imagine that you are an American citizen and I ask you to tell
13 me -- tell us what the situation was in 1988 and 1989 in the USA. Well,
14 the witness would say, Well, there were two parties, the Republican Party
15 and the Democrats. That's all. He's not going to speak about the war of
16 secession, the Civil War, or the war against Mexico. That's all.

17 We're going to break for 20 minutes. We shall then resume.

18 --- Recess taken at 3.45 p.m.

19 --- On resuming at 4.10 p.m.

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

21 I believe that Mr. Khan had something to say for a few minutes on
22 the topic.

23 MR. KHAN: Mr. President, Your Honours, firstly good afternoon.

24 Many thanks for giving time. It's a very short matter indeed.

25 We are intending today to file two motions for the admission of

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1 documentary evidence. There is a third matter, a motion for the
2 admission of documentary evidence relating to cooperation and relation
3 between the HVO and ABiH forces. It's only six pages in length, but we
4 are seeking the admission of about 85 to 90 documents. It's in relation
5 to that motion that I am seeking an extension of time to file by 10.00
6 tomorrow morning, at the latest. I have taken the liberty of discussing

7 the matter with my learned friend Mr. Stringer, and there's graciously no
8 objection by the Prosecution. Your Honours, I would ask for this
9 extension. I can give further reasons should that be needed.

10 JUDGE ANTONETTI: [Interpretation] The Trial Chamber has consulted
11 and is granting you leave.

12 MR. KHAN: I'm much obliged.

13 JUDGE ANTONETTI: [Interpretation] Thank you, Mr. Khan.

14 Mr. Kovacic, you have the floor.

15 MR. KOVACIC: [Interpretation] Thank you, Your Honours.

16 Q. General Praljak, back to what I asked you before, 1988-1989 in
17 Croatia, the setting up of political parties. Can you please tell us
18 about that?

19 A. All right, briefly. 1988, Yugoslavia, Milosevic in power. The
20 SANU memorandum on the political desires has been tabled already. In a
21 financial sense, there is the money being printed in Belgrade, leading to
22 the breakdown of the entire financial system. Inflation is galloping,
23 the economy is in tatters. Large-scale meetings of Serbs in Kosovo. The
24 autonomy of Kosovo and Vojvodina is abolished, which is an attack on the
25 Constitution of the socialist Federative Republic of Yugoslavia.

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1 In Croatia, February 1989, a group of people meets, about 150 of
2 them, in the Croatian Writers Association, with me in attendance. The
3 Croatian Democratic Party is founded or being founded. It is not quite
4 there yet, because there can be no multi-party system in Yugoslavia yet.

5 The first party to be established in Croatia, within the framework of the
6 League of Socialists, there is no law providing for a multi-party system.
7 There is very broad-ranging organisation called the Socialist Alliance in
8 Yugoslavia, and then within that alliance some legal loop-holes were
9 identified through which the HSLs established its right to be a separate
10 party within the alliance. The HSLs is led by Slavko Goldstein, a
11 Croatian Jew, with members such as Budisa [phoen], one of the leaders of
12 the student movement back in 1971, who served five years in prison;
13 Vlado Gotovac, a writer, six years in prison.

14 The HDZ is made up, for the most part: Tudjman, two or three
15 years in prison; Mesic, a year or so in prison; Seks, prison; Milas,
16 prison; Muhamed Zulic [phoen], a Muslim, he was in prison too, I believe;
17 Perica, 14 years in prison.

18 At the beginning, Marko Veselica, too, was a member of the HDZ,
19 and he had spent 11 years in prison. The HHS, the Croatian Peasants
20 Party, is led by Stipac, an elderly gentleman who served three terms in
21 prison during the Kingdom of Yugoslavia. Next, he was imprisoned by
22 Ante Pavelic's regime, and lastly he was in prison during Tito.

23 Another man involved was Zvonimir Cicak, four years in prison.
24 Croatia's League of Communists was led by Racan and the Croatian
25 People's Party by Savka Dapcevic-Kucar, a former president of Croatian's

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1 Communists. Another person involved was Tripalo. They were replaced and
2 thrown out in 1971 during the Croatian Spring. Another person involved

3 is Srecko Bijelic, a Serb, and other people too, but those were the most
4 important people there.

5 When the HDZ was established, there was a schism caused by
6 rivalry between Marko Veselica, who at the time had not left prison yet,
7 but he was banned from public appearances and public speech. That was
8 one of the provisions of the law that applied at the time. So there was
9 Marko Veselica and his brother, Vlado Veselica, and they founded the
10 Croatia Democratic Party. I, too, was a member of that party. Another
11 high-ranking position in the party was held by Djordje Pribicevic, a
12 Serb. I was the main secretary of the party.

13 1989 went by. As these parties were being established, there
14 were lots of talks, meetings, field trips, just what pre-election
15 campaigns normally looked like, except this was a different thing
16 altogether. Needless to say, everything that went on at the time ran
17 counter to the existing positive laws of Yugoslavia. In other words,
18 under the laws that applied, had the state been a solid state and had
19 Tito survived, we would all have ended up in prison, serving long-term
20 sentences. Nevertheless, a breakup of that country was in progress and
21 no one could summon up enough power to send these people to prison.

22 Therefore, this would be the briefest possible summary of the
23 situation as it prevailed back at the time.

24 Q. There is something that we have here, and we'll be showing this
25 DVD to the Chamber in a couple of minutes. I have something that the

1 Judges might be interested in, although you have, to some extent,

2 announced the topic. But please try to briefly tell the Chamber why you,
3 Slobodan Praljak, decided to get involved in this political ferment and
4 why did you join this party?

5 A. That was my own free will and personal desire.

6 There's just something else I would like to add. At the time,
7 party statutes were being drawn up, political declarations explaining
8 what the ambitions were, what the objectives were. When the statutes
9 were being drawn up and all the announcements, which amounted to an
10 enormous amount of work, obviously, we were collecting material from
11 other parties abroad -- from Germany, from Italy, because we are now
12 untrained in a way, we are not experts, we are putting all this stuff
13 together. We're studying it, translating it. We know what the general
14 framework is supposed to be, but how do we write up the statute of a
15 modern Democratic Party. So this was just in progress and we were adding
16 things as we went along.

17 Q. General Praljak, just to avoid any misunderstanding, as far as
18 the essence of all these things that went on at the time is concerned,
19 you talked about all these persons who were now involved, actively
20 involved in politics, and you told us about their prison terms. What
21 were their crimes? What did they end up in prison for? Were they
22 robbers, thieves, or what?

23 JUDGE ANTONETTI: [Interpretation] Just a minute. Before
24 answering this question, General Praljak, you did not answer the question
25 put to you by your counsel, and it was a very important question.

1 Actually, it's at the very heart of your own personality. The question
2 was: Why did you join this party? You didn't give us the reasons. Did
3 you join the party for this or that reason? That's what we want to know.
4 Why did you join this party, this party and not another party, and to
5 what end?

6 THE WITNESS: [Interpretation] First of all, Your Honour, I wish
7 to say this: There were only very small differences between the parties.
8 I thought the question might be raised later on, so I have with me the
9 statutes of those parties and their platforms. It was all along the same
10 lines; democracy, freedom, freedom of press, freedom of speech,
11 democratic electoral system, multi-party system, and then as part of
12 that, what sort of economy, free market economy, free market investments.

13 In one word, the political system adopted by France, by
14 Switzerland, and all the other Western countries. We wanted to become a
15 Western democracy. It was always about the West, and everybody kept
16 harping on about the West ad nauseam. That was the basis, the legal
17 system being introduced, freedom, democracy. All of the parties
18 invariably talked about civic rights, about national rights, the highest
19 possible standards based on a European model related to national
20 minorities, ethnic minorities, and all of that.

21 JUDGE ANTONETTI: [Interpretation] Just a minute. Your counsel
22 should move on to another question, but if he is not doing that, I will,
23 myself, put the question that I believe he should have put to you.
24 Obviously, he doesn't have the question at hand, so I'll put it to you.

25 You just told -- you just gave us your reasons; democracy,

1 freedom, freedom of press, freedom of speech, electoral system,
2 multi-party system, so forth and so on, a freedom market, investments and
3 so on. Now, I'm going to put this question to you, and I believe that
4 Mr. Kovacic should have put it to you. Maybe the Prosecutor will also
5 put it to you, but I'm trying to save time.

6 Did you join this party for the purpose of the Greater Croatia?

7 THE WITNESS: [Interpretation] Your Honour, Your Honours, at the
8 time it wasn't about Greater Croatia. We weren't even discussing leaving
9 Yugoslavia at the time. The reasoning at the time was still about
10 Yugoslavia being restructured as a confederative community. It was about
11 greater rights for Croatia as part of that confederacy. More money
12 because too much money was being taken away. It was still about
13 Yugoslavia surviving as a confederacy, with the introduction of a
14 multi-party system, parliamentary system, with free market economy being
15 introduced. The thought hadn't even occurred to anyone. No one thought
16 to speak of anything beyond that at the time. That was where we stopped.
17 None of us believed it would be that simply to leave Yugoslavia. All we
18 were asking for was a restructuring effort.

19 Greater Croatia, Your Honours, no one ever uttered a single word
20 about anything like that. The thought never occurred to anyone at all.
21 I assert that without a shadow of a doubt. No one ever, and one must
22 bear in mind that I was among the 100 or 200 people at the time, in that
23 country who were involved in everything that was going on.

24 MR. KOVACIC: [Interpretation]

25 Q. Perhaps to avoid any further questions and to make matters

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1 perfectly clear to everyone, you were specifically involved and were

2 formerly a secretary of the party that was called HDS?

3 A. Yes, and the full name was Croatian Democratic Party.

4 Q. All right. And then what I asked you before. You've mentioned

5 quite a number of persons who became political leaders or party leaders

6 who had served prison terms. Why? What were their crimes?

7 A. Their crimes were verbal offences, for the most part, and as

8 their indictments at the time read, attempts to undermine the

9 constitutional order.

10 I think Ms. Alaburic would be better placed than me to say what

11 this was all about. Enemy propaganda, I think that was the charge often

12 raised.

13 MR. KOVACIC: [Interpretation]

14 Q. You were convicted on one charge, six months; and then the next

15 one on enemy propaganda three years; and then the next one attempts to

16 undermine the constitutional order, six years.

17 A. It was a very precisely defined system, and specific sentences

18 were touched, and specific crimes. And Tudjman, ex-Communist; Mesic,

19 ex-Communist; Seks, ex-Communist; Marko Veselica, ex-Communist;

20 Vlado Veselica, ex-Communist; Goldstajn, Communist. Just a minute,

21 please. Cicak, no; Racan, Communist; Tripalo, Communist; Savko Dadcevic,

22 Communist; Srecko Bijelic, Communist; Djordje Pribicevic, Communist. So

23 in a way, all of them -- most of them, because there were some who
24 weren't, but most of them were ex-Communist renegades, opposites, people
25 who had clashed with the system, or reformed Communists, which we used to

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1 call them that.

2 Q. Thank you very much. You've sped up somewhat, probably in a
3 desire to save time. I think the best thing to do now would be to play
4 the DVD **that is next up, which tells us about this effort to reform and**
5 restructure political parties, and then I think Mr. Praljak can shed some
6 light on that additionally. The number for that video is 3D03140.

7 [In English] Is there a technical problem, Mr. Registrar? If
8 there is something which would take a couple of minutes, I can go with
9 something else, and then we can come back.

10 THE REGISTRAR: Excuse me, Your Honours. Just to note that I've
11 called in the technician to come and look at it to find out what the
12 problem is. Thank you.

13 JUDGE TRECHSEL: May I ask, Mr. Kovacic, you have prepared and
14 distributed a file with transcripts and surrogate sheets for video
15 material; would it be helpful for us to look at one of the elements in
16 that file?

17 MR. KOVACIC: [Interpretation] Your Honour, yes and no. If I
18 remember correctly, the video has subtitles, and you have the transcript
19 in front of you, the Croatian. The English is not necessary. But this
20 is a short video, a total of 16 seconds, the first portion.

21 THE WITNESS: [Interpretation] Could I perhaps meanwhile be

22 allowed to say what this is about?

23 On the one hand, tensions were mounting throughout Yugoslavia.

24 On the other, Croatia's League of Communists gradually stopped refusing

25 the thought of introducing the multi-party system to Croatia,

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1 particularly after the rift at the Congress. The League of Communists

2 stood up to Milosevic, who wanted to gain power over all the Communists

3 in Yugoslavia, and then the Slovenes walked out, as did the Croats.

4 After that, the time was ripe in Croatia, so Croatia's League of

5 Communists, through its own state organs, of which it was in full

6 control, made the decision to go ahead with the multi-party system in

7 Croatia. All of the parties were now there to merely put their signature

8 under this fact, to corroborate this fact.

9 I was appointed on behalf of all these parties to give a brief

10 speech, which I did. I thanked everyone. I remember exactly what I said

11 at the time, although I think the whole thing got erased somewhere or

12 other. I said this, specifically: that I was happy that Croatia's League

13 of Communists, after 30 something or 40 years, had ceased to be illegal

14 and has now finally become a legal party in Croatia, because Croatia's

15 League of Communists was for the first time registered as a political

16 party. When they had been in power, there was absolutely no need for

17 them to deal with the legal niceties of the situation. The other thing

18 that I said was, Now comes a time when the rest of us no longer need to

19 be anti-Communists, a time has come when we can simply be non-Communists.

20 This is an essential difference, because on the one hand we had the
21 one-party system, and I opposed that system. I was anti-system, in a
22 sense, and now Croatia's League of Communists were one of the many
23 options that the citizens had to choose from. I now became a
24 non-Communist, no longer an anti-Communist. I now considered them to be
25 legal, legitimate. I believed that a person had the right to choose to

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1 be a Communist, to have their own party, to choose their own platform, as
2 any other party, they could rally the popular support behind them, go to
3 elections, and then if they win it, fine, they may go on governing, but
4 for a four-year term and not ad infinitum. And then after a four-year
5 period, there would be another election. That is what I said a couple of
6 sentences, that is how I addressed all those people. I do remember that
7 with great clarity, because this was a momentous event in Croatia at the
8 time.

9 A small detail to illustrate something, Your Honours. The TV
10 crew who was supposed to record this were late, and then I had to go back
11 several times because the first time around they were late and then the
12 next time around the camera had not warmed up enough for them to actually
13 produce the footage. But up until that point, up until that time when
14 this finally became legal, joining those parties was an offence, it was
15 illegal, and people were fearing reprisals.

16 When, in the evening news on TV that night, it was announced that
17 these parties had now become legal, people started joining these parties
18 on a massive scale, and the overall amount of political activity in

19 Croatia intensified to a very large extent.

20 MR. KOVACIC: [Interpretation] I believe that the technology is
21 now ready for us to proceed with the video.

22 [Videotape played]

23 THE WITNESS: [Interpretation] That's the very act, the signing of
24 the document, and this is me addressing the people there. There is no
25 sound. The sound was erased. There, you could see the representatives

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1 of these parties. It was a brief clip. This is from "Vreme"
2 [indiscernible], a Croatian TV show, showing bits of this documentary. I
3 don't know why the sound is no longer there. It's one of the mistakes
4 that Your Honour Judge Antonetti asked me about. Why -- and an
5 assumption why that was not taken? Because the TV did not have the tape,
6 so they erased the sound. Apart from that, Your Honours, as commander in
7 Sunja - I had been commander for two months - my first salary was 80
8 German marks, the equivalent of 80 German marks, simply because there
9 wasn't enough money to go around Croatia **at the time.**

10 JUDGE ANTONETTI: [Interpretation] Very well. We only saw a few
11 seconds of this tape, but I noted that there was a big poster with
12 someone on the poster. Who was depicted on that poster?

13 THE WITNESS: [Interpretation] I wasn't paying attention. Can we
14 please have that shown again? Can we have that again, please?

15 [Videotape played]

16 THE WITNESS: [Interpretation] Further back. We won't see
17 anything here. Tito, of course, Marshal Tito, wearing his uniform.

18 MR. KOVACIC: [Interpretation]

19 Q. General Praljak, for those who weren't around at the time, let's
20 just try to put them in the picture. Do you remember what the premises
21 were where this took place, the ceremony?

22 A. It was the main office of the Socialist Alliance or in Croatia's
23 League of Communists. I actually believe the latter, but not in the
24 building that we refer to as Koskica [phoen], of rather in the one that
25 we refer to as Vranica, because they had some sort of department or

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1 section there, rather.

2 Q. So as you told the Chamber, the SFRY, as a federation, despite
3 the fact that the Communist Party had formally been extinguished when the
4 Slovene and Croatian delegations walked out of the Belgrade Congress, is
5 still continuing to exist, actually, although it had gone bust, in a
6 manner of speaking. And now the next period commenced, the crisis in
7 Yugoslavia --

8 A. No, the crisis began earlier on.

9 Q. All right, the crisis began earlier on. I agree. I wasn't
10 specific enough, but the crisis is now climaxing?

11 A. Yes, this was the climax of that crisis.

12 Q. Can you please now explain those couple of days when the crisis
13 reached its peak, the first free elections, independence, and so on and
14 so forth?

15 A. There was no specific moment when the crisis peaked. It's not as
16 simple as that. I'm trying to be brief. The rebellion in 1968, that was

17 a moment of crisis. 1971 was a moment of crisis. 1974, the Constitution
18 was amended. That was a moment of crisis. The crisis continued in 1980,
19 so the crises kept mounting and mounting, and it's not like there was a
20 peak to it.

21 At that point in time on the hand in Bosnia and Herzegovina,
22 there was public pluralism emerging in Slovenia. Likewise, that had
23 happened a long time before, and it was a large-scale ferment.
24 Everything was ablaze. It was a very complex process that was in
25 progress here, and it's not like it had a peak or anything. Let's not

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1 try to reduce anything to oversimplifications. I told you what this was
2 about. After this, what followed were the preparations for the first
3 multi-party elections. That was that.

4 Q. What goes on after the election? What was the result of the
5 elections?

6 A. The HDZ was strong. It was faced by a coalition of parties, the
7 Coalition of National Agreement. That's what it was called. The
8 coalition was joined by the HDS, the HSLs, the Liberal Party, the
9 Democratic Party, the Croatian Peasants Party, the Croatian National
10 People's Party, the Croatian's Dima [phoen] Christians, and they all
11 appointed jointly their own candidates who would run at the election. It
12 was the coalition, on the one hand, and the HDZ on the other. The HDZ
13 didn't carry the day in the sense of an absolute majority, but they did
14 win the election. The Parliament was constituted in accordance with the
15 results of the election, and that was that.

16 Q. A while ago, we heard a similar question from the Presiding
17 Judge. Well, let me put it this way: What about the Federal Government
18 of the SFRY, what was their reaction to all of this?

19 A. It's not like it was a reaction. It had no power to do anything
20 about that.

21 Q. All right. So Croatia's Parliament now started operating, which
22 had been constituted, the following multi-party elections. What were its
23 most momentous decisions taken at this early stage?

24 A. I don't know. I wasn't in the Croatian Parliament. I know much
25 about it, but I don't want to -- anyone to say that I was making

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1 conjectures. There is sufficient documentation about that, so whoever
2 feels interested can read about it.

3 Q. All right. Maybe we can look at the other video from the DVD,
4 which you can then comment. If we could please now look at the DVD
5 compilation, 3D35349. Sorry, 3D3549.

6 [Videotape played]

7 MR. KOVACIC: [Interpretation]

8 Q. General, here we are going to see some footage about the further
9 development of the situation. Let's look at it first, and then you can
10 comment.

11 A. I can comment while we're looking at it, parallelly to the
12 development. This is the 28th of October, 1991. This is a cannon of the
13 JNA. Down there you can see Dubrovnik, and you can see their positions

14 above Dubrovnik and how they are shelling the town. This was footage by
15 the Montenegrin TV. You can see it well. Of course, this is Croatian
16 territory, but they had come from the territory of -- you see how from
17 Konavle, that is, from the surroundings of Dubrovnik, the town is being
18 shelled. They had come from Bosnia-Herzegovina and Montenegro. This was
19 very short. This is footage from Slovenian TV, or rather they got it
20 from whoever got made it. You can see the Adriatic Sea in the
21 background, and you can see them shelling. There was no possibility to
22 react in the same way.

23 Dubrovnik at the time, this was the Yugoslav navy and the
24 Yugoslav air-force bombarding Dubrovnik. That was a repeater station on
25 Mount Serdj [phoen] above Dubrovnik. We also saw the destroyers of the

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1 Yugoslav Navy shelling the town. The defence forces were able to hold
2 their positions at Serdj Mountain above Dubrovnik, and this was the
3 decisive battle in which a significant number of volunteers from --
4 Croats from Herzegovina took part. A significant number were killed.

5 And this was the attack of one political option and one people
6 against all other political options and peoples that did not fit in the
7 Greater Serbian ideology and the efforts made to make it a reality, be it
8 in the territory of Bosnia-Herzegovina, or Croatia, or Kosovo, or
9 wherever.

10 Q. What are we looking at now?

11 A. This is probably -- yeah, this is Vukovar. That town was

12 leveled. About 700.000 shells were fired at that town. That is a
13 conservative estimate. The guys who defended the town before it fell, I
14 believe you all know all about it, but they simply put a stop to the
15 attack and were able to inflict huge losses on the Yugoslav People's
16 Army. Hundreds of tanks were destroyed, et cetera, and this largely
17 stopped the Serbian forces and showed them the courage of the boys who
18 decided to defend their country; that irrespective of their armaments,
19 they would not be able to defeat us the way they thought they would.

20 I spoke about this with many foreigners, and everybody expected
21 Croatia to last about a month, three weeks to a month, and they expected
22 Croatia would be unable to withstand such a strong army as the
23 Yugoslav People's Army. We didn't think so, though. And irrespective of
24 the statistics, the number of artillery, grenades, aeroplanes, et cetera,
25 pale in comparison to our will to fight.

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1 That was Sisak, about 50 kilometres to the east. I was commander
2 of an area on the other bank of the Sava, the right bank of the Sava, for
3 a while there. This was a sort of a bridge head, and the boys I
4 commanded and I were able to keep our position. That was -- we saw the
5 Sisak refinery burning there.

6 I think that this is Zadar, as far as I can tell. Yes. That is
7 their breakthrough toward Zadar and Sibenik. Of course, this mustn't be
8 done. Whether this is done or Sibenik. Anyway, one of these two towns
9 on the Adriatic coast, where they were trying to force their way.

10 Here we see them targeting the Sibenik Bridge. Isn't it,

11 General Petkovic? You were there. Yes, yes.

12 Q. To avoid any misunderstanding, General Petkovic lived in Sibenik
13 for a while. He knows best.

14 Mr. Praljak, you see how the towns were being devastated?

15 A. I believe that it has become sufficiently clear now that they
16 were not selective about choosing their targets. They didn't care how
17 many people they would kill. Dubrovnik **was a cultural monument, but they**
18 shot randomly at anything at all.

19 Q. Until we see the next CD, showing an event in Zagreb, that is,
20 3D03148, I'll ask you a few questions so that we needn't go back to that
21 tomorrow.

22 We can see that Croatia **defends itself against attacks from**
23 different directions. Who was it who defended Croatia at the time,
24 because Croatia **didn't have an army, it was the Federation that had an**
25 army?

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1 A. Croatia **didn't have an army, nor was it allowed to establish one.**
2 The first weapons were illegally procured for the police from Hungary.
3 The police was allowed to -- or could legally procure weapons, and
4 Hungary **sold, I think, 30.000 Kalashnikov rifles to our police, and**
5 Croatia **was defended by about 20.000 to 25.000 volunteers at the time.**
6 The guard brigades had been established. The -- there were four
7 brigades, the 1st, 2nd -- 1st in Zagreb, 2nd in Sisak, the 4th in Split,

8 and the 3rd one in Eastern Slavonia.

9 THE ACCUSED PETKOVIC: [Interpretation] Your Honours, if you
10 allow, I would like to intervene, because General Praljak mentioned my
11 name and Sibenik, but didn't add anything to that, so you might be led to
12 the conclusion that I attacked Sibenik with the Yugoslav People's Army.

13 So let me ask General Praljak whether he knows that at the time I
14 was the commander of the defence of Sibenik on the part of the Croatian
15 Army.

16 THE WITNESS: [Interpretation] Yes, I know that. General Petkovic
17 commanded the Croatian Army at the time, and he was able to defend
18 Sibenik by defending the Sibenik Bridge. **So the volunteers were members**
19 of the guard brigades of the Croatian Army, but those -- the guard
20 brigades only numbered about 1500 people or so.

21 I took part in all these processes, but I didn't want to get
22 involved in politics. Politics only is interesting to me in terms of
23 research, but not in terms of active participation.

24 So I left the Croatian Democratic Party in the spring of 1991.
25 That can be found in my CV. And since spring 1991, I engaged in some

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1 private business, but I also worked for the Westdeutscher Rundfunk, and I
2 had a small team for one of the [indiscernible]. Mr. Zivko Krsticevic
3 and I owned a TV camera which was not a small thing at the time, and I
4 was hired by that journalist to assist him.

5 And I was in Slovenia **for four or five days of the war there, and**
6 I helped the guy with my contacts because I knew many people. And then

7 we made footage about the mothers from Serbia who had come to Zagreb,
8 because even the mothers from Serbia **opposed the war. Then there was**
9 this big movement of mothers who went to the 5th Army region to protest
10 and to stage that, didn't want their sons to fight in the war, so in
11 Serbia, too, **not everybody was belligerent. It was only the Serbian**
12 political ideology and the Yugoslav People's Army.

13 But then the aggression against Croatia started, and at a certain
14 time on the 3rd of September, I met a friend of mine who was -- who
15 commanded some police reservists. I asked him, Where are you going? He
16 said, To Sunja. I said, Can I join you? He said, Sure. And that's how
17 I turned up at Sunja in hiker's clothes, whatever I had, and I had an
18 assault rifle which was a gift from a German lawyer who had a large law
19 office at Bohn or thereabouts. I had been in Germany, and I also had a
20 work permit and a residence permit, a German residence permit, and he had
21 promised me weapons if the war should start, and he did.

22 So after a week, due to my organisational capabilities, I was
23 appointed commander, and that's where I stayed until March 1992.

24 Q. All right. That is a natural process. We will speak about Sunja
25 in greater detail.

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1 Let us go back to an earlier part. Perhaps now is a good
2 moment -- no, we just don't still have -- we still cannot show the
3 videos.

4 But before the JNA attacked Croatia, as we showed, the JNA had

5 intervened in Slovenia. **How did things go in Slovenia?**

6 A. I was there -- there during that war as a man assisting a
7 German journalist of the Westdeutscher Rundfunk. They wanted to reach
8 the Yugoslav border.

9 Q. When you say "they," do you mean the JNA?

10 A. Yes. But there was fighting. The Slovenians were well
11 organised. They changed all the road signs, so you -- if you weren't
12 from those parts, you wouldn't know where to go, which way to go. But
13 that was a sort of operetta war, because it was crystally clear to
14 Milosevic and the Serbian political leadership that they do want
15 Yugoslavia, **but without Slovenia. That Slovenia is something else and**
16 **they would let Slovenia go, they would let them leave; so that that war**
17 **can be seen as sort of a demonstration, so that they withdrew and most**
18 **armaments went from Slovenia to Bosnia-Herzegovina mostly.**

19 In Croatia, **certainly, there was spontaneously organised attacks**
20 **against those trains, so if those accompanying those trains --**
21 **occasionally it was possible to steal some materiel from those trains.**

22 Q. From Slovenia, **let us pass on to the city of Zagreb. You**
23 **mentioned the events that have to do with the Marshal Tito Barracks?**

24 [Videotape played]

25 A. Stop, stop. I believe that the Prosecution asked a witness about

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1 Croatia's reactions to the attack in Slovenia. Croatia, **being without an**
2 **army, couldn't do much. There had been talks between the Croatian**

3 leadership, Franjo Tudjman and Mr. Kucan, about forming a military
4 alliance, but what kind of alliance could that have been since neither
5 party had an army?

6 This is in the southern suburbs of the Zagreb, across the Sava,
7 and there was a large JNA barracks. It was called the Marshal Tito
8 Barracks, which was shortened colloquially to Marsalka. There still was
9 no war in Croatia, but the people heard that the JNA were going from
10 Slovenia to the Marsalka -- or, rather, the other way around, from
11 Marsalka that they were going to Slovenia, and there was a spontaneous
12 protest against that. This may even be the footage made by my cameraman.
13 I was there, anyway, and people threw stones at those tanks, shot at
14 them. Of course, there was a reaction from the barracks and a young man
15 got killed.

16 And now let's look at it.

17 [Videotape played]

18 THE WITNESS: [Interpretation] Is that all?

19 [Videotape played]

20 THE WITNESS: [Interpretation] I have a cassette where you --
21 where that dead guy is shown, and I can be seen trying to warn the people
22 not to shoot toward the barracks because the soldiers would shoot back.

23 You have just seen the resistance of the Croatian people to the
24 war in Slovenia.

25 [Videotape played]

1 THE WITNESS: [Interpretation] That was understandable. These
2 were tanks passing through toward Banja Luka under the same arrangement
3 that the JNA would find shelter in Bosnia-Herzegovina. And this was an
4 option that was also advocated by Alija Izetbegovic, that the JNA would
5 be the guarantor of the security of the citizens of Bosnia-Herzegovina.
6 It is impossible to understand this delusion. I fail to comprehend that.

7 MR. KOVACIC: [Interpretation]

8 Q. We saw the -- we saw some examples of the situation in Slovenia
9 and Zagreb. **And to make it completely clear to everyone, did the SFRY**
10 still officially exist at that time?

11 A. Yes, it was a -- it was a subject of international law and
12 internationally recognised.

13 Q. These events that we just saw, these incidents where force was
14 used, were, at the same time, talks taking place between the
15 representatives of the six Yugoslav republics about the changing of the
16 system?

17 A. Yes, there were talks going on endlessly, but let's leave it --
18 leave that for the book. I'll just mention two instances.

19 All the presidents or the presidents of presidencies of the
20 republics agreed that they would have meetings in every capital or every
21 town of the republics, so meetings took place at Split, Sarajevo, **I don't**
22 know where. Then the international community joined, et cetera. So
23 there were 43 meetings between Milosevic and Tudjman, and
24 Alija Izetbegovic also took part in 31 meetings, but there's
25 documentation about that. So there are immense efforts from the Croatian

1 side, which I will show in a series of texts, to arrive at a normal
2 political solution of the crisis without war. Those efforts were really
3 huge, and we were also willing to make concessions. Croatia wanted to be
4 a unit of a Yugoslavia **in which there should be a democratic**
5 **parliamentary system**, but the Serbs were absolutely unwilling to agree to
6 that. Politics is the origin of any war.

7 Q. I believe that there is an -- that there is more footage that has
8 been shown to this Trial Chamber before, so we needn't show it again, but
9 we all remember something that happened when the premises of the
10 Presidency in Zagreb **were attacked with missiles.**

11 A. On the 25th of June, 1991, after a year of exhaustive talks about
12 that topic, the Croatian Parliament took the decision to sever all
13 connections with Yugoslavia **and that Croatia should become a sovereign**
14 **and independent country**, but the European community, which still hoped
15 that the situation could be resolved, demanded that Croatia suspend this
16 decision for an additional three months so that we should try to
17 negotiate for three months more. In the meantime, war was raging on.
18 What we just saw was continued in Dubrovnik, Zadar, Sisak, et cetera, but
19 the talks continued. But after three months, we were much further away
20 from any sort of solution, political solution, than on June the 25th.
21 And when those three months had elapsed, Serbian aeroplanes bombarded the
22 Banski Dvori. That is the name of the building where the president of
23 Croatia, Franjo Tudjman, had his office.

24 At the time, the president of the federal government,
25 Ante Markovic, a Bosnian Croat, was with him. Was there a Mesic, too?

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1 I'm not sure. Markovic was there. Tudjman was there. I'll remember
2 later, it will come to me. So the intelligence services knew where he
3 was at any given moment. Fortunately, Franjo Tudjman invited them for
4 a cup of coffee and they left the office when the missile hit the room
5 where they had been a few seconds ago. So it was clear that they wanted
6 to kill him; not only him, but also Markovic and another high political
7 official. I believe that it was Seks, the speaker of the Croatian
8 Parliament. So they knew his movements to the minute or second.

9 Then a bomb was placed at the Jewish community premises in
10 Zagreb, and of course this was -- this was breaking news which went
11 around the world in a minute. We soon found out who actually did it. It
12 wasn't Ustashas or fascists; it was the KOS, the Yugoslav
13 Counter-Intelligence Service. And I have proof for everything I'm
14 saying.

15 Q. All right. This is more of a description of the general
16 circumstances.

17 Yes, there is a negation. Perhaps we should correct this before
18 questions are asked about that. This reads that these were not Ustashas,
19 but that this was the KOS, that is, the Yugoslav Counter-Intelligence
20 Service.

21 Okay. I would now like to explain a little the Exhibit 3D02657.
22 That's a book that resulted from a project by Tomislav Djonlic. It's a

23 historical overview of evil done to Croatia. Can you explain briefly

24 your connection to this book, if any?

25 A. Your Honour, it seems to me that by showing this book, regardless

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1 of what your decision will be on the book, that it's worth saying that

2 the book was created at the time when we were released to go home --

3 JUDGE PRANDLER: Mr. Kovacic, I am sorry. Would you be so kind

4 to indicate where we could find this, what you just mentioned, because I

5 believe the number was 3D0265, but we do not know -- yes, and seven,

6 but we do not know which folder should we find it.

7 MR. KOVACIC: [Interpretation] Your Honour, it's in one of these

8 binders, binder number 1, and it's at the very beginning of the binder,

9 the fifth or sixth tab.

10 THE WITNESS: [Interpretation] As I was saying, when I got there

11 and when I started preparing for defence, the basis of such a preparation

12 is what we call thinking; how could I possibly be of assistance to the

13 Trial Chamber and to the Prosecution in order to present, in a clear way,

14 certain very complex things that are difficult to understand. And this

15 effort resulted in such a book, and this shows precisely that I have

16 great respect for the Court and that I invested maximum efforts to

17 provide relevant information to the Court about everything that I believe

18 is necessary to know about the situation in order to understand it.

19 This is made by a young historian, Tomislav Djonlic, and this is

20 an attempt to show all the events that preceded the outbreak of the war

21 in Croatia. Briefly, we thought without any pomp, we would list the

22 bibliography and show how it went in Croatia; conquests, persecutions,
23 killings, looting, extermination. And in this section, we see what it's
24 about: The Middle Ages in Croatia; Italian occupation from 1941 to 1945;
25 the Kingdom of Yugoslavia; Chetnik crimes in Bosnia-Herzegovina; the

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1 independent state of Croatia; Jasenovac and other Ustasha camps;
2 Blajburg, et cetera; folksdeutchers, some outlines of the post-war
3 history of Yugoslavia; Ozna and Udba State Security Services in
4 Yugoslavia and abroad, et cetera. From this list of contents, you can
5 briefly see the substance of each section, and I would go, for instance,
6 to the Kingdom of Yugoslavia chapter, page 23.

7 JUDGE TRECHSEL: Mr. Praljak, are you sure you're not embarking
8 again on something that is more the work of an expert than of a witness,
9 because it seems to me that this is a historical work, perhaps a very
10 good one, but I wonder whether it has much to do with your personal
11 experience.

12 MR. KOVACIC: [Interpretation] Your Honour, the idea behind this,
13 bearing in mind the standards under which documents are being introduced
14 into evidence, we thought this is a paper that can contribute a great
15 deal to establishing facts about the origins of that war, and it's
16 relevant to the count number 15 in the indictment, the joint criminal
17 enterprise. We are certain that we will actually save court time if we
18 allow the general to explain certain positions and views expressed in
19 this book, because he participated in its creation, and then we could

20 tender the entire document. Otherwise, we won't gain anything if we
21 tender two pages here and two pages there.

22 The general just explained how the book came to be written. We
23 even translated it because we believe it's a valuable document in that
24 sense. I explained already why, and I think that it's in the interests
25 of the economy of time to allow General Praljak to go through certain

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1 points made in the book, because the book is pure fact. There are no
2 views, no evaluations.

3 THE WITNESS: [Interpretation] Yes, there is no judgement. It's
4 pure fact. This is why --

5 JUDGE TRECHSEL: I would like to reply to Mr. Kovacic.

6 Thank you, Mr. Kovacic, for the explanation. And to the extent
7 that this is questioning for the purpose of introducing this document, I
8 have no objection.

9 MR. KOVACIC: [Interpretation] Thank you very much, Your Honour.

10 Please rest assured that the end result will be saving time.

11 Q. Please go on, General.

12 A. For instance, Chetnik crimes in Bosnia-Herzegovina, that's page 34
13 -- that's 3D34-0062. The first weapons that we, in Croatia, immediately
14 provided were for Gorazde, Foca and so on, and that was because every
15 educated Croatian person knew that Chetniks in Bosnia and Herzegovina **had**
16 killed, in the Second World War, at least 33.000 Muslims, mainly in
17 Eastern Bosnia, **and every -- normal reasoning on my part and**
18 Gojko Susak's was they are not ready for this war; and the Chetniks will

19 slaughter them as they had slaughtered them already between 1941 and
20 1945. So this is an enumeration here of incidents where Chetnik units
21 that are now claimed to have been part of the anti-fascist coalition
22 killed population, quoting numbers. In Mrkonic Grad, so many people were
23 killed, in Sanski Most, so many people were killed. This is pure fact,
24 and I have nothing to add except to say that this is indeed so.

25 And in para 32 of this section, it says in the area of

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1 Srebrenica, Chetniks committed mass killings from 1941 to 1942. We
2 forward the report from that time. The exact number of victims is not
3 known, but in Srebrenica District, 1.000 people have been killed, and so
4 on and so forth.

5 JUDGE PRANDLER: Not to intervene about the speed of your
6 talking, but I have to tell you, in the interests of our interpreters, be
7 so kind and slow down. And also, frankly, I would also like to ask
8 Mr. Kovacic to do the same. Sometimes his questions are also going very
9 fast. Thank you.

10 THE WITNESS: [Interpretation] Thank you, Your Honour. I'll try.

11 Para 34, about the situation in Visegrad. It is encircled.
12 District authorities of Visegrad reporting. The population of this area
13 from the 2nd September 1942 have been going through the worst times of
14 their lives. Villages are on fire. People are dying and starving in the
15 streets of the town, if they managed to flee before Chetnik bandits from
16 their village homes. To date, Muslims and Catholics, in the number of
17 5.000, have been killed in this district, and the figure continues to

18 rise.

19 Para 37. On the 19th of August, 1942, Chetniks occupied Foca for
20 the second time. 5.000 Muslims fled towards Sarajevo, while
21 Draza Mihajlovic, the Chetnik leader, reported on the 23rd August to his
22 Chetnik command as follows: I completed the operation yesterday up to
23 Usta, Klina, and Jahorina Mountain. **Up to 3.000 Muslims slaughtered.**
24 All troops are good fighters and even better looters. The fall of Foca
25 is having a good echo. Muslims are fleeing in droves towards Sarajevo.

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1 Para 41, expulsion of Croats from Stolac and Dubrave. On that
2 occasion, they slaughtered 100 Croats. From the whole Stolac area,
3 10.000 to 15.000 Croats were expelled, and so on.

4 Or para 46. After these operations in the middle of October,
5 1942, Chetniks headed towards the area of Prozor, Rama, Sujica, Livno,
6 Makarska, the coast along the Neretva River. **Through Rama and Prozor,**
7 the Chetniks arrived at the Rama Mountain. **In the Mostar area, they**
8 killed 200 Croats and Muslims. And in Prozor area, they slaughtered or
9 threw into the river or a pit, 1716 people, out of which 340 were Muslims
10 and the rest were Croat civilians. This perhaps begs the question:
11 Where are Ustashas in this story? Where were the Ustashas, who were
12 supposed to defend these areas?

13 Let me tell you this: The independent state of Croatia,
14 Your Honours, I said once, was divided across the middle into a zone
15 ruled by the Germans and another zone ruled by the Italians. Ustashas

16 did not dare cross over into the southern region occupied by Italy. They
17 did not dare cross over. So the Chetniks in the Italian occupation zone
18 did not allow Ustashas -- that is, the Italian authorities in their own
19 occupation zone did not allow Ustashas in, but they allowed Chetniks in.
20 There is also a section about Ustasha camps. That's para 56. And we
21 have numbers here, the Jasenovac myth because the number of those killed
22 in Jasenovac, according to historians, varies from 50.000 to 1 million.
23 Depending on what suited a given propaganda campaign, the figures were
24 inflated. The current figure written in Jasenovac itself is around
25 75.000 Jews, gypsies, Serbs and Croats killed in that camp. The number

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1 of victims in Nova Gradiska was slightly less.

2 These were facts gathered in this book, nothing else, pure
3 information. I refrained very strictly from expressing any judgement.
4 We have Blajburg --

5 JUDGE TRECHSEL: Mr. Praljak, we have lengthily heard this now.
6 It would be interesting to see any link to the indictment to the case
7 before us. I must confess that I fail to see this, and I must say it is
8 elequoque [phoen], it is not even the tu quoque, it's the Chetniks --
9 what is referred to as the Chetniks or Serbs. Can you explain or could
10 Mr. Kovacic explain what the relation is to our case?

11 THE WITNESS: [Interpretation] Your Honour, I'll respond to just
12 one point.

13 We have seen here one document. It was a long time ago. I don't
14 know if anyone remembers it still. And that paper said, speaking of a

15 murder in Rama, that that man avenged his father. So that killing,
16 accompanied by the sentence: "He avenged his father," tells us that this
17 revenge and killing was a vengeance for these killings in Rama that
18 happened in 1941 through 1945. I don't know how better to explain it.

19 JUDGE TRECHSEL: I'm not aware of any excuse or justification,
20 under International Humanitarian Law, if you kill a civilian, or any
21 unlawful killing could be justified or excused because the motive is
22 revenge.

23 MR. KOVACIC: [Interpretation] Your Honour, if I may pick up on
24 what General Praljak just said. The indictment makes the case that all
25 these events for which the accused are charged happened as a result -- as

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1 a consequence, in various forms, of course, of the activities of Croatian
2 forces that follow from the joint criminal enterprise. Let me put this
3 in context. I like examples.

4 In the context of a regular criminal case, a regular murder,
5 where a man is charged with murder, the accused often says, It wasn't me.
6 Somebody else murdered the victim. That defence sometimes works,
7 sometimes it doesn't. Sometimes it's true, sometimes not. That's what
8 happens in traditional criminal cases. The accused says, It wasn't me,
9 it was the butler. We here are not claiming that it was the butler, but
10 we want to show clearly the circumstances of the events, including the
11 historical background, so that you, Honourable Judges, are able to
12 evaluate how realistic it is to say that all the deplorable events in
13 Bosnia and Herzegovina at the relevant time happened only because of the

14 actions or omissions of the HVO or, speaking more broadly, the broader
15 criminal organisation which stands accused. We want to provide a picture
16 of all the reasons, all the motives, and all the factors, and some of
17 these factors result from the history, all that impacted on the events in
18 Bosnia, and we want to demonstrate that this was not the result of a plan.

19 First of all, there was no plan, and even if there had been a plan, all
20 that happened could not have resulted from that plan, from such a plan.

21 I see the general wants to add something, but let me finish. And
22 my point is: How -- what is the simplest way to do this?

23 JUDGE TRECHSEL: Mr. Karnavas is on his heels to get on his feet
24 for quite some time.

25 MR. KARNAVAS: If I may just supplement, because I understand

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1 where the general is going with this, and if I can cut the Gordian knot.

2 You know, we all know the Prosecution's theory of the case and
3 what they allege in the indictment. General Praljak is trying to
4 establish two things: One, that there was no plan, but two, and more
5 importantly, that as a commander, with command responsibility and the
6 ability to effectively command and control the troops, part of the theory
7 is, as I understand it from listening to all of this, and one that we
8 subscribe to as well, that given the historical background of some
9 individuals on their own acted, and under those circumstances it would
10 have been very difficult, given the fact that you're not dealing with a
11 trained army. You don't have the sort of officers that you would
12 normally have. You have this historical background for revenge.

13 Individuals were acting on their own, and a commander in-situ would have
14 been hard pressed to control everyone, everyone's actions, and to know
15 what was in their mind and how to control their behaviour. I think that
16 was -- that's the historical background that is being laid out at this
17 point.

18 In other words, this was a tinderbox, in and of itself, this
19 area. Individuals who had suffered from World War II. Things were very
20 raw, and those individuals acted on their own, not as a result of a plan
21 or an order, and that a commander, who's commanding troops, cannot, one,
22 be responsible for everyone's activities if, you know, they don't have
23 the abilities, but also you had individuals who may not necessarily have
24 been under anyone's control but, nonetheless, were acting on their own to
25 even some scores. I think that's the essence of it. That's why it's not

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1 tu quoque, in my opinion, and it's not being offered for that purpose.

2 JUDGE TRECHSEL: Still, to take an example similar to that
3 Mr. Kovacic made, this seems to me more like a case where the crime is
4 the rape of the cook, and to explain it you speak about the murder of the
5 servant's uncle or something like that. But what is so difficult is this
6 is all about crimes committed by a party which is not involved in this
7 case, and --

8 MR. KARNAVAS: This is being offered, Your Honour, in order for
9 you to understand the historical context in which these events occurred.
10 They didn't occur in the abstract. That's the whole point. For those --
11 I mean, it may not be relevant to some of us who come from different

12 historical backgrounds, but for those who lived throughout that period,
13 these issues were very raw. And now you have the situation, and the
14 situation ignites itself, and it's being offered for historical context
15 to explain later on why individuals, on their own, may have acted the way
16 they did.

17 JUDGE TRECHSEL: I'm a bit worried about the course of the trial.
18 It seems to me the more remote we get from the facts that are actually
19 covered in the indictment, the more voluminous the material we get.

20 MR. KARNAVAS: I agree, hence why early on we tried to put a stop
21 to Donia coming in here and talking about the 15th century, and we -- and
22 I was like Cassandra at the time, warning about where we are and where
23 we're going to be. Nobody listened to me, apparently.

24 JUDGE TRECHSEL: This is tu quoque, Mr. Karnavas, this is
25 tu quoque, isn't it?

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1 MR. KARNAVAS: Well, I guess I'll take that as a compliment.

2 MR. KOVACIC: [Interpretation] Your Honours, just one sentence I
3 want to add, and I subscribe to all my colleague said.

4 Among other things, this historical background that Mr. Karnavas
5 spoke about so eloquently is perhaps the answer to the question: What
6 was in the mind of those men who were supposed to be kept under control
7 and under command? That's another part of our defence, the difficult
8 situation in dealing with the volunteers and the army, such as it was.

9 My colleague made a suggestion, and perhaps I want to add this as
10 well. In a classical murder trial, as you said, we have to establish,

11 among other things, the mens rea, and we have to find what led to the
12 murder in order to be able to try it and judge it. And in this case, we
13 have to do the same thing on a much larger scale. Thank you.

14 Q. General Praljak, please go on.

15 A. I'll come back to this when we come to it later, but examples are
16 very important, and I have examples to show that this had to be known in
17 order to behave properly, to act properly.

18 You saw, Your Honours, in one of my documents in Rama, that
19 describes the situation altogether, and we see from that document that
20 there were volunteers from the 5th Guards Brigade. That brigade was
21 formed, and the men lived and worked in Eastern Slavonia. The question
22 now would be: Why, if Croatia is sending troops, why it is sending
23 troops from Slavonia. Why not from Split, Sibenik, Zadar? Why from
24 Slavonia? Because in Slavonia there was a large population of
25 folksdeutchers. Folksdeutchers had been expelled, their land was taken

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1 away, and that land that was in the possession earlier of folksdeutchers,
2 but partially also of Hungarians, Herzegovinians were brought, Serbs from
3 Kosovo, and that happened from 1948 to 1951.

4 There was a famous film about that incident, "A Train Without a
5 Schedule." People would be simply packed into the train and transported
6 there. And that's the explanation why volunteers were sent from there,
7 why the 5th Guards Brigade from Slavonia and not the 4th Guards Brigade
8 from Split. Those were young men, children, who had already lived in

9 Herzegovina for four or five years and who had certain patriotic

10 feelings.

11 JUDGE PRANDLER: Mr. Praljak, really, I do not want to stop you
12 in explaining your positions, but I would like to add my voice to that of
13 my fellow Judge, Judge Trechsel, that what we are trying to ask you is to
14 concentrate on the issue before us; and it is of course the indictment,
15 first of all. I know that we are going to have a break in a few minutes,
16 but that is why I would like to say that although I am very much
17 interested in all the historical details, as I've already told you before
18 that apart from being international, in a way, jurist, I am a historian
19 as well; and of course I had been always very close to your history as
20 well as to that part of the world. But on the other hand, let me again
21 repeat that we would like you to concentrate on the indictment and to
22 talk about it, and not to have a kind of colloquial on history in general
23 and the history of the former Yugoslavia in general, because frankly it
24 doesn't lead us too far and you are losing a lot of time which you may --
25 you could have used in a better way.

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1 We are not -- and I'm saying "we." The Chamber is not against
2 your efforts to present your case and to defend yourself, et cetera. We
3 are for it. But believe me that it could be done in another way and not
4 to have a historical lesson to be given, et cetera, because it is
5 counterproductive.

6 Thank you.

7 JUDGE ANTONETTI: [Interpretation] The Judges spoke, and I believe

8 that I would like to speak out also. And I will be of a different
9 opinion, and I believe that I must explain myself to make sure that there
10 is no misunderstanding.

11 In the indictment, the accused is accused of several things
12 covered in Article 7(3) and 7(1) of the Statute, Article 7(3) and 7(1).
13 As everyone knows, Article 7(1) deals with the responsibility of a person
14 who would have ordered, committed - and here we talk about the theory of
15 the joint criminal enterprise - a person who would have committed or
16 ordered crimes. Article 7(3) has to do with the responsibility of
17 command responsibility, in the case of a person who did not do everything
18 he should have done to stop crimes from being committed, and the accused
19 Praljak is being accused of these two counts. So if I understand the
20 theory of the Defence, and this goes for all Defence counsel, it seems
21 that the Defence is challenging the responsibility of 7(1) and notably of
22 the JCE. The Defence actually challenges the very existence of any JCE
23 of any sort. So if I understood the Defence right, it seems that crimes
24 were committed. This does not seem to be challenged by General Praljak,
25 at least in some cases. But it seems that according to the Defence case,

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1 these crimes were committed for other reasons than that that could be
2 derived from a JCE.

3 These crimes would have been committed either as an act of
4 revenge, to revenge oneself of what had happened earlier in history,
5 which is why we have this document written by Mr. Tomislav Djonlic, this
6 document being a document that we could use to understand the mechanisms

7 that could explain the mens rea of the perpetrators of the crimes, or the
8 crimes committed would have nothing to do with history, but could, like
9 in the case of Stupni Do, have been committed by soldiers who just wanted
10 to take revenge on the death of their comrades that would have been
11 killed a few days or a few weeks earlier. So I believe that I've summed
12 up the position of the Defence cases.

13 I am a criminal judge. I am well versed in this domain, and I
14 believe that any offence must be characterized both by mens rea and an
15 actus reus, and so for the mens rea the Judge must try and find out
16 whether the accused had the intent of committing the crime and must also
17 characterize his intention. I believe this is the crux of the matter,
18 and I wanted to say this.

19 As far as this issue is concerned, I believe it's very important.
20 As Judges, we are at the very -- we're in between the Prosecution case,
21 as alleged in the indictment, and the Defence case, backed by everything
22 that all the evidence has brought us and the documents that we're being
23 shown.

24 I am an unbiased judge. I will favour neither theories, neither
25 the Prosecution case, or the Defence case. As an unbiased Judge or a

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1 criminal case judge, I must check -- I must scrutinise everything that
2 the Defence is offering to me, and I cannot discard anything. I cannot
3 discard anything. When I believe that things are totally irrelevant and
4 that we're wasting our time, I can discard things, but when I have
5 documents like the one we have here on display, I can't say that it's

6 totally irrelevant.

7 I wanted to say this to have it on the transcript. But it's a
8 quarter to 6.00 now, and we must break.

9 But first I want to give the floor to my colleague.

10 JUDGE TRECHSEL: The President's words might be misread as
11 meaning that the other Judges have a different approach, or a different
12 opinion, or are not impartial, or do not have experience in criminal law,
13 and that is definitely not the case.

14 I have no -- I do not take issue with this approach. I fully
15 agree. It's just that our opinion differs about the relevance of what we
16 have here, the distance from the historical fact that were discussed and
17 the indictment, that our views may not entirely coincide. But
18 principally, principally, there is no difference in approach, really.

19 MR. KARNAVAS: Just very briefly, just to make my point, to drive
20 it home.

21 There's a place in Greece called Kalabrita where almost the
22 entire town was wiped out by the Nazis because of revenge for those who
23 are attacking the Nazis at the time. If you were to go there today,
24 I can assure you that the incident is as raw as it was the day it
25 happened, and if -- if there was another war and German soldiers happened

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1 to be there, I can assure you that the residents, the survivors of those
2 people living in that area, would spare no effort in ensuring that they
3 extracted their revenge. I'm not saying that it's justified. What I am
4 saying is that we're dealing with some historical facts that are very raw

5 in certain people's minds, and we are very educated, we live in very
6 highly-sophisticated times, and not everyone thinks the way we do. And
7 that's the point we're trying to make.

8 And I do appreciate your understanding, Your Honour. Thank you.

9 JUDGE TRECHSEL: Yes. And I would not have said all the things
10 I've said if we had been talking about crimes committed by Muslims
11 against Croats, but with crimes committed by Serbs, that's what I found a
12 bit far-fetched, just to make clear where the difference is.

13 JUDGE ANTONETTI: [Interpretation] It is 10 to 6.00 -- well,
14 quarter to 6.00. We're going to break for 20 minutes, and then we'll
15 resume with Mr. Kovacic's questions.

16 --- Recess taken at 5.48 p.m.

17 --- On resuming at 6.11 p.m.

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

19 Mr. Kovacic, in order to avoid problems, there must be a problem
20 arising from the way you put your questions, I think that all the Judges
21 would like to know why you submit a document. In this case, if you had
22 done as I am going to suggest, we would have had no problem. You could
23 have asked Mr. Praljak whether it was him who'd asked the historian to do
24 the work. He would have answered, Yes. And then you would have asked,
25 Why did you want him to do this piece of historical work? Mr. Praljak

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1 would have answered, Well, I wanted to demonstrate how the past history
2 may have had an influence on some soldiers in some operations. And you
3 could have then said, Do you have examples? He might have given you

4 some, et cetera, and you could have moved on, asking why he wanted to
5 highlight the issue of the historical past. And he could have answered
6 in order to show the part of revenge in some cases. And you could have
7 asked, Why revenge? And then he could have answered, Well, because I
8 want to say that it's not part of a joint criminal enterprise that some
9 committed crimes, but as a part of another framework.

10 And you could have then reacted by asking him for examples. In
11 this way, the Judges would have understood. Failing that, admittedly, if
12 you look at this large document with a lot of references to articles, the
13 first -- the initial reaction is: Well, what's the purpose of it, what's
14 the point of it? Because we've already addressed all the issues, and
15 they've been debated already.

16 So try to think it over. Try to see how you can help us, to
17 really put to us what you want to demonstrate. Then everybody will
18 understand. And as was said by my two fellow Judges, all we want to do
19 is understand, have as much information as possible in order to grasp the
20 problem, and then further deliberate in peace. In this respect, there's
21 no difference among the Judges. We all -- the four Judges do want to
22 establish the truth.

23 MR. KOVACIC: [Interpretation] Thank you, Your Honour. I accept
24 your instruction in its entirety.

25 You know all too well that time is a part of our problem.

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1 Mr. Praljak knows how witnesses should behave. I believe that if I used
2 direct questions, I would manage to save time. That is obviously not the

3 case, because as soon as a question is asked, a debate flares up. I

4 should just move on, I believe.

5 Q. General Praljak, in order to create a link between theory, on the
6 one hand, and practical actions on the ground, could you remember an
7 example or a situation which you believe you prevented a crime from being
8 committed primarily thanks to your knowledge and training in history and
9 social psychology? Was there ever a situation where you anticipated that
10 a crime might occur and that unpleasant consequences might ensue, and did
11 you then step in, in a situation like that, and stop this from happening?
12 Can you remember any situations like that?

13 A. Indeed. The first thing I wish to tell the Chamber is that most
14 of the information in the book that Djonlic produced, in cooperation with
15 me - he did a lot of technical work for the book - was never published
16 before the fall of Communism in Yugoslavia. **This was secret information.**

17 In Yugoslavia, **one was never allowed to raise the issue of**
18 Blajburg -- please, let me just finish what I'm saying.

19 MR. STRINGER: The objection is that the witness is not
20 responding to the question that counsel has put to him. It's not
21 responsive.

22 MR. KOVACIC: [Interpretation] I think General Praljak has the
23 right to introduce what he's saying by a single sentence. I think he's
24 trying to respond to my question, but he's creating a context. I think
25 the objection was premature.

1 THE WITNESS: [Interpretation] All I wish to do is provide a brief

2 introduction.

3 So what I'm saying is this: For example, General Petkovic -- or
4 Nika, Nika first heard of Blajburg back in 1990. It was classified
5 material. There was a ban on raising the issue. One was not supposed to
6 know how many people were killed by the Yugoslav Secret Service abroad.
7 Let me give you an example.

8 Back in 1992, there was this situation. I was commander in
9 South-Western Herzegovina. **We were supposed to take the JNA barracks in**
10 Capljina. By this time, Bosnia and Herzegovina had already received
11 international recognition. The JNA, by this time, had become a foreign
12 military power in that country's territory. There was fighting in
13 progress. In a single unit, we had four men who were killed and
14 seventeen wounded.

15 At one point in time, while I was involved in negotiations with
16 General Perisic, a subject that I will skip for the purposes of the
17 present discussion, nevertheless at one point he pounded Capljina and the
18 area around the barracks heavily, and there was a helicopter landing
19 which was successful and well executed in a bid to evacuate quite a
20 number of men from the barracks. Nevertheless, a total of 32 JNA men
21 remained inside. One day -- or, rather, one morning, and I'm not
22 specifying the date, they simply surrendered.

23 Can we please go into closed session? I'm about to mention a
24 name.

25 JUDGE ANTONETTI: [Interpretation] Private session, please,

1 Registrar.

2 [Private session]

3 (redacted)

4 (redacted)

5 (redacted)

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11 Page 39727 redacted. Private session.

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7 (redacted)

8 (redacted)

9 [Open session]

10 THE WITNESS: [Interpretation] Those were the same men who had
11 worked abroad in Germany **and then earned some money.**

12 THE REGISTRAR: Sorry, Your Honours. Just for the record, we're
13 back in open session. Thank you.

14 THE WITNESS: [Interpretation] Those people bought a bus, the
15 price tag being between 200 and 250 thousand German marks, and then they
16 would take the people working abroad back to Duvno, Livno, and Siroki
17 Brijeg. They would drive them there. Nevertheless, there wasn't a
18 single law allowing me to seize that bus. I had no right to seize that
19 bus from that person. I could only plead with them, but then there might
20 be an air-raid, the bus might be blown to bits, he'll lose the bus. I
21 had no guarantees. The fuel was his and all of that. So I was biding my
22 time, and then the bus eventually arrived. Two men came, filled with
23 hatred, out to kill those men that were there.

24 All right. Now, how does one stop those two men? There is
25 simply no other way, Your Honours. At a moment like this, I have to be a

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1 far fiercer animal, a beast, than them. I have to be filled with great
2 desire. My eyes have to be burning. It's not a normal conversation,
3 it's death against death.

4 So when the first man stepped forward, I put a gun into his
5 mouth -- I shoved a gun into his mouth, I jeered at him like a madman,
6 and at that point I was prepared to fire. Of course, he realised how
7 passionate I was about the situation. I can enact the situation for you.
8 The heat in this room will rise if I show you the pure savagery of the
9 situation, but it stopped them in their tracks, simply got them out of
10 there.

11 I put those people on the bus. The first thing, obviously, was
12 this: Too much blood had already been spilt in the area. So what did I
13 do? I took them to Croatia, to Metkovic, thereby saving their lives.

14 Your Honours, what I'm telling you is this: Had I complied with
15 all the military rules - I had the prisoners there, I had the men from
16 the military police there, I was a general, the job was done, I gave an
17 order, Let's get on with it - had I done that, all of those men, at least
18 most of them, would have been killed.

19 Let me move on and I'll give other examples, knowing these
20 historical facts and knowing about social psychology, which I studied for
21 two semesters, knowing all this enabled me to anticipate certain events
22 in a different way.

23 You will study the statements of those two men, the fate of the
24 man whose name I mentioned, and this is how the conversation developed:
25 What will I do now, he said. And I said, honey, A, either I take you

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1 across to the other side, that is, back to the Serbs, or, B, go to
2 Croatia, or, C, go somewhere abroad, or, D, go join the HVO. You belong
3 there, because here is where you live. And then he eventually joined the
4 HVO. He became a major. He took a specialised course, all of this with
5 my assistance. He's still alive. He has a job, and he has two children.
6 So those were my reasons for acting the way I did.

7 I assert the following, had the military police taken over, the
8 other lads simply didn't have the power to resist them, because their
9 desire to do what they set out to do was far greater than the desire of
10 the other side in stopping them, but I had to step in and do that for
11 them on their behalf, I stopped it. And there are dozens and dozens of
12 examples like that. That was the nature of that war, and that's what I
13 did, that's what I attempted. There was nothing tra-la-la about this,
14 Your Honours.

15 I just wanted it clearly understood. That is the whole story,
16 thank you.

17 Should you wish to see what a man looks like faced with someone
18 else's desire to kill, I will enact that for you right here in this
19 courtroom, so you understand clearly that it's not what you're thinking,
20 it must have been. This is no civilization, this is no humanity. You
21 have to become an animal, and that is not even beginning to say what it

22 was like. That is how you take care of situations like that, and that is
23 how I took care of this situation.

24 Q. General, I think we can just stick to this verbal description
25 that you just provided. I think that really illustrates your point.

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1 Nevertheless, I can't help thinking the following: You describe this
2 entire incident in quite some detail. What about your knowledge of
3 theatre and your knowledge of acting? Was this something that was
4 helpful in this situation, in addition to your knowledge of history and
5 psychology?

6 A. Yes. I could have been less angry and yet could have made it
7 look like I was angrier than I was, but you have to work yourself up into
8 this state of actually being prepared to commit a murder, to murder
9 someone to keep that someone from killing another human being. You may
10 be thinking at a time like that, Okay, I'm stop just short of killing a
11 person, but then nothing is certain in a situation like that because it
12 really is touch and go in situations such as this. Your instinct takes
13 over, your body takes over. Your mind is still there, but your instinct
14 takes over and you either do it or you don't do it.

15 All right, there is a question I would like to ask myself. I
16 thought the Judges might ask me the question, but they didn't. Okay.
17 Now, what did I do with the two of them? Nothing, really. Yes, I'll
18 slow down. I don't even have time to deal with them. Under the rules, I
19 should have disarmed them. Needless to say, nevertheless, you see, this
20 was a victory that I won. I kept them from doing it. Nevertheless, if I

21 had tried to disarm them to take their weapons away. I don't know where
22 they came from, to begin with. They were from somewhere or other. I'm
23 not sure I would have won that victory. They would have probably caught
24 their guns and said, you can't have our weapons. And if then I was still
25 not ready to fire at them, then I would have lost what I previously gained

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1 in this show-down with these disturbed men who were filled with hate.

2 So at this point in time, I had won a victory. I still had those
3 30 men alive. I managed to keep them alive. I had tracked down the bus
4 after so much trying, and I was on my way with these men out of this area
5 in which their lives were at risk.

6 Well, all right, one always wants to achieve more. I would have
7 liked to have captured those people to bring them to face justice, but at
8 the time it was no longer possible, and by this time it had become
9 impossible.

10 Q. Let us switch to another topic.

11 General, in the last two or three days several times you either
12 explicitly or implicitly repeated that there were aggressive military
13 actions from Bosnia-Herzegovina against Croatia. Perhaps we can use the
14 books of authors who were on the other side to see what their plans were.

15 Could you please take book 3D025 -- 654, that is. This is an
16 excerpt, and within -- from 3D03541. So I repeat, 3D02654 and 3D03541.
17 The author of that book is Nebojsa Jovanovic. The title is "Let's Go to
18 Take Zagreb." And the subtitle is "A Diary With the Serbian Reservists."

19 And a little while ago, we saw how Croatian cities were being attacked.

20 A. I can see when the book was published. That was in 2001-2002.
21 The publisher of that book, Mr. Pavicic, who is also my friend, contacted
22 me and asked me whether I was willing to present the book of a Serbian
23 writer named Nebojsa Jovanovic at the Croatian Writers Association. I
24 agreed, but I said that I wanted to read the book first, and so I did,
25 which I don't think it is high literature, but it is -- it is wartime

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1 prose, and it's about meeting a young lad in Frankfurt on October 12th,
2 2001, and that young man being a historian.

3 And there was this conversation. Pavecic asked him, Did you
4 shoot at us? And the answer was, Yeah. And, Was it at Vukovar? No, it
5 was at Karlovac. Did you also shoot at Zagreb? Yes. Including Banski
6 Dvori. Yes. And they skipped the whole story. And the final answer
7 was, actually, no, he didn't write about the attack against Banski Dvori
8 because he wouldn't have been able to publish the book. But this reminds
9 me of the Croatian skier, Janica Kostelic, who won four Olympic medals at
10 the Olympic winter games at Salt Lake City, and many people came to the
11 square, and Nebojsa Jovanovic asked me, What are all these people doing
12 here? And I jokingly answered, To honour you.

13 Well, at page 15, he starts telling how they were mobilised, and
14 they were mobilised in Serbia. **And at page 16 -- or, rather, 17,**
15 actually, the question was, How many are we? And the answer was, Around
16 4.300. That was the number of men in that brigade. And are we going to
17 Croatia? **The answer was, Yes, to Croatia.**

18 And at page 18, he writes about their travel, Sabac, Macva, and

19 other parts of Serbia.

20 Then page 26, that's 3D33186, where he explains that some
21 lieutenant colonel and a major were urgently summoned from Novi Sad, and
22 then they find out that they both had experience from Slovenia. One of
23 them was even wounded there. So they both took part in the war in
24 Slovenia.

25 And at the next page, it says that before dawn, all the

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1 preparations to start moving to Croatia would be completed, and then
2 there is a swear word.

3 And then it goes on, on 3D331867. They had crossed over to
4 Bosnia, the surrounding mountains were high, and, on our way, we were a
5 nuisance to the "budas," which is a term of contempt for Bosnian women,
6 and one is winking to a Bosnian woman and, immediately after that,
7 cursing her mother, her Turkish mother.

8 And then on 3D33-1868, it says they had already been travelling
9 300 kilometres, that they had filled up fuel, and that the column
10 continued moving. And somebody then says to him that, At Kostajnica, it
11 is no longer dangerous, Kostajnica being a town in Croatia.

12 MR. STRINGER: Excuse me, General.

13 I apologise for the interruption, Mr. President. Are we on
14 3D03541 or 3D02654?

15 JUDGE TRECHSEL: It is two numbers for the same document,
16 I think, in my binder.

17 MR. STRINGER: Because 3D035 -- I'm working in e-court. I
18 haven't brought hard copies of these books. It's not in e-court. I'm
19 not finding this document anywhere in the e-court system, 3541. No,
20 they're not. Well, it's not there.

21 MR. KOVACIC: And another with a couple of pages is 3D03541.

22 MR. STRINGER: Then could I ask for the page number and the
23 exhibit number both, because it's not clear to me which one the general
24 is talking about.

25 MR. KOVACIC: Okay. I hope that we have extra copies here.

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1 General Praljak started in English translation with -- unfortunately, we
2 don't have any hard copy here, but we have sent everything. If that can
3 help you, General Praljak started with English number 3D401654, and
4 then -- and then he was going through the pages --

5 MR. STRINGER: There's no translation for 3541 in e-court.

6 MR. KOVACIC: We disclosed everything. On Friday, the list was
7 there.

8 MR. STRINGER: It's not any --

9 MR. KOVACIC: Perhaps we can borrow you our book, if you want.
10 We did disclose, and it is in e-court --

11 MR. STRINGER: There is no translation of 3541 in e-court --

12 MR. KOVACIC: But if you want, we can give you our copies. Even
13 on Friday, a number of the pages were disclosed to the Prosecution which
14 were used. I'll be glad to --

15 MR. STRINGER: Mr. President, we're working in e-court with a

16 great bulk of these documents because we're not going to be inundated by
17 the paper; so if the documents, with the translations, are not in
18 e-court, which is required, then we're going to -- we're going to raise
19 objections.

20 JUDGE ANTONETTI: [Interpretation] Mr. Kovacic, this 3541, is it
21 in e-court, yes or no? It seems to be. It's on the screen.

22 MS. TOMANOVIC: [Interpretation] Your Honours, I just want to say
23 that five minutes ago, I downloaded from e-court both books, the English
24 version and the B/C/S version. Perhaps the case manager should help the
25 Prosecutor to find it in e-court, because it is here. I have it right

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1 here in front of me.

2 MR. KOVACIC: [Interpretation] Your Honours, I know it's in
3 e-court. I was told so by my assistants.

4 MR. STRINGER: I'm conferring with my case manager. I don't know
5 whether it's been released. We don't have the translation. We see the
6 document in the original language version, but not the translation in
7 e-court. Now, if these things are just coming into the system within the
8 last few hours or so, there may be delays, but it's going to be a
9 problem.

10 MR. KOVACIC: I'm sorry, Mr. Stringer, but I saw it now with my
11 own eyes on English on e-court. I don't know, are we in the same system
12 or what? But no problem, we will be glad to provide you one of the hard
13 copies we are working with. No problem at all. If you want the
14 document, we'll be glad to give it to you, but only for --

15 MR. STRINGER: Yeah, we would appreciate that. But again,
16 Mr. President, I don't know how the system works, and it may be available
17 to the Defence but not yet released to the Prosecution, but we don't have
18 the translation in e-court.

19 MR. KOVACIC: Then how the Registrar have it? We are all in the
20 same system.

21 THE REGISTRAR: Your Honours, just for the record, I have -- I've
22 got only the original version of 3D03541 in e-court, not the translation.
23 Thank you, Your Honours.

24 MR. KOVACIC: But we see the English page here. Okay.

25 JUDGE ANTONETTI: [Interpretation] Mr. Kovacic, for technical

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1 reasons you must tell us very accurately what is the number of the page
2 of the translation of this book so that we can integrate it, if need be,
3 into the judgement. And there is another problem with dates, secondly.

4 This Serbian soldier, Mr. Praljak, what period is he talking
5 about; 1992-1993?

6 THE WITNESS: [Interpretation] 1991, Your Honour, the autumn of
7 1991.

8 JUDGE ANTONETTI: [Interpretation] The fall of 1991. Very good.

9 THE WITNESS: [Interpretation] The fall of 1991. It is page 46 in
10 the B/C/S version, 3D331870. He says, There's Prijedor, just a stone
11 throw away. And then he pours a bucket of water over me. And I
12 explained to Hasan what has -- what really has happened. I'm reading
13 this just to show they are in Bosnia-Herzegovina, near Prijedor, and that

14 this character is washing at some guy Hasan's place.

15 MR. KOVACIC: [Interpretation]

16 Q. Just a minute, General Praljak. The English translation was
17 3D401657. That's the page reference.

18 [Defence counsel confer]

19 JUDGE ANTONETTI: [Interpretation] Mr. Kovacic, we have a
20 document. It's a Serbian soldier telling his story. Fine. Now, please
21 put the question to Mr. Praljak to highlight whatever you want to
22 demonstrate, because as of now I'm in the dark, I have no idea. I don't
23 know where you're going. I listened very carefully to everything that
24 you said and everything that was said, but I want to know what you're
25 trying to demonstrate.

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1 MR. KOVACIC: [Interpretation] That's exactly what I wanted to
2 ask. General Praljak wanted to read some excerpts from the text to make
3 a conclusion. But let me proceed.

4 Q. General Praljak, you have read out some excerpts now, and what is
5 the overall message? What did you understand all this to mean, once you
6 read it?

7 A. That the Yugoslav People's Army used not only its effective
8 troops, but also mobilised people in Serbia, and that it was taking all
9 these men through Bosnia-Herzegovina without resistance, taking them to
10 Croatian territory, that is Banja, south of Karlovac, Gornji Vidusevac
11 was mentioned, that was very close to Sunja, so perhaps this man was an
12 opponent when I was there.

13 Here's what I want to say: that this is a war of the Serbs
14 against the others; and, secondly, that this is happening in
15 Bosnia-Herzegovina, which at the time already had its Parliament and its
16 Presidency and a president of the Presidency, and that Bosnia-Herzegovina
17 didn't lift a finger to prevent the aggression against Croatia.

18 JUDGE ANTONETTI: [Interpretation] Mr. Praljak, we already know
19 what you're saying. We already know it because it's already been said,
20 that Bokevic [phoen] said, This is not our war. But in the fall of 1991,
21 as far as the state was concerned, the state recognised by the
22 international community at the time is Yugoslavia; do you agree with
23 this, yes or no?

24 THE WITNESS: [Interpretation] That is correct.

25 JUDGE ANTONETTI: [Interpretation] Fine, Yugoslavia. Now,

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1 according to you, did the state -- did -- the state in 1991, was it
2 allowed to move the troops from one republic to the other? Let me
3 illustrate this. Let's look at the United States. Do you think that the
4 United States -- the president of the US can move the troops from all the
5 states in the US, **move troops from one state to the other?**

6 THE WITNESS: [Interpretation] Your Honour, the president of the
7 USA **has that right, but the American president cannot deploy his troops**
8 **and attack Pennsylvania, for example. This was a moment when Croatia had**
9 **already declared its sovereignty, based on the declared will of the**
10 **people, and the same process had taken place in Bosnia-Herzegovina.**

11 International recognition is not divine recognition.
12 Bosnia-Herzegovina had its Parliament at the time. It had its statehood.
13 It had its Cabinet, and at least at the declaratory level, if not
14 otherwise, it could have opposed the troops that were destroying a
15 country the way we just saw. So there's not merely a legal issue. The
16 international recognition of a country is important, but not decisive.

17 JUDGE ANTONETTI: [Interpretation] Mr. Praljak, what you're saying
18 is interesting. I'm not going to mention any present cases because I
19 don't want to raise any controversy. But let's assume a state called X,
20 and let's assume that in part of this state X, there is a territory
21 called Y that belongs to the state, to the state of X, but that declares
22 itself independent. Let's say that all the politicians in Y get together
23 and self-proclaim themselves as an independent state. According to you,
24 do you believe that the state of X can intervene in order to respect --
25 to make sure that it is respected, and can send troops against the Ys who

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1 self-proclaim themselves independent?

2 I could mention some very concrete cases, but I'd rather stay
3 with my assumptions and stick with Xs and Ys.

4 THE WITNESS: [Interpretation] Yes, a state can do that in its
5 territory, but Yugoslavia is a federation, a federal state, that consists
6 of states that constituted, and under the Constitution they have the
7 right to statehood and a self-determination up to secession, and that
8 right was indeed exercised and cannot be denied. Because we entered
9 Yugoslavia under certain conditions, the Croatian partisans decided to

10 join Yugoslavia under the decisions of AVNOJ, ZAVNOJ, ZAVNOH. We want to
11 become part of Yugoslavia, and we have our rights. Those rights were
12 weakened with time, but after the rebellions in the 1970s, the outright
13 was reasserted to make Yugoslavia a state where the republics had the
14 right to self-determination. That right was not denied to us by
15 Macedonia. It was denied to us by Serbia.

16 Alija Izetbegovic may have thought that he would remain untouched
17 in his position, et cetera. That can -- that can be understood, in a
18 way. He was probably impressed. He was in fear for his own people, but
19 certainly all those who were being attacked from his territory saw --
20 looked at that from another angle. And we asked them, Why didn't you do
21 anything against that, the same way the citizens of Zagreb did something
22 against things they didn't like.

23 JUDGE ANTONETTI: [Interpretation] Mr. Praljak, let me sum up what
24 you just said, and then you can tell me whether I understood you
25 correctly or not.

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1 You are saying that the JNA was not allowed to go into Croatia
2 through Bosnia-Herzegovina because the federal constitution and the
3 constitution of the state allowed the republic, like the Republic of
4 Croatia, to self-proclaim itself, and because of this, the federal power
5 could not intervene in Croatia using the JNA. Is this exactly what you
6 said?

7 THE WITNESS: [Interpretation] This is exactly what I say: The

8 Yugoslav People's Army didn't have the right to attack either Slovenia or
9 Croatia after their declarations of independence. They -- these two were
10 at a time constitutive units of Yugoslavia, but they decided to leave
11 Yugoslavia. The JNA could have stayed there the same way the Russian
12 Army stayed in Eastern Germany, and they were still paid throughout their
13 stay, et cetera, et cetera. But aggression, no. The aggression was
14 exclusively the wish for the Serbs to expand to Virovitica, et cetera.
15 And according to everything I know, that cannot be allowed.

16 JUDGE ANTONETTI: [Interpretation] Very well. As you see, you can
17 be very brief, even when the subject is very complicated, as long as
18 you're concise and make an effort.

19 JUDGE TRECHSEL: I'm surprised to hear that the Federation has,
20 in its Constitution, a disposition when allows every state component of
21 the Federation to secede if they so like. I do not ask this question of
22 the witness, who is not a lawyer, but I would just suggest that
23 eventually it would be helpful for the Chamber if these texts, including
24 perhaps some reference as to how they are normally interpreted, were put
25 at its disposal. That's just a suggestion. It has come up now a bit as

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1 a surprise, and I do not think that this moment is the one to ...

2 THE WITNESS: [Interpretation] In Communism, there was a principle
3 which was never trespassed, and that is Lenin's principle of the
4 self-determination of a people all the way to secession. Of course, they
5 supposed that this would never be implemented, but nobody ever dared to

6 reject that principle, the right of every people to self-determination up
7 to secession. And the Communists thought they had solved the ethnic
8 issue in Yugoslavia **for all time, and it would never be raised; and**
9 that's why this principle remained from the partisan movement to the end,
10 and this was like a holy book.

11 JUDGE ANTONETTI: [Interpretation] My fellow Judge's question is
12 quite interesting. He wants to know, and I believe that Judge Prandler
13 and Judge Mindua and myself have the same question. We would like to
14 know whether in the federal constitution, this provision is actually
15 included. You're talking about a principle dictated by Lenin. Fine.
16 But we would like to know whether this is enshrined in the constitution,
17 whether this is in the federative constitution.

18 JUDGE PRANDLER: I would only like to say that having some time
19 back, of course, 30 years ago, studied the Constitution of the Yugoslav
20 Federal Constitution in 1974, I would agree with Mr. Praljak that the
21 right to self-determination and up to secession was included, of course
22 subject to certain procedural, I would say, rules, but it is another
23 question. So I can agree what Mr. Praljak told us about this issue.
24 Thank you.

25 JUDGE ANTONETTI: [Interpretation] Mr. Kovacic, I believe that we

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1 should stop now because it's almost 7.00 p.m. Yesterday, we already went
2 into overtime, and tomorrow there will be no overtime.

3 I thank Judge Prandler for having given us this additional
4 information. Obviously, this right is enshrined in the Constitution of

5 the Federative Republic, or was, anyway.

6 As you know, we will reconvene tomorrow, 2.15 p.m. I wish you
7 all a pleasant evening, unless Mr. Kovacic --

8 MR. KOVACIC: [Interpretation] Just a technical question regarding
9 these objections.

10 We have just checked, and right here in front of us on the screen
11 we have a copy of the entire list that we sent to the OTP. It was sent
12 to them on the 1st of May. So, please, do not label us as not having
13 sent you things because we did. 3D02564 was sent to you. Mistakes are
14 always possible, but I don't want to be criticised when I did not make a
15 mistake. I will admit when I make one.

16 MR. STRINGER: Counsel's been very diligent about sending us the
17 lists. We're very grateful. The Rules require that the exhibits that
18 they use with the witness be in e-court in both the original language, in
19 the English translation. I can confirm --

20 MR. KOVACIC: I'm looking now at two pages here, I'm looking at
21 the document.

22 MR. STRINGER: Mr. President, I don't know if there's some
23 technical features about e-court we don't know about. We know the
24 Registrar is not able to access the translation through e-court. I'm not
25 making this up, and I can work in e-court pretty well, Mr. Kovacic, if

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1 I can say so. I work in e-court so well that I've elected, with this
2 witness -- because of the hundreds of documents that you intend to use,
3 we've elected not to spend the time and the money and the resources to

4 generate a complete paper set. I'm working exclusively in e-court with
5 this witness's exhibits. We're supposed to be a paperless tribunal. I'm
6 going to use the technology to do that. It requires that all of the
7 translations be in e-court and that they be released to the Prosecution.

8 MR. KOVACIC: They are --

9 MR. STRINGER: And we are not seeing at least one --

10 JUDGE ANTONETTI: [Interpretation] Mr. Stringer, let me stop you.
11 We are supposed to be a paperless tribunal? No, I don't agree with you,
12 I really don't agree with you here. I only work with paper, hard copy,
13 hard copy from the Prosecution and hard copy from the Defence. I will
14 never work with the e-court system. It's very difficult to really
15 examine and scrutinise a document when it's an electronic one. I believe
16 that it's a handicap. So the rule that you're talking about does not
17 really exist, unless it exists own until your mind.

18 MR. STRINGER: I completely agree with you, and I probably
19 misspoke, because I'm not paperless myself either. But what we're doing
20 is we're going to make copies, paper copies, of the ones that we think we
21 need to work with.

22 Just for the record, so Mr. Kovacic knows, I'm referring now to
23 the exhibit which is the 3D03541. That's the one that we're not finding
24 the translation of. Now, maybe he thinks I'm looking at the other one.
25 I don't know. But -- and he can come over when we finish today and we

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1 can show him what our screen looks like, if he doesn't believe me.

2 I'm sure we can work it out, but I'm just flagging it now,

3 because if this is a recurring problem that for whatever technical reason
4 we don't see the transcripts, it's going to be a major impediment to the
5 Prosecution.

6 MS. PINTER: [Interpretation] Your Honours, I beg permission to
7 answer inside the courtroom, not outside, so that you may hear what it's
8 about.

9 On the 1st of May, 2009, the case manager sent a list to the OTP,
10 and this list reads, "3D02654, 3D03541, additional experts from the book
11 heading to Zagreb **by author Nebojsa Jovanovic,**" pages from the original.

12 The pages from the original are stated, comments. 3D026254. What else
13 do we need to do to confirm that the documents were indeed sent? Our
14 case manager worked for the entire weekend, and really it would be wrong
15 if anybody got the impression that she didn't do her job properly.

16 JUDGE ANTONETTI: [Interpretation] You both must be right. I
17 think the best thing to do is for you to get together. Mr. Stringer is
18 going to show you his screen, and you'll see there's nothing; and our
19 Registrar is going to be Sherlock Holmes, and he's going to try to find
20 out why the document sent on the 1st of May cannot be found in the
21 e-court system. So please, Mr. Registrar, do be creative and find out
22 what the problem is about.

23 We shall reconvene tomorrow at 2.15. Sorry for the extra time,
24 once again.

25 --- Whereupon the hearing adjourned at 7.05 p.m.,

2009, at 2.15 p.m.

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