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1 Monday, 6 July 2009

2 [Open session]

3 [The accused entered court]

4 [The accused Prlic and Coric not present]

5 [The witness entered court]

6 --- Upon commencing at 2.18 p.m.

7 JUDGE ANTONETTI: [Interpretation] Mr. Registrar, could you please  
8 call the 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 Prlic et  
12 al. Thank you, Your Honours.

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

14 This is Monday, July 6th, 2009, and I welcome first Mr. Praljak.

15 I apologise to Mr. Praljak for having forgotten his name last week. I

16 must have been thinking about the other accused. Well, I also greet

17 Mr. Pusic, Mr. Petkovic, and Mr. Stojic. I also greet all the Defence

18 counsels, Mr. Stringer, Mr. Scott, and their assistants, and of course I

19 greet our Registrar, our usher, our court reporter, and of course our

20 interpreters and security guards. I don't think I forgot anyone. If I

21 did, you know, you could raise your hand. Well, no one is raising their

22 hand, so it seems everyone's been included.

23 Let me read a short oral decision.

24 Oral decision on July 6th, 2009, on the letter sent by Accused  
25 Jadranko Prlic to the Judges of this Trial Chamber. On July 4th, 2009,

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1 sent a letter to the Trial Chamber in which it seems that he's asking for  
2 the Trial Chamber to review its decision of June 29, 2009, called  
3 "Decision on a Request by the Prlic Defence to Review the Decision on the  
4 Admission of Evidence."

5 The Trial Chamber reminds the accused Prlic, as well as his  
6 counsel, that the only avenue allowed to challenge such a decision is to  
7 make a request for certification of appeal, filed in due form by the  
8 counsels of the accused.

9 That was the oral decision.

10 We were also informed by the Registrar that Mr. Prlic decided to  
11 attend the hearings, and the Trial Chamber is quite happy about this.  
12 Mr. Prlic will come into this courtroom after our first break, because  
13 he's on his way and we only were told about the fact that he wanted to  
14 attend about ten minutes ago. So he'll be with us after the first break.

15 I think I understood that Mr. Karnavas had something to say.

16 MR. KARNAVAS: Well, good afternoon, Mr. President. Good  
17 afternoon, Your Honours. Good afternoon to everyone in and around the  
18 courtroom.

19 Mr. Prlic had made his decision to come as a result of my  
20 conversation with him on Friday, based on the Trial Chamber's decision

21 with respect to ADC, a decision which was filed -- it was an order, as I  
22 understand. It was filed on a confidential basis, although I do believe  
23 that for the sake of transparency, these sorts of issues should be held  
24 in open public. But for those reasons, Mr. Prlic will come here, and at  
25 that point in time I will address the Court, prior to Mr. Prlic taking

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1 the floor, to express his given position. Unless you want to hear my  
2 position at this point in time, but I would prefer for Dr. Prlic to be  
3 here so he can listen to it as well.

4 And I should also note that on my way into the building, I  
5 stopped in at the ADC to see whether they received anything. It appears  
6 that nothing has been received by them. And I would also add, as having  
7 been the former president of the ADC, that the order is misdirected.  
8 What we're actually asking for is an advisory opinion from the  
9 Disciplinary Council. That's where the order should be directed to, and  
10 not the Amicus Committee.

11 JUDGE ANTONETTI: [Interpretation] Very well. We'll be waiting  
12 for Mr. Prlic after the break, and you will take the floor when he will  
13 be in the courtroom.

14 Ms. Alaburic, I believe that you have a few minutes left, and now  
15 you have the floor to finish your cross-examination.

16 MS. ALABURIC: [Interpretation] Your Honour, good afternoon to you  
17 and everybody else in the courtroom. I think I still have some ten  
18 minutes left.

20 Q. So, General Praljak, I suggest we deal with Mostar. How far  
21 we're going to go, we'll see in these ten minutes.

22 Anyway, good afternoon to you, General Praljak.

23 A. Good afternoon to everybody in the courtroom, and good afternoon  
24 to you, too, Ms. Alaburic.

25 Q. On Thursday, we left discussing the shelling in Mostar and the

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1 fighting there, and I'd like to round off that area with just one more  
2 question.

3 Tell me, please, did the HVO have observers who observed and  
4 supervised the firing of certain mortar shells or any similar artillery  
5 action?

6 A. Yes.

7 Q. Tell us, please, depending on the information sent back by the  
8 observers, were corrections made in shooting, in conformity with the  
9 rules of warfare in built-up areas?

10 A. Yes.

11 Q. The next topic relating to Mostar is an allegation made in the  
12 indictment that I'd like to address by which the separation lines that  
13 we've discussed a great deal in this courtroom, and I assume we're all  
14 well aware of that, are the result of the conflict on the 9th of May,  
15 1993. So tell us now, please, General Praljak, is that right or was that  
16 separation line established on some other day?

17 A. The separation line was established earlier on, while

18 General Pellnas was doing the mediation.

19 Q. General Pellnas, during his testimony in this courtroom, said

20 that that separation line was set up based on an agreement reached in the

21 night between the 20th and 21st of April, 1993. And that was recorded on

22 page 19760 of the transcript. Tell us now, please, General Praljak, to

23 the best of your recollections, was that the date of the separation line

24 and --

25 A. Yes, that is correct, and I took part with General Pellnas in

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1 those negotiations.

2 Q. Thank you. Now, General Praljak, I'd like to ask you something

3 about three documents that are to be found at the end of the second

4 binder in the section titled "Mostar." And you will be able to find the

5 documents on your screen. They'll be called up on e-court. 4D1344 is

6 the first document.

7 And while we're waiting for that to come up on our screens, tell

8 us, General, you did mention some Muslim-Serb agreement, did you not,

9 which was reached in the conflict in Mostar on the 9th of May; is that

10 right?

11 A. Yes.

12 Q. Could you tell us what it was that you talked to us about?

13 A. To the best of my knowledge and information, an agreement was

14 signed --

15 JUDGE PRANDLER: I'm very displeased that I have to do this again  
16 and again. Please kindly wait for the question, and then wait and pause  
17 and then answer. So it is -- I believe that it is not so difficult to  
18 understand this and to act accordingly. Thank you.

19 MS. ALABURIC: [Interpretation] Yes.

20 Q. Tell us, General. You started your answer. Go ahead.

21 A. I am just waiting for what we've said to come up on the screen.

22 Now, according to the information I had at the time, and it was  
23 public in a way -- well, yes, it was publicised, that an agreement had  
24 been signed between Ratko Mladic and Sefer Halilovic on the 8th of May,  
25 1993, about a cease -- immediate cease-fire throughout the territory of

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1 Bosnia-Herzegovina between the BH Army and the Army of Republika Srpska  
2 on the other side. Now, the witness was General Philippe Morillon.

3 Q. Now, General, please look at the document. 4D1344 was the  
4 number, and it is an agreement --

5 JUDGE ANTONETTI: [Interpretation] General Praljak, just a minute.  
6 The document we have here on the screen, in which General Morillon  
7 obviously is a witness - he's a witness very often - well, it seems that  
8 this is a cease-fire agreement between Halilovic and Mladic, between the  
9 Serbs and the Muslims. Now, I'm looking at the date, May 8th, 1993. I'm  
10 sure you know that May 8th, 1993, is just a day before May 9, and because  
11 of this, I have a couple of questions that come to mind.

12 If Mostar was actually attacked by ABiH and not by the HVO, which

13 is the case that you've been putting forth since the inception of this  
14 trial, I say if the ABiH is not even allowed to -- not allowed to attack  
15 against the HVO, they might as well be quiet with the Serbs in the  
16 meanwhile, and so there could be a reason for having a cease-fire with  
17 the Serbs, with a witness that can be instrumented, i.e.,  
18 General Morillon. Then the Serbs are no longer doing anything, and the  
19 Muslims have -- are entirely free to the attack the HVO. Is this  
20 possible or is this pure speculation?

21 A. Judge Antonetti, Your Honour, it's not guess-work. They signed  
22 the cease-fire on the 8th with the Serbs, and I claim that they attacked  
23 the HVO in Mostar on the 9th. And similarly in September, they signed a  
24 complete cease-fire with the Serbs, and then they directed the fiercest  
25 part of the Neretva-93 offensive toward the HVO. So that wasn't

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1 the first time, nor was it the only time, to ensure their rear and to  
2 sign an agreement with the other side without asking General Petkovic or  
3 the HVO or them taking part as the regular army. So this kind of  
4 one-sided cease-fire agreements were to the detriment of the third party  
5 always.

6 JUDGE ANTONETTI: [Interpretation] Very well.

7 MS. ALABURIC: [Interpretation]

8 Q. General Praljak, from your answer just now, I can conclude, can I  
9 not, that the document we have up on our screens is precisely the  
10 agreement between Mladic and Halilovic; is that right?

11 A. Yes.

12 Q. Very well. Now let's go on to look at the next document, which  
13 is 4D1345, and that is a document which represents the operationalisation  
14 or implementation of the agreement between Mladic and Halilovic, and the  
15 order was issued by Enver Hadzihasanovic, the commander of the 3rd Corps.  
16 And here for that area of responsibility, based on the agreement that  
17 we'd mentioned a moment ago between Mladic and Halilovic, an order is  
18 being issued on the cessation of all combat operations against the Army  
19 of Republika Srpska.

20 Tell us please, General Praljak, did you know that it was on the  
21 basis of the Mladic-Halilovic agreement that orders were issued for  
22 individual areas of responsibility of the corps to cease combat against  
23 the Serb Army? Can you comment on the contents of that document?

24 A. Yes, that is logical. That is what was done, and I did know  
25 about it.

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1 Q. Very well, thank you. Now let's move on.

2 We're going to skip a period of time and deal with --

3 JUDGE ANTONETTI: [Interpretation] General Praljak, you know, I  
4 try to integrate all the documents that we see and try to tie this up  
5 with what happened on the May 9. Obviously, this document, which comes  
6 from the 3rd Corps, is obviously implementing what we saw on the previous  
7 document, but there could be another assumption, which is the following,  
8 and I'm going to tell you about this idea, and I would like you to tell



9 me what your position could be. Let's say that -- actually it's the  
10 Prosecution's case, which is right, and it is the HVO which attacked the  
11 ABiH, but that the intelligence service of the Serbs and of the Muslims  
12 found out about the HVO that was getting ready for an offensive. I mean,  
13 there is military intelligence going on at the time. So if the HVO -- if  
14 suddenly --

15 THE INTERPRETER: Interpreter's correction.

16 JUDGE ANTONETTI: [Interpretation] -- if the ABiH learns that the  
17 HVO is going to attack, they might say, Well, we might as well mobilise  
18 our forces against the HVO and not the Serbs. Then they decide on May  
19 8th to sign an agreement, the cease-fire agreement, because they've  
20 obtained intelligence a few days earlier about a possible attack of the  
21 HVO. Now, is this totally ludicrous or is this -- do the elements that  
22 you had from the field, can they grant this hypothesis or not?

23 A. There's not a single element, Judge Antonetti, which would  
24 confirm that hypothesis. Quite the reverse, in fact. You have seen  
25 documents dated to April 1993 in which the BH Army has a completely

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1 elaborated military plan of attack against the HVO in Mostar, and that  
2 plan was quite obviously not implemented, in part due to my involvement  
3 and General Pellnas's involvement, who invested every effort to prevent  
4 an attack by the BH Army at that point in time, and they wouldn't have  
5 been able to carry out the attack in front of him, with him there. And,  
6 secondly, my transfer to East Mostar was an element in that it wasn't a

7 logical move, in view of the fact that there was great tension all  
8 around, and the fact that I sat down to drink a cup of coffee with  
9 Mr. Pasalic and went to the SDA party, asking them -- asking people there  
10 who were still not supporting a conflict to come out into the town and  
11 state their views. But obviously the Military Section, together with  
12 Sefer Halilovic at its head, implemented its plan on the 9th of May.

13 Now, hypothetically, your assertion, I suppose, could be taken as  
14 being possible, but there was no element -- no HVO plan to attack on the  
15 9th of May, no previous order or elaborated military action, no troops  
16 were brought in, or anything else that would support that either on paper  
17 or through a witness. It's not a simple operation to carry out, so it  
18 would have needed a great deal of preparation.

19 So I claim, once again, that after the 9th of May, after the  
20 agreement was had been signed with the Serbs, it was the BH Army which  
21 attacked, according to all the information I had and all the discussions  
22 and talks I had up until that date and later on.

23 JUDGE ANTONETTI: [Interpretation] One last question, and I  
24 believe it's important.

25 The agreement signed between Halilovic and Mladic on May 8th,

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1 witnessed by the international community, represented by the famous  
2 General Morillon, okay, this cease-fire is well known, so if the ABiH  
3 attacks the HVO, didn't the international community -- wasn't the  
4 international community instrumented by the ABiH, were they duped,

5 because, on the one hand, the ABiH is pretending to have a cease-fire,  
6 but, on the other hand, it's getting ready to attack the HVO and actually  
7 attacking the HVO? What's your take on this?

8 THE WITNESS: [Interpretation] I've said this many times already,  
9 and I will again. Regrettably, the international community, primarily  
10 because of the situation in Sarajevo, accepted any information from the  
11 BH Army indiscriminately, without even meaning to look at the facts. It  
12 was for that reason alone that inaccurate information was being conveyed  
13 throughout, and that is why the HVO was accused.

14 You saw Mr. Drekovic's book which talked about the lines against  
15 the Serbs to the north and south of Mostar, and he called those lines  
16 mere guard posts, described them as being at that level. If the VRS was  
17 the arch-enemy of the BH Army, which would have been logical, whereas the  
18 HVO, an army which based on all documents and principles and pure reason  
19 should have been a partner, that it's impossible to explain why they  
20 would have set up mere guard posts facing the VRS and never, ever took  
21 any action whatsoever in that direction; not only in that area, but  
22 nowhere at all, not in terms of the corridor, not in the direction of  
23 Srebrenica, and so on and so forth. I have said this a number of times  
24 already. I'm still waiting to be refuted.

25 Mr. Halilovic, in his book, claims that Neretva-93 operation was

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1 the one major real offensive ever launched by the BH Army against its  
2 partners. He had 200.000 men, and the big question is what he possibly

3 would have achieved fighting the VRS.

4 MS. ALABURIC: [Interpretation]

5 Q. General, let's look at the following document in relation to the  
6 30th of June, 1993. The document number is 2D1389, 2D1389.

7 A. And whereabouts is that?

8 Q. It's right after this one, in the same section. I do have to  
9 skip some documents because I have reorganised my cross-examination a  
10 little.

11 A. The ones coming up next are all marked as "4D."

12 Q. One of them should be 2D1389, but there we have it on our  
13 screens. Page 2, please, of the Croatian, the last paragraph on page 2  
14 in the English. The last paragraph on page 2 in the English.

15 This document is entitled "Information on the Course of Conduct  
16 Activities on the 30th of June," put together by the Staff of the Supreme  
17 Command of the Armed Forces in Sarajevo. The paragraph is entitled "Area  
18 of Responsibility of the 4th Corps." It reads as follows. Simply  
19 because it's very significant, I will be reading the entire paragraph. I  
20 quote:

21 "Our forces successfully repelled yesterday's attack by Ustasha  
22 units and captured some very important strongholds in a counter-attack,  
23 Sjeverni Logor, Rastane, Vrapce, Bijelo Polje, Salakovci and Rosci.  
24 Among other things, we hold all the hydroelectric power-plants along the  
25 Neretva River, except for the one in Capljina. About 100 soldiers

1 surrendered to our forces, and several hundred captured civilians have  
2 been freed. The BH Army seized a large booty consisting of weapons and  
3 ammunition in the North Camp.

4 "Based on the report of the 4th Corps Command, the units  
5 yesterday linked up with the forces of the 6th corps, which will have a  
6 favourable effect on any further progress of combat activities."

7 End of quote.

8 General Praljak, can you confirm the accuracy of this report, to  
9 begin with?

10 A. No, I can't.

11 Q. What's inaccurate about it?

12 A. All of the BH Army reports, as evidenced by the journalist who  
13 was in charge of covering Neretva-93 operation, start off on a false  
14 note. The Ustasha forces attacked us, and then we launched a  
15 counter-attack, that was false. Therefore, with the exception of this  
16 very first sentence, that the Ustasha - and that was us, that's what they  
17 called us - without holding anything back or any reservations whatsoever,  
18 this was a vial, sly, underhanded, treacherous attack, not just by the  
19 BH Army, but also by the Muslims within the HVO. It was a synchronised  
20 attack.

21 Q. General Praljak, let's try to interpret the meaning of the last  
22 sentence for the benefit of the Chamber. The 6th Corps, which area of  
23 responsibility would that be or which geographical area?

24 A. Jablanica-Konjic, and then the surrounding areas as well.

25 Q. And what about the 4th Corps, which area would that be?

1           A.    The Mostar area.  Those two corps, following this operation,  
2           linked up along the Basta Bijelok [phoen] road which they had controlled  
3           up until that point in time.  Many stories about Mostar's isolation and  
4           being besieged have no basis in facts.  It's as simple as that.

5           Q.    General, based on your information, after that day what about the  
6           BH Army in the Mostar area?  Did they keep receiving assistance, in terms  
7           of manpower, ammunition, and weapons, unhindered from Jablanica and  
8           further into Bosnia and Herzegovina, further inland?

9           A.    Yes.  There was the military depot in Visoko which we kept  
10          replenishing.  That particular depot kept furnishing the 4th and the 6th  
11          Corps with weapons incessantly.

12          Q.    Two brief questions about my own client, General Petkovic.

13                General Praljak, you said that at the time that you were the  
14          number-one man of the Main Staff.  There was an internal distribution of  
15          tasks under which General Petkovic was in charge of Central Bosnia,  
16          contacts with the international players, and the commanders of the Muslim  
17          and Serb armies in Bosnia and Herzegovina.  Is that a fair summary of  
18          what you said?

19          A.    Yes, that's right.  Needless to say, when he was there, he had a  
20          task, but then he was also given a special task to press on with the  
21          talks, because he had been in charge of that earlier on as well.  He did  
22          a brilliant job in each and every way.  And then he had a special task of  
23          looking after Central Bosnia.  The focus of his work, as one normally

24 puts it, was to remain in Central Bosnia. To the extent that he could,  
25 he was in charge of keeping Kiseljak alive, in particular, as well as

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1 trying, doing his best, to link up with Busovaca.

2 Q. You say that Mr. Tole was particularly in charge of the Mostar  
3 area, he was the chief of the Main Staff in your time; right?

4 A. Yes, that's right. It was counter-intuitive for the BH Army to  
5 score a success in Mostar and in the south without previously taking  
6 Uskoplje and Rama, Gornji Vakuf and Prozor, and then further  
7 south towards Vrde, in order to reach Mostar and the right riverbank  
8 from behind. That is why I took over that particular area, because  
9 according to military logic, this was the most fervent -- difficult area,  
10 whereas Mr. Tole got a special assignment to look after Mostar and its  
11 south. That was an internal division or distribution of tasks that we  
12 had. I'm talking about what the focus was for each and every one of us.  
13 If I headed south and I was involved in the fighting there, then  
14 obviously I was the one taking the decisions.

15 Q. General Praljak, given the fact that my time is running out, I  
16 have one final question for you.

17 JUDGE ANTONETTI: [Interpretation] Your time has already expired  
18 by already five minutes, so all the time that will be devoted will be  
19 taken down.

20 MS. ALABURIC: [Interpretation]

21 Q. General Praljak, one final question. When you told us about how,

22 on the 30th of June, 1993, a total, all-out war broke out between the  
23 BH Army and the HVO, my question is an attempt to clarify the following:  
24 Did this all-out war occur precisely because of the linking up of the 4th  
25 and 6th Corps, resulting in a possibility that enormous forces from

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1 Bosnia and Herzegovina, from Central Bosnia, might be caught up in  
2 defensive [as interpreted] activities towards Mostar and further south  
3 towards the Adriatic coast?

4 A. From a military viewpoint, that is correct. Units from the  
5 1st Corps could have been dispatched there and added to the existing  
6 forces, and this was exactly what was being done. Nevertheless,  
7 Ms. Alaburic, the most difficult problem we were facing was the HVO  
8 psychology. Up until that point in time, we had held out hope, to some  
9 extent, to the effect that there would be no all-out war and that they  
10 would not get what they were driving for. Regardless of how many  
11 elements were opposing this opinion, the hope was still alive.

12 After the treason by their own men within the HVO, the most  
13 important element caved in, what we refer to as the moral backbone in  
14 men. The men there felt betrayed not just by the BH Army but in part  
15 also by their own leaders, who throughout this time and despite their  
16 justified assurances that the BH Army were up to something, and we  
17 actually knew this ourselves, we were all adamant, nevertheless, that  
18 there should be an amicable approach, that the weapons should be handed  
19 over to them, that there would be no clashes erupting and so on and so



20 forth. And this was something that was much more difficult to deal with  
21 than the military aspect, which of course allowed the BH Army, for three  
22 or four months, to go on with their offensive all the way from Bugojno in  
23 order to eventually reach the Adriatic coast, thereby resolving the  
24 Serb-Muslim problem within the BH Army.

25 MS. ALABURIC: [Interpretation] General Praljak, I thank you for

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1 your answer.

2 And, Your Honours, if I may just correct the transcript.

3 Page 14, line 23, it's about to disappear off our screens, I was talking  
4 about the offensive activities of the BH Army towards Mostar and down  
5 towards the Adriatic coast, whereas the transcript says "defensive  
6 activities." If it was a slip of the tongue on my part, I do apologise.

7 Your Honours, I thank you for the extra time I have been granted  
8 to cross-examine General Praljak. Thank you very much for your kindness.

9 JUDGE ANTONETTI: [Interpretation] Since the Judges have been  
10 faced with two cases, the one from the Prosecution and the one from the  
11 Defence, every time that I get a document with a military origin, I'm  
12 trying to look at this document and to see how it compares with your case  
13 and the case from the Prosecution to try and understand and to reach the  
14 truth.

15 In the document that we have before us, which is coming from the  
16 ABiH, it says that the aggressor, namely, yourself, the Chetniks and the  
17 Ustashas, it says that you use seven tanks as well as some armoured

18 vehicles to attack the town of Zepce. If this document is true, you are  
19 not in a defensive operation, because you have always said that as far as  
20 the HVO was concerned, they were defending themselves and they were never  
21 attacking. But what this document states is that you were the attacking  
22 party and in quite substantial means, with seven tanks and other armoured  
23 vehicles or armoured carriers. Therefore, you're not in defensive mode,  
24 all the more so because, according to this document, you ask for Zepce to  
25 surrender.

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1 So as far as you can recollect, has there been an attack in Zepce  
2 with seven tanks and some sufficient means to carry out this attack, or  
3 do you feel that this document is not reflecting the current situation of  
4 then to justify their own behaviour?

5 THE WITNESS: [Interpretation] The document is entirely inaccurate  
6 in terms of the information that it offers. Zepce was entirely  
7 surrounded by the BH Army. The 111th Zepce Brigade did not have seven  
8 tanks, no way. These are bare-faced lies, which is something that  
9 happens in a war. But the truth was this: Zepce was surrounded on all  
10 sides. It had no contact with any other unit, with the exception of that  
11 brigade that was surrounded by the BH Army throughout. It was far away  
12 from any other source of support from the HVO that it might have  
13 received. They were attacking Zepce constantly, and every time after an  
14 attack, they would say, The HVO launched an attack to which we responded  
15 by a counter-attack, and so on and so forth. Zepce was surrounded,

16 suffering heavy, enormous losses. It could hardly do anything else but  
17 defend. There was no possibility of a breakthrough. Anyone to link up  
18 with was far too far away. There was nothing at all, no avenue that was  
19 open to them.

20 I could show this to you on a map, but I believe you know this  
21 already.

22 JUDGE ANTONETTI: [Interpretation] Well, yes.

23 MS. ALABURIC: [Interpretation] At the expense of my own time,  
24 just a single question which I think might be helpful, in terms of  
25 clarifying this particular answer to your question.

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1 Q. The question is: General Praljak, the Zepce area, was that a  
2 Croatian enclave in Central Bosnia?

3 A. Yes, and those people fought bitterly to not be wiped off the  
4 face of the earth, such as Vares and Kakanj. And they actually  
5 succeeded. They only had a small area to go on. They were suffering  
6 enormous losses, and they did it. Seven tanks, come on. Not even a  
7 ten-year-old child would buy that story. We were barely able to dispatch  
8 some infantry weapons, small arms, to them, and RPGs for them to defend  
9 themselves with. Again, we had to do this across Serb-held territory,  
10 which we had to pay for. Needless to say, the VRS saw it as being in  
11 their best interests for the BH Army and the HVO to clash. That is why  
12 they allowed us to use their territory, and we paid them in money and in  
13 fuel as well.

14 JUDGE ANTONETTI: [Interpretation] Very well. I will give the  
15 floor to the counsel of Mr. Coric. But before I give him the floor or  
16 give her the floor, I would like to advise you that the Registry has  
17 informed me that Mr. Prlic has arrived, so he will join us after the  
18 break.

19 I should also like to inform Counsel Karnavas, who is going to  
20 take the floor later on, in order to avoid any mistake, because he was  
21 talking about a disciplinary procedure, I would like to remind Counsel  
22 Karnavas, given that you wanted publicly to touch upon this issue, that  
23 in a decision that was handed down by the Chamber, it was said in the  
24 preamble, and that I will mention immediately in order to avoid any  
25 mistake, it said:

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1 "Whereas the Chamber was wondering on the accountability of such  
2 a behaviour of the Prlic Defence, in conformity with the Rules of  
3 Procedure and Evidence and the Code of Ethics; whereas the Chamber feels  
4 necessary to have the opinion of an amicus curiae ..."

5 So the Chamber is still looking into the case. And in order for  
6 this thinking to come to fruition, we have asked for an opinion from the  
7 amicus curiae. So there is no disciplinary measure that has been decided  
8 upon as yet.

9 Very well. So we are now going to move to Mr. Coric's Defence.

10 MS. TOMASEGOVIC TOMIC: [Interpretation] Good afternoon, Your  
11 Honours. Good afternoon to you, too, Mr. Praljak, and everybody else in

12 the courtroom.

13 THE WITNESS: [Interpretation] Good afternoon, Counsel.

14 MS. TOMASEGOVIC TOMIC: [Interpretation] While we're waiting for  
15 the usher to hand out the binders, I'd like to deal with two technical  
16 matters.

17 I have four hours and forty-five minutes at my disposal for my  
18 cross-examination. However, to avoid any time constraints and pressures,  
19 and at the request of my client, Mr. Coric, I wanted to ask the Trial  
20 Chamber to give me equal opportunity as they afforded to the Petkovic  
21 Defence; that is to say, that if I don't complete my cross-examination  
22 within that time, that I can use the Coric Defence time allotted. I do,  
23 however, think that I will be able to end my cross-examination within the  
24 four hours and forty-five minutes, but I just wanted to request that.

25 The second point has to do with the binders. Everybody has been

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1 given three binders, that is to say, the Trial Chamber, the Prosecution,  
2 and the witness, and we'll start off with the small, thin binder which  
3 actually looks like this [indicates]. That's what we're going to start  
4 off with. I'll take a moment and wait for all the binders to be  
5 distributed.

6 JUDGE ANTONETTI: [Interpretation] The Registrar is handing out  
7 the various binders. I would like to know whether there are three  
8 binders, including a small one, and then two red ones; is that correct?  
9 Very well.

10 MS. TOMASEGOVIC TOMIC: [Interpretation] Precisely, Judge, and  
11 we're going to start off with the small one, because I'm going to move on  
12 to another larger area, whereas we'll be able to get through the small  
13 one, I hope, by the break.

14 Cross-examination by Ms. Tomasegovic Tomic:

15 Q. [Interpretation] My first question for you, Mr. Praljak, has  
16 nothing to do with the binders and documents, but is linked to something  
17 that you said when questioned by Ms. Alaburic. And in view of everything  
18 that you said on direct, I think that there was a slight misunderstanding  
19 at one point, and I'll tell you -- I'll put it to you, what you said, and  
20 you can tell us whether that is what you actually thought and wanted say  
21 and whether it's a misunderstanding.

22 Asked by Ms. Alaburic, and the question was recorded on  
23 page 42427 of the transcript and 42428 of the transcript, whether the  
24 SIS, the military police, and the IPD were established as parallel  
25 systems to exercise political control, and I emphasise "political,"

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1 political control over the army, your answer was in the affirmative. Now  
2 I'm going to ask you this one again. Was there a misunderstanding or do  
3 you claim that the military police was established in order to exercise  
4 political control over the army?

5 A. The military police did not exercise political control over the  
6 army, nor did the SIS exercise political control over the army, nor again  
7 was political control exercised over the army by the IPD. And even with

8 parallel systems, I explained in quite exact terms what is meant by a  
9 parallel system, so I don't think that there can be any misunderstanding  
10 on that score. Let me state again, there was no political control from  
11 the head of the Military Police Administration or whatever you like to  
12 call him.

13 Q. Thank you, Mr. Praljak. Now, my next question relates to a  
14 document shown to you by Judge Antonetti, and I think that it was one  
15 that was put to you during the examination-in-chief. It is P01350, and  
16 it is the first document in your binder.

17 I'd like to read something out from that document. It is the  
18 fourth paragraph from the top, and that paragraph begins with the  
19 following words: "From the proposal made by the chief ...," and it says:

20 "In Gornji Vakuf, the military police had the task of protecting  
21 the military police of the area, the population, and securing safe  
22 traffic. That task was soon expanded to include the following in the  
23 chief's absence, but everybody recognises that the military police bore  
24 the greatest burden and the greatest sacrifices."

25 Now, Mr. Praljak, these are the minutes from a meeting, and I

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1 think that you said that you attended at least part of that meeting, so  
2 I'd like to know whether what I have just read out was the truth and  
3 whether you were aware of that. Do you happen to remember?

4 A. Yes, I did attend this meeting for a time, in part, and, well,  
5 there were a lot of questions that were raised, and I took the floor. It

6 is true that the military police took part in the fighting in Uskoplje,  
7 as far as I know. I wasn't the commander of that particular operation,  
8 so I don't know about all the details. I was just there. I was there to  
9 be in the final stages of that operation. But as I've said loud and  
10 clear, I did not have -- now, whether I could have is another matter, but  
11 I did not have the possibility and opportunity to challenge the arguments  
12 put forward by the commander of that particular action about the fact  
13 that it was necessary after the BH Army had fully blocked the HVO in  
14 Uskoplje.

15 Q. Tell me now, please, do you remember that this is what was stated  
16 at the meeting, the portion I read out and quoted? If you can't  
17 remember, just say so.

18 A. Well, yes, of course, madam, rest assured that that is what I'll  
19 do. But I can't remember, so that's my answer. It's been a long time,  
20 and I don't know whether I left after making my speech. That was  
21 probably it. I probably did go, did leave.

22 Q. Thank you, Mr. Praljak. Now let's look at another document,  
23 5D0054 --

24 JUDGE ANTONETTI: [Interpretation] General Praljak, when I have a  
25 military document, I always look at it and I make an analysis, putting it

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1 back into the context. And sometimes the document provides very  
2 informative details.

3 On page 4 of the English version, there is Mr. Petrovic that is



4 taking the floor. Several people seem to take the floor. And  
5 General Petrovic talks about the importance of the team from the guard on  
6 duty or the officer on duty, and he says that he has to be aware of the  
7 entirety of the situation on the theatre, and this has to be done at all  
8 times. Could you please confirm that when there was a military  
9 operation, what happened, necessarily, was that you had a duty officer or  
10 an officer following up the military operation, and this officer had to  
11 be informed in realtime about everything that was happening on the  
12 ground, on the theatre of operations?

13 MS. TOMASEGOVIC TOMIC: [Interpretation] Your Honour, might I be  
14 of assistance with the terminology? I don't think that the interpreter  
15 had the Croatian version in front of them, but we're talking about the  
16 duty operations officer.

17 JUDGE ANTONETTI: [Interpretation] The question is the duty  
18 operations officer. So, General Praljak, was there always a duty  
19 operations officer who was accounting in realtime about the situation?  
20 He was informed and then he would feed back the information?

21 THE WITNESS: [Interpretation] With more important operations,  
22 there was the duty officer, but unfortunately the information that came  
23 into him in realtime was very scant and not sufficient, either no  
24 information at all or very scant information. And the reasons for that  
25 was that the lines of communication were in a terrible state: There was

1 no proper communication on the ground between the individual units, the

2 commanders of operations, or the axes of operations, and they had to make  
3 due with -- well, I can explain what they used and why the system wasn't  
4 actually functioning properly.

5 JUDGE ANTONETTI: [Interpretation] Well, that's not really what  
6 I'm interested in. I'm going to go back to the 9th of May. Let's take  
7 on board the case of the Prosecutor; namely, that it is you, the HVO, who  
8 is attacking. If there is an HVO attack, and it means that you take over  
9 the headquarters of the BiH, which is not a small matter, do you think  
10 that if that was the case, you had a duty operations officer within the  
11 headquarters who had written down on some document, of some log, 5.00,  
12 this and that, 10 past 5.00, this and that action so and so, and so on  
13 and so forth?

14 THE WITNESS: [Interpretation] Correct. When you have a very  
15 important operation, then you had to have all the information, a complete  
16 plan, the beginning and end of an attack, the sign given to launch the  
17 attack, the artillery and how it was going to be deployed, when you had  
18 managed to take control of a certain area, and so on and so forth. And  
19 you were able to see from June 1992, Your Honours, the two documents that  
20 I provided. When information of that kind comes in, it comes in every  
21 two or three minutes, giving an update. This happened here, Praljak said  
22 that, ordered this. So it was a very dense log-book that you had to  
23 keep, because information was coming in all the time when any major  
24 operation was underway.

25 MS. TOMASEGOVIC TOMIC: [Interpretation] Thank you, Your Honour.

1 Q. Now, Mr. Praljak, let's look at the next document, which is  
2 5D00548, and it is a document that is already an exhibit, and we've seen  
3 it several times in this courtroom already. It was signed by Mr. Coric,  
4 and it is titled "Request for Re-Examination of the Engagement of Units  
5 of the Military Police on the Front-Lines."

6 There's no need for us to read through the entire document. I'd  
7 just like to read the first paragraph and the last three paragraphs.  
8 Here is what it says:

9 "On several occasions, we have warned, and we are doing so by  
10 this request as well, that the Administration of the Military Police, due  
11 to intensive and non-stop involvement of the units of the military police  
12 on the front-lines, and also due to the impossibility of replenishing the  
13 units with new troops, it is unable to perform the military police tasks  
14 according to its competence."

15 Now we can move on to the last three paragraphs, the end of the  
16 document:

17 "Terror and crime of all kinds is on the increase and, therefore,  
18 worrying, and threatens that on the free territory of the HR-HB, that it  
19 will lead to anarchy and lawlessness.

20 "I hereby announce, with full responsibility, that the military  
21 police forces which remain after the units of the military police have  
22 been deployed to the front-lines, we will not be in a position to perform  
23 even our regular military police tasks, let alone the complex  
24 interventions and other significant military police tasks.

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1 of the involvement of the military police up at the front-lines, and we  
2 suggest that the military police units should be withdrawn from the  
3 front-lines so as to be able to carry out military police activities and  
4 that only -- that they be sent to the front-lines only in exceptional  
5 situations."

6 Now, Mr. Praljak, I recall that during the examination-in-chief  
7 you confirmed that you were aware of this particular problem. Am I right  
8 in saying that; is that right? Did you know about it?

9 A. Yes, you are right, madam. I was informed of this problem, and I  
10 fully subscribe to what it says here. I would put my signature at the  
11 bottom of that document in the place of Mr. Coric. And this document, in  
12 fact, illustrates what I said on many occasions in this courtroom, and  
13 that is that after the attack on the 9th of May, and especially after the  
14 30th of June, in military terms and, to a certain extent, in the moral  
15 sense, the HVO system disintegrated, I mean the people, the population,  
16 everything, so that Mr. Coric is quite right when he says that deploying  
17 the military police units considerably reduced their possibility to do  
18 their proper job. But I followed a different logic. That's the only  
19 thing --

20 Q. No, well, we'll come to that, Mr. Praljak, in due course. You do  
21 remember that Mr. Biskic testified in this court, don't you? At  
22 transcript page --

23 JUDGE ANTONETTI: [Interpretation] General Praljak, just a minute.  
24 Before we go into Mr. Biskic's testimony, let me go back to this  
25 document. I'm discovering it, actually, 5D00158.

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1 General Praljak, a few years -- a few months ago, even years ago,  
2 I wondered why there was so many casualties among military police people.  
3 We've seen a number of documents where we noted that there were a lot of  
4 casualties and fatalities, and I was very surprised by this. Now, here  
5 in this document, it was written by Mr. Coric, this problem is actually  
6 mentioned. He says that if the military police is placed on the  
7 front-line, then it will be exposed and there will probably be  
8 casualties, which is why he's mentioning them. But he's saying something  
9 else which is extremely important, as far as his liability under  
10 Article 7(3) is concerned. He says the very fact of placing these  
11 military police people on the front-line, because of this there is an  
12 increase in terror and crimes, and chaos reigns, as well as anarchy. So  
13 he's obviously blowing the whistle.

14 I'm sure that you haven't read the entire case law of the  
15 Nuremberg trials. There is case law, but it has to do with the  
16 responsibility of generals in occupied territories. Unfortunately, the  
17 jurisprudence is not extended to the combat zone. But at least in the  
18 case law we have from the Nuremberg trial, the general in charge of the  
19 occupied territories is responsible of absolutely everything, everything,  
20 from A to Z, including order in the streets and including all crimes that

21 may be committed in the streets. And, obviously, here Mr. Coric is  
22 telling you about this, since you are a recipient of this letter, as well  
23 as Mr. Tole and Mr. Stojic.

24 So when you have this kind of military report, when you obtain  
25 these kind of military reports, what measures did you take to help

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1 Mr. Coric and to make sure that the military police went back to its own  
2 traditional job and only that, or did you not do anything because you had  
3 no seasoned fighters and you only had these military policemen at hand,  
4 and they were -- at least they knew how to handle weapons, they were  
5 disciplined, they obeyed orders, and at least they made it possible for a  
6 defence to be carried out?

7 MS. TOMASEGOVIC TOMIC: [Interpretation] Your Honour, my  
8 apologies, but let us try not to confuse the general.

9 The figure that was entered was not accurate. You asked for  
10 5D50048 [as interpreted], and the one in the transcript is "158." I  
11 don't think the general really knows which to be document to be looking  
12 at. 5D00548, that's the correct document number.

13 JUDGE ANTONETTI: [Interpretation] Very well. The correct  
14 document is the one you mentioned earlier, 5D00548.

15 General Praljak, can you answer my question?

16 THE WITNESS: [Interpretation] Certainly. Not only is it a fact  
17 that 30 years ago I read a lot of those documents and some important  
18 books on the Nuremberg trials, moreover I was, for different reasons, an

19 avid student of these chaotic states of human society in my capacity as a  
20 sociologist, and that was the case more than once. As for a general's  
21 responsibility in this occupied territory, there was no occupied  
22 territory in my case. There was fighting along the front-line.

23 Secondly, when we do encounter occupied territories, there are  
24 vast differences between an occupation by a structured, well-organised  
25 army and the forces sufficiently competent to maintain order, on the one

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1 hand, and the chaos, on the other, that ensues when a war is in the  
2 process of being lost or a battle is in the process of being lost, be it  
3 the escape from Moscow, in Napoleon's case, or the escape from Moscow in  
4 World War II when everyone was smashing things up, and stealing, and so  
5 on and so forth, be it following Katherine or Katrina.

6 In this case, Your Honours, I was aware of the problem, but there  
7 were two options -- two avenues that were open to me. One was to return  
8 the military police to Mr. Coric and for the BH Army to reach the  
9 Adriatic coast. There were no more than two options.

10 These were splendid fighters, 39 killed, 191 seriously wounded.  
11 They were holding their lines and fending off any attacks. At these most  
12 difficult times, that's what I was talking about.

13 At a time like this, I took a decision which I still recognise as  
14 my own today. I made a request and obtained a signature from Mate Boban  
15 entitling me to use military police for operative tasks, simply because  
16 that was the military situation that prevailed at the time. As soon as

17 the situation was sorted out, the military police went back.

18 I assert, Your Honours, that everything that we can read in the  
19 indictment is not there because the explanations in the indictment are  
20 what they are, but rather because the offensive launched by the BH Army  
21 was a fierce one, fearful. Even worse, there were drawn-out negotiations  
22 underway, and on top of that the Muslim treason in the area. People  
23 reached a stage known as the decomposition of the moral backbone. In a  
24 way, we have been deceiving them and convincing them that something  
25 entirely different was, in fact, the case, but then the people, who had

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1 been saying all along that this would eventually occur, ended up saying,  
2 There, see, they attacked us eventually, they are double-dealing, they  
3 betrayed us, same as back in 1944, history repeating itself.

4 There were a lot of independent players, so to speak, there were  
5 free shooters emerging in a situation like this, and the pressure exerted  
6 by the BH Army, in the military sense, was such that the military police  
7 as well as components of the civilian police had to get involved, as well  
8 as each and every human beings in that area.

9 I stand by my decision. It was exactly the course of action to  
10 be taken in a situation like that. As for those who committed any  
11 wrongdoings in a situation like that, there will always be time later on  
12 to bring those men to face justice. Had I returned the military police  
13 there to do their job, they would have been left without anything to do,  
14 simply because we would no longer be -- we would no longer have remained



15 in that area.

16 MS. TOMASEGOVIC TOMIC: [Interpretation] Your Honours, this is  
17 precisely what I was trying to say what Mr. Biskic said when he  
18 testified. In his evidence -- well, let's not waste any time quoting all  
19 the transcript pages, but it's there for all to read, Mr. Biskic's  
20 evidence, and he said that the country's defence was the top priority.  
21 It was perfectly normal and necessary for the military police to get  
22 involved and in the way just described by General Praljak. He also said  
23 that after he took up his position there, he asked the then chief of the  
24 Main Staff, General Roso, to issue an order to withdraw the military  
25 police units from the front-line, and also confirmed what Mr. Praljak

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1 said, that it was eventually done, except he said it was done sometime in  
2 mid-December 1993, when the conditions were finally ripe for a move like  
3 that. I was trying to ask further questions to get there, but --

4 JUDGE ANTONETTI: [Interpretation] Just a minute. You're  
5 testifying. You're testifying, Ms. Tomasegovic Tomic. I'm sure this is  
6 why Mr. Stringer is on his feet. You should rather say, Mr. Biskic says  
7 this and that, and General Praljak can confirm.

8 Mr. Stringer, is this what you wanted to say?

9 MR. STRINGER: In a sense, yes, Mr. President. I understood that  
10 counsel was repeating what she was saying was the testimony of  
11 Mr. Biskic, and I'm not doubting that, but I was going to request that  
12 counsel give the page numbers of the transcript because I might go back

13 to read that later, and it would help me find it. That's all.

14 JUDGE ANTONETTI: [Interpretation] The page, please. Would you  
15 please give us the page, please?

16 MS. TOMASEGOVIC TOMIC: [Interpretation] I'll provide the page  
17 numbers. First, what I was trying to say is that my questions were to  
18 follow. I was going to talk to General Praljak about this, and ask him  
19 if he remembers this, Mr. Biskic saying that, whether he agrees with what  
20 Mr. Biskic said. And, of course, I can first ask the question and  
21 afterwards I can proceed and give you the pages numbers.

22 THE WITNESS: [Interpretation] Yes, that's right. Of course I  
23 remember.

24 MS. TOMASEGOVIC TOMIC: [Interpretation] Page numbers from the  
25 transcript are 15181, 15186, 15242, 15261, 15265, 15267, 15274, 15279,

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1 15282, and 15309.

2 Q. Mr. Praljak, let us please move on to the two last documents in  
3 this binder, the first document being P03117.

4 This is an order by the commander of the South-East Herzegovina  
5 Operative Zone, Brigadier Miljenko Lasic. The date is the 2nd of July,  
6 1993. The order is addressed to two HVO brigades, a military police  
7 battalion, the Operative Zone Logistics Section, the sector commanders,  
8 and yet another addressee, ONOZJIH. Probably you'll know what that  
9 stands for, but I don't think it's of any relevance at this point in  
10 time.

11 The order reads, and I'll just read the sentence before the word

12 "order" itself:

13 "With respect to the duties to be carried out in the Central Zone  
14 of Responsibility, the Mostar Defence Zone, I hereby order ..."

15 And then the zones of responsibility are defined. What I'm  
16 looking at is paragraph 2, reading:

17 "The zone of responsibility shall be divided into three  
18 sectors ..."

19 And then a list of these sectors. So this is the second zone of  
20 responsibility. Under paragraph 2, the second zone of responsibility:

21 "I hereby appoint Mr. Mijo Jelic sector commander, who is also  
22 the commander of the military police."

23 If we look at paragraph 4, it reads:

24 "Daily reports, in a written form, reflecting the situation as at  
25 1800 hours are submitted by sector commanders on a daily basis by 2000

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1 hours. Telephone reports are to be submitted by 730 and 1700 hours.

2 Interim reports are submitted as required or as dictated by necessity."

3 A single question in relation to this document: Mr. Praljak,  
4 were you familiar with that? Were you aware of the fact that Mr. Mijo  
5 Jelic was appointed commander of the 2nd zone of responsibility in Mostar  
6 in this way?

7 A. No, madam, I wasn't there on the 2nd of July. I did know that  
8 Mr. Mijo Jelic had been appointed commander of the city of Mostar by an

9 order signed by Tolic, chief of the Main Staff, but it wasn't until at a  
10 much later stage that I actually saw the document.

11 Q. All right. Let us try to move on to the later document, P03983.  
12 The document is dated the 6th of August, 1993.

13 As you have told us, this is about the appointment of Mr. -- of  
14 Mr. Jelic as the defence commander of Mostar. Paragraph 2 reads:

15 "All of the units in Mostar are hereby placed under the command  
16 of Mr. Mijo Jelic."

17 Further, regulating a request -- or, rather, a proposal to set up  
18 a staff or a headquarters, how reports will be submitted on the  
19 implementation of this order. You told us a moment ago you knew about  
20 this; right?

21 A. Yes.

22 MS. TOMASEGOVIC TOMIC: Thank you very much, Mr. Praljak.

23 Your Honours, I'm looking at the clock. I'm about to move on to  
24 a rather substantial topic. I would like to take the break now, if  
25 possible, because I wish to attain a certain degree of continuity

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1 covering that subject.

2 JUDGE ANTONETTI: [Interpretation] Very well.

3 So we will have our 20-minute break now.

4 --- Recess taken at 3.37 p.m.

5 [The accused Prlic entered court]

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

7 JUDGE ANTONETTI: [Interpretation] Very well. The court is back  
8 in session.

9 The Trial Chamber welcomes Mr. Prlic.

10 I believe that Mr. Karnavas has something to say.

11 MR. KARNAVAS: Yes. Good afternoon again, Mr. President, Your  
12 Honours.

13 On Friday, we received the -- I believe it's titled "Order" that  
14 was submitted to the Association of Defence Council practicing before the  
15 ICTY, known as ADC, which is our professional association, with an  
16 order/request to the Amicus Committee. It appeared that the order was  
17 requesting what we consider or what other Trial Chambers have considered  
18 as an advisory opinion, an advisory opinion based on a factual setting  
19 which, quite frankly, and with all due respect, I find to be incorrect  
20 and somewhat misleading, because it doesn't lay out all of the facts as  
21 we presented. So there are some factual issues.

22 But be that as it may, based on what we were able to glean, and  
23 that when I say "we," I speak for Ms. Tomanovic, we came away with the  
24 impression that the Trial Chamber finds these two lawyers to be  
25 unethical, unprofessional, deceitful towards the Trial Chamber, and that,

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1 I categorically, along with Suzana Tomanovic, we categorically deny these  
2 allegations, as they seem to be framed in the questions as put by the  
3 Trial Chamber. At all times, we've acted professionally, ethically,  
4 conscientiously. At all times, we have been consulting with our clients.

5 At all times, we did what we thought was best under the circumstances.

6 And as I indicated in my supplemental submission, we were provided  
7 documents on the basis that we would abide by the requests of the  
8 sources.

9 We will have ample time to address those issues. I will be  
10 asking the ADC to request from the Trial Chamber to make its findings  
11 based on the record, the entire record, or, in the alternative, to ask  
12 the President of the Tribunal to select three Judges for an independent  
13 and impartial panel of Judges to determine the facts in order to  
14 determine whether, indeed, this particular team has acted in an  
15 inappropriate manner.

16 I'm also going to be requesting the ADC to consult with leading  
17 experts in the field of ethics and professional conduct, primarily from  
18 the adversarial system, since we are engaged in an adversarial system,  
19 and presumably these experts would be able to provide and edify us with  
20 the responsibilities of Defence lawyers in conducting investigations on  
21 behalf of their clients in an adversarial setting.

22 Based on what we read, I was quite concerned, as was  
23 Mr. Tomanovic, and so I went to see Dr. Prlic on Friday, between 6.00 and  
24 8.00 p.m. It was our concern that in light of what it appears are, from  
25 the reading of -- and we're going through our unofficial translation, but

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1 we have good interpreters and translators. It appears that we no longer  
2 enjoy, if we ever did, any credibility in front of this Trial Chamber.

3 And in light of that, I informed Dr. Prlic that it may be in his best  
4 interests if I were to come to court and ask that the proceedings be  
5 suspended until such time as this cloud is lifted over our heads.

6 Ms. Tomanovic and I are fully confident that we have not done  
7 anything illegal, improper, unprofessional, and that we will be cleared,  
8 but we are concerned that henceforward whatever we do or say, and perhaps  
9 even in the past, in light of the Trial Chamber's findings from the facts  
10 as it puts it, that we are deceitful lawyers, and in that -- given that,  
11 we are not able to plead his case and conduct our business in his best  
12 interests.

13 So I suggested that we suspended the proceedings. The  
14 alternative would be to ask the Registrar to appoint independent counsel  
15 to represent him during this interim period and for us to withdraw or  
16 step aside until such time as this matter is cleared.

17 Dr. Prlic is of the opinion that the trial should continue. He's  
18 also of the opinion, which I do not particularly share, but this is his  
19 opinion, that he is fully capable to take over, in a sense, any  
20 questioning in the court very much as General Praljak has done on  
21 numerous occasions. As I understand it, he will be addressing you, but  
22 we fully enjoy his support and his confidence. He wishes for us to  
23 continue in our capacity as his lawyers and to assist him, but until this  
24 time, until this sword of Damocles, if you want to put it, is lifted from  
25 our heads, Mr. Prlic is suggesting that he be permitted to act as his

1 counsel in court for the purposes of asking questions to the witness  
2 while we continue in our capacity to draft motions, do the research, do  
3 everything that we normally would do, except we would not be necessarily  
4 either objecting or be making any pleadings in the court.

5 And in light of the Trial Chamber's timetable, and in light of  
6 the upcoming break that we have, and the fact that we have already  
7 cross-examined General Praljak, it would appear that during this interim  
8 period there would be little to do as far as in-court presentation on  
9 behalf of Dr. Prlic, who of course we would be -- we would be assisting.

10 But in any event, my concern was for this. I did at one point  
11 suggest that I withdraw completely from the case, because my interest is  
12 his best interest. And if the Trial Chamber thinks, and I put it to him  
13 very bluntly and very crudely, it appears the Trial Chamber sees his  
14 lawyers as "sleazy," this is how I put it, this is how I interpret this,  
15 that somehow we are less than honest with the Trial Chamber. This is the  
16 very first I've ever been called by the Trial Chamber to answer to  
17 anything with respect to these sorts of allegations as I find here today,  
18 and I find them extremely serious and extremely regrettable.

19 So, in any event, our position is that the matter be suspended  
20 until such time as we clear this issue. Dr. Prlic has other opinions, it  
21 is his case. However, I advise against him representing himself, even  
22 during this interim period, but I am in your hands, as well as he is in  
23 your hands, and he is here and he is prepared to address the Court.

24 Thank you.

25 JUDGE ANTONETTI: [Interpretation] Very well. I'll give the floor



1 to Mr. Prlic, but I believe that there's -- you make a small mistake,  
2 Mr. Karnavas.

3 It's not the ADC and amicus curiae. In its decision, the Trial  
4 Chamber asked the ADC to play the role of amicus curiae. It's a single  
5 entity. There isn't two entities; there's only one.

6 Secondly, the Trial Chamber, having noted a potential technical  
7 problem, is requesting the ADC for its enlightened opinion. In the  
8 decision, we gave them one month, we gave the ADC one month, to give us  
9 its technical point of view on three issues. I'm almost sure -- I don't  
10 really know how the ADC works, but if I refer to the practice in other  
11 states, the ADC will take a look at the problem, might appoint a  
12 rapporteur, and then will come to you for explanations, and then will  
13 give us its enlightened opinion on these three questions.

14 Right now, the Trial Chamber is wondering about many things, is  
15 asking for advice, is trusting the ADC. We could have asked someone  
16 else, you know, to give us an enlight ened opinion, but we wanted to call  
17 on the best specialists for this, and they will give us their enlightened  
18 opinion, their advice, telling us, There is no problem, There is a  
19 problem. I don't know what they'll say.

20 As of now, we are in the dark. We're waiting for the enlightened  
21 opinion of this -- and this informed opinion.

22 MR. KARNAVAS: Thank you, Mr. President, and I understand that.

23 As I've indicated, the manner in which we see the facts as being

24 presented, and the facts which are -- the questions are predicated upon,  
25 which we find to be incomplete, give rise to a different opinion from our

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1 perspective.

2 But be that as it may, if I may be of some assistance, given that  
3 you're asking for an enlightened opinion concerning ethical behaviour,  
4 the ADC has, within the various committees, has a disciplinary council,  
5 and in the past they have provided advisory opinions which have assisted  
6 Trial Chambers in resolving issues such as conflicts. I believe that was  
7 the primary one that comes to mind at this point. So you may wish to  
8 redirect that.

9 And, furthermore, as I've indicated, as of today they have yet --  
10 the ADC has yet to receive your decision or order or request, so you may  
11 wish to have someone from the Registry provide that to the ADC so they  
12 can act as expeditiously as possible. But this is our reading of it,  
13 Your Honour, and I don't want to take up any more time, but we do take  
14 grave exceptions to some of the characterisations that are being made  
15 here, and we do believe there are issues of fact as well, which is  
16 perhaps why we are concerned that we no longer are able to do our job on  
17 behalf of Dr. Prlic, because we're here for him. We're not here for  
18 ourselves, and the moment that we are here as an obstacle and not as a  
19 benefit to one of the -- to our client, it's time for us to step aside.  
20 I mean, that's my professional responsibility, that's how I see it. It's  
21 not about money, it's not about ego, it's not about reputation; it's

22 about the client.

23 Thank you.

24 JUDGE ANTONETTI: [Interpretation] Very well.

25 Mr. Prlic, I will give you the floor. Let me tell you that,

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1 personally, I'm very glad to see you back in the courtroom, and I hope  
2 that you will stay with us. You have all the information at hand.

3 The Trial Chamber has issued a decision. I'm sure it was  
4 translated into English and probably into B/C/S also. In this decision,  
5 it is said that the Trial Chamber has asked for advice from the ADC on  
6 three technical issues, and we're waiting -- we gave the ADC one month to  
7 provide us with their advice, and then we will see how to proceed later  
8 on.

9 Now, given this, Mr. Karnavas just told us this morning that you  
10 would attend the hearing this afternoon, we've heard Mr. Karnavas now,  
11 and he told us that you wanted also to give your opinion. So now you  
12 have the floor.

13 THE ACCUSED PRLIC: Thank you. I haven't seen you for a while.

14 I'm going to address a few issues, and I've prepared what I want  
15 to say. And if you want to give it to interpreters, this is going to  
16 make their life easier.

17 [Interpretation] I'm here today because of this newly-arisen  
18 situation with respect to my Defence counsel and my Defence team as a  
19 whole. I'm here to try and find a solution so that the trial does not

20 suffer. I don't want a spot of blemish to be on my Defence team, and  
21 nothing that is not founded on the highest ethical criteria.

22 Now, at the same time, since Judge Antonetti raised a number of  
23 issues, Judge Prandler also intervened, allow me to respond to them.

24 My request has been very simple from the very beginning, and that  
25 is that I have a proper and correct trial, and I stated this on several

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1 occasions. When my Defence case was completed and when I saw that during  
2 those proceedings I did not have a role to play, I simply ceased to come  
3 into the courtroom, not only without having uttered any bad word, but  
4 without uttering any word at all. I did not want to impede the  
5 proceedings that evolved without me and suffered no major problems  
6 because of that.

7 When I was not able to do anything else, I resorted to silence, I  
8 chose silence, and the prison to which you convicted me without a  
9 conviction, because at the end of the Defence case I asked to be allowed  
10 to be provisionally released until a judgement was reached instead of  
11 having no judgement and remaining in prison for another two years. For  
12 two years, even if only for -- two years, if only for procedural issues,  
13 is not -- no little time. And before that, I had not missed a single  
14 second of the trial in court, either during the Prosecution case or  
15 during my Defence case. Therefore, I showed every respect for the Trial  
16 Chamber and for the Tribunal, and that is why I do have the right to  
17 speak about this Tribunal, more than anybody else in this courtroom,

18 regardless of my position at this point in time. I do not earn a living  
19 from it, as opposed to other people in this courtroom, with the exception  
20 of the accused, of course. So it is in my interests that this Tribunal  
21 functions and functions properly.

22 You have your records. You can see that I always supported the  
23 ideas and ideals of this Tribunal from the very beginning in 1993, right  
24 up until the indictment. I even supported it when it was dangerous to do  
25 so and when one was considered a traitor if one did support it, and even

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1 when it became quite clear that it wasn't achieving the role it set out  
2 to achieve.

3 I signed the peace agreement in Dayton, and part of that  
4 agreement was cooperation with the Tribunal, as a member of the state  
5 delegation of Bosnia-Herzegovina. I represented that country and its  
6 victims in the world for more than five years. I attended sessions for  
7 six years of the General Assembly of the United Nations, and for the most  
8 part I spoke about the importance of this Tribunal, the meaning it has,  
9 and I took part at the Rome Diplomatic Conference about the establishment  
10 of a permanent international criminal court.

11 Dozens of times in interviews, I stated that I would always  
12 respond if the Tribunal asked me to do so. And on the same day when the  
13 indictment arrived, and it was handed to me in Zagreb and not in  
14 Sarajevo, where it also arrived, but it was intentionally not handed over  
15 to me there when I was actually in Sarajevo, I handed myself over and

16 came here straight away, and that is why I want this Tribunal to be a  
17 success and that there should be no trial which should not be shown to be  
18 efficacious and credible. And I am conscious of the fact that there is  
19 going to be collateral damage, the damage I'm suffering myself already.

20 Now let me respond to some of Judge Antonetti's questions.

21 Judge Antonetti says that I perhaps consider that the trial is a  
22 farce, a mock trial. Now, bearing in mind the character of the  
23 indictment itself and how the entire proceedings were organised, instead  
24 of a direct answer at this point in time, I'm going to resort to a  
25 sentence that was uttered in Brussels during our last conversation before

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1 he was killed, a sentence used by Zoran Djindjic, the prime minister of  
2 Serbia, and I quote:

3 "When you hop on to the wrong train, then all the stations are  
4 wrong stations."

5 And let me say that I have always presented my views. On the  
6 21st of March, 2007, for instance, I said that I did not wish to take an  
7 active part in the trial because I considered the indictment to be  
8 unjustified, and I feel it to be in an adverse position when I have to  
9 justify myself and respond. And I think raising an indictment of this  
10 kind is a great error on the part of the Prosecution.

11 Although I received information well ahead of time that I would  
12 be indicted, that information reached me in Tehran, Iran, in 1994. And I  
13 asked where the information came from, and I was told, We are controlling

14 all that.

15           Whatever I asked for from this Trial Chamber, I was refused. I  
16 was refused a laptop, and the Registrar even agreed, when talking to me,  
17 that it was no problem for me to be able to use a laptop during the court  
18 proceedings.

19           I took the floor in this courtroom several times, but nothing  
20 happened. For example, I made a request for additional time to examine a  
21 few of the Prosecution witnesses, Tomljanovich, Manolic, Okun, Galbraith,  
22 and a couple of those from protected organisations.

23           On the 16th of April, 2007, I made another request. I asked that  
24 we should not be treated as a group by you. Judge Antonetti last week,  
25 on Thursday, in actual fact, said on page 42304 of the transcript, that

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1           you were very generous in allotting time for cross-examination and that  
2 that, in the Karadzic trial, will only amount to 60 per cent. I agree,  
3 had I had 60 per cent and had the Prosecution had 60 per cent in their  
4 examination, which of course is not the case. The Prosecutor has 100 per  
5 cent, and I don't mind, I have nothing against that. My Defence team has  
6 just one-sixth of that.

7           I also requested a separation of trials and I was refused, a  
8 severance. And I spoke about the problems of adjudicated facts, which  
9 challenged the credibility of this entire proceedings, and I addressed  
10 the matter of agreed facts as well, and I spoke about the problems of the  
11 documents and evidence that the Prosecution had. I also spoke of the

12 trial itself and said that my Defence counsel was using only 10 per cent  
13 of the questions I suggested that he ask or the material he tendered into  
14 evidence, in addition to other things, to prove the following: Whose JCE  
15 it was and who supports that joint criminal enterprise today.

16 Now, let me remind you that on one occasion, I asked an IC number  
17 for a certain document and some time calculation, and that certain  
18 portions of these proceedings should not be done in private session,  
19 should not be confidential. None of that was -- I was not allowed to do  
20 any of that. My requests were rejected, and, finally, in addition to my  
21 statement, after which I left the courtroom, although before you rejected  
22 our requests, we had decided to request provisional release to the end of  
23 trial.

24 As I've already said, the decision to make a statement was taken  
25 just a few days prior to the beginning of the Defence case, bearing in

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1 mind your decision about the time allotted to the Defence from the 25th  
2 of April, 2008. You know that I publicly gave up on my right to an  
3 expeditious trial. I publicly renounced that right in order to give the  
4 Prosecution enough time for whatever it deems necessary. And that  
5 implied the same for my Defence, too, but I received almost nothing in  
6 return. The time requested for my Defence case was only partially  
7 permitted. But that's gone by, too, and we didn't complain, we didn't  
8 object, because we were conscious of the fact that the Appeals Chamber  
9 would change nothing, and that is indeed what happened. Nothing changed.



10           Therefore, I decided to go ahead with an introductory statement  
11           that I prepared during the seven days of provisional release that you  
12           allowed me to take last year, and not with my testimony, so that within  
13           the time allotted, the other witnesses, who had already been scheduled,  
14           could be examined and present their testimony. So we used up all the  
15           additional time, and it was no easy matter to plan our time. And,  
16           Judge Antonetti, you were able to see that during the examination and  
17           cross-examination of General Praljak.

18           Yes, I wrote in -- a response to the Tomljanovich expert report,  
19           and as I said last year, several hundred pages, with 1.500 footnotes.  
20           All the accused here watched me writing this over a period of many days.  
21           And I wrote a response to the expert report on the presidential  
22           transcripts as well. That was a lengthy response, too, with 1500  
23           footnotes again, but you did not accept that expert report, so that I  
24           wasn't able to put forward that part of what I had prepared. And let me  
25           just add that I also wrote responses to the expert report by Professor

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1           Ribicic, and I suppose I will have to leave that for some later date in a  
2           book I might publish.

3           I'm saying this to tell me you that I did intend to take part in  
4           these proceedings indirectly, and not directly through questions and  
5           answers and the like, because, after all, that's why I have my Defence  
6           counsel.

7           The annex which you rejected, I could have read out here in the

8 courtroom today, just as I'm doing now, and taken up a week of court  
9 time. So it's not only a week; it's actually a million dollars. I  
10 decided to save the UN the expense of that million dollars, and as  
11 opposed to you, who took the decision to use that same million and  
12 continue our stay in prison during that time.

13 I did not ask you to give any weight or relevance to my response  
14 to the expert witness report, just to read it instead of listening to me.  
15 It's up to you, what weight you give to it. But you said that you did  
16 not even wish to read it. I understood that. I understood that as  
17 saying that you weren't interested in it. So you gave precedence to form  
18 rather than substance, whereas you accepted evidence and you're using it,  
19 and you accepted the aggressive discussion in the same tone that this man  
20 Tomljanovich used in his dealings with me.

21 I informed one of my Defence counsel with response to your  
22 request with respect to his unethical behaviour. He wants to clear this  
23 matter up in principle, and he has all my support on that score. He also  
24 informed me, and I'm conscious of the fact, that there is fear, that  
25 people are afraid of this institution, unfortunately, and some people

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1 don't want to have anything to do with this Tribunal. Once again, I say  
2 "unfortunately so," but their request must be respected. Their respect  
3 for anonymity must be respected. However, throughout the subject of  
4 documentary evidence, this is not important, bearing in mind the fact  
5 that all the documents have been asked to be reconsidered and, therefore,

6 receive proof of authenticity by those who were ready to do so publicly.  
7 Since I have gone through all those documents, I can say that they are  
8 very trivial documents, just like hundreds of others that have been  
9 admitted into evidence here.

10 My Defence team has no hidden agenda except to ensure a fair and  
11 just trial. And my Defence counsel put forward two variants; one, to  
12 interrupt the trial until all these questions are resolved, because, as  
13 he said, he considers that in the meantime, but to the end of these  
14 proceedings, my Defence, bearing in mind all your requests, is losing on  
15 credibility, part of its credibility, or to appoint a temporary  
16 representative. None of these two options are acceptable to me, and I  
17 told him so on Friday night.

18 I don't want this trial to be interrupted. I don't wish the  
19 court proceedings to be interrupted. I wish to be part of the solution,  
20 not part of the problem. And a new representative, I don't think that is  
21 realistic. So I don't wish the trial to be suspended.

22 Now, whatever happens, with all the variants put forward, it is  
23 always I who am going to have to pay the bills, and I made another  
24 proposal. In looking for a solution, I looked at the Praljak example.  
25 Perhaps I could take part in the proceedings, ask questions, give

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1 answers, perhaps at the beginning of September until the request is  
2 resolved. We are coming up for a summer recess, and looking at -- we are  
3 in the course of General Praljak's cross-examination, so I don't expect

4 my Defence team to take any more significant role in the trial at this  
5 stage. Of course, the proceedings will continue, but I would intervene  
6 if the need arises. I sincerely believe that I won't need to do so,  
7 because my Defence team have already completed their job.

8 I am proposing this, and I think you will find that acceptable,  
9 because I don't wish the credibility of my Defence team to come into  
10 question at no point, and I would like to repeat that.

11 I have to return to the question posed by Judge Antonetti, do I  
12 believe that this trial is a farce. What is one supposed to think about  
13 the fact that seven years after entering prison, one is still waiting for  
14 a first sentence to be issued in the trial, the main problem in the  
15 entire proceedings being a shortage of time? Take my word for it, I'm  
16 unable to explain this to anyone who might bother to ask. You have all  
17 the records showing what I did and in what I was involved throughout my  
18 career. I do possess certain knowledge and certain experience. Believe  
19 me, all of this could have taken no more than a couple of months if there  
20 had been a logical interdisciplinary procedure.

21 One cannot pose complex social, economic, demographic, political,  
22 financial, international-law-related, sociological, national and  
23 historical questions and deal with them in a procedure that is envisaged  
24 for a criminal trial, no matter how good that procedure is. This is  
25 simply impossible. I said once, while agreeing with a comment made by

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1 Judge Trechsel on page 17110, I quote:

2 [In English] "Since it is not possible to establish the truth, I  
3 am not participating in the trial."

4 [Interpretation] Judge Prandler has shown that he knows a lot  
5 about the region. As for how Bosnia and Herzegovina functioned, a single  
6 example suffices: The visit of your own boss -- I'm not sure if you were  
7 a member of the ministry at the time - the foreign minister, Laslo Kovac,  
8 his visit to Sarajevo in 1994 or 1995. Hungary was presiding over the  
9 OSCE at the time, and it was followed by Switzerland. This was a point  
10 in time when I worked with Minister Flavio Koti, it's just that I wasn't  
11 sure about the exact year, 1994 or 1995. At the end of the meeting,  
12 Kovac, in occupied Sarajevo at the end of this meeting, as a token of  
13 assistance from his government, gave us a package containing 60.000 marks  
14 in cash. What follows from that was that there was no domestic currency,  
15 there were no functioning banks, and there was no communication. There  
16 was no nothing.

17 There, this explanation has taken under a minute. We've resolved  
18 that, and we are now free to move on. That would be my style, roughly  
19 speaking.

20 If we only look at these questions and other -- a more than  
21 well-known questions, such as the country's economy, the currency, the  
22 cash-flow, we've lost months and months of work in our time in prison on  
23 these issues.

24 I would like to say a couple of words now about documentary  
25 evidence, which is a key issue.

1 Judge Antonetti, at the beginning of Mr. Praljak's  
2 cross-examination, explained that he had accepted the wording of the  
3 indictment in early March, 1994, when confirming the indictment in a very  
4 formal way. You said this -- you see that I'm reading the transcript,  
5 although I'm not physically present at the trial, at pages 41359-41360.  
6 And then my own documentary evidence was refused, again for purely formal  
7 reasons, as it seemed to me.

8 During the Prosecution case, one must constantly bear in mind the  
9 fact that the onus is on the Prosecution, or at least that's what we were  
10 told. You will be bringing your own evidence during the Defence case.  
11 But then Rule 98 bis was applied to take into account only Prosecution  
12 evidence and not any Defence evidence, which, in my opinion, makes no  
13 sense at all. That is why we did not file any 92 bis motion. Had the  
14 situation been different, had we been given sufficient time for our  
15 cross-examination during the Prosecution case, and had the request to  
16 acquit been considered during that stage, following all the evidence that  
17 had been tendered and admitted, I am deeply convinced that no defence  
18 would have been necessary at all. At least we would not have been  
19 adamant that we should have a defence.

20 Then our time was reduced for Defence, and we submitted a request  
21 for documentary evidence, all of them of course from the 65 ter list,  
22 most of them from the list of witnesses scheduled -- from the list  
23 scheduled for my own testimony. And now we have finally received your  
24 ruling last week, the refusal of nearly a thousand documents. And may I

25 remind you in most cases, most trials before this Tribunal, the total

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1 number of documents put forward by both the Prosecution and the Defence  
2 teams never exceeded that, regardless of any possible or alleged formal  
3 areas by the lawyers, which is a separate procedure right now. For me,  
4 all of this is deeply unjust.

5           Therefore, please allow me to say one thing, because I have been  
6 invited to speak sincerely. Had I, myself, passed an unjust decision  
7 like that, and you have all of that, the records, the rulings, it's all  
8 in the files, I stand by all of my decisions, even now I would have been  
9 greatly concerned. Fortunately, I didn't do any such thing. I did not  
10 make a single decision that resulted in such unfair consequences. That  
11 is why I'm entirely at peace with myself, awaiting the sentence. That is  
12 why I wrote the letter that I did last week, a letter that is not exactly  
13 in compliance with the procedure, although I do agree that procedure  
14 matters.

15           I studied portions of your book, Judge Trechsel. I would not  
16 mind you applying any of what you wrote here, especially as regarded the  
17 rights of the accused. Unfortunately, that does not appear to be the  
18 case. You threw out all the video recordings of my interviews aired  
19 officially by the state television and watched by millions of people.  
20 Interestingly enough, we allowed the same person to do work based on  
21 those video recordings that actually produced the transcripts in the  
22 office of President Tudjman. This person is, as a matter of fact, still

23 working in President Mesic's office.

24 All of the presidential transcripts for which there was no audio  
25 recording were accepted; not just the audio recordings, but the video

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1 recordings. They are clean as a whistle and can be endorsed by the state  
2 television. Feel free to compare them to the video recordings tendered  
3 by the OTP, which you admitted, and the form in which they were  
4 submitted. Those recordings tell you what I said in public at the time  
5 relevant to the indictment. What can one possibly conclude? That you  
6 have no interest in knowing what I actually said during my public  
7 appearances at the time relevant to the indictment.

8 How can you possibly stand by any decision that you are about to  
9 make. I simply fail to understand that. You refused as unauthentic the  
10 regulations from the Official Gazette of Bosnia-Herzegovina, a member  
11 country of the UN, and all the while this Tribunal is supposed to bring  
12 peace and stability back to the region. You refused to admit documents,  
13 the official lists of municipalities, showing that, to all practical  
14 intents, all the municipalities did the same thing. All of these are  
15 documents important to understand the overall context.

16 What I want to know is this: What, then, can possibly be used as  
17 documentary evidence if not, by definition, documents from  
18 Official Gazettes? I even said that in April 2007 in this very  
19 courtroom, when I opposed, in a general sense, the principle itself of  
20 documentary evidence, unless presented in a very restricted form.



21 Nevertheless, the Prosecution was allowed to go ahead with that. What I  
22 want to have is the same sort of approach, even if the bar is raised even  
23 further up.

24 Or, for example, you refused certain minutes from meetings of the  
25 HVO, corroborated by those involved in those meetings, while, on the

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1 other hand, you accepted the transcripts without any witnesses being put  
2 forward by the OTP. The objective of my Defence is to show and submit  
3 any minutes taken by any of the bodies that I chaired and any decisions  
4 taken there. This is the only way to have a proper foundation for a good  
5 and fair decision.

6 There is one remark I would like to make. I fail to understand,  
7 based on what documents bearing a seal, referred to as the seal of  
8 Croatia's State Archive, are taken with no reservations at all as  
9 authentic, but not those presented by my Defence. Neither the HVO, as a  
10 provisional body of executive government, nor the Government of  
11 Herceg-Bosna, had any relation at all to that institution which was in a  
12 different country, nor, indeed, during an overview of all the files  
13 contained in that archive, does the word "Government of Herceg-Bosna"  
14 appear. You refused documents in relation to which those involved in the  
15 actual events confirmed their authenticity by their signatures; for  
16 example, the vice-president of the Republika Srpska, the director of a  
17 state television, and the security minister of that same country. Those  
18 aren't documents that would eventually decide the trial. These are

19 perfectly ordinary documents, such as hundreds of others that have been  
20 admitted in this trial.

21 There is no individual document in this type of trial -- that  
22 exists in this type of trial where the dominant factor is the power of  
23 various scenarios written about these or similar facts to actually  
24 convince anyone.

25 I repeat, the one thing that I ask of you is to admit into

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1 evidence authentic documents that will help you to pass a just and fair  
2 decision. This is in the best interests of everyone, as I said in a  
3 letter, including the Prosecutor, bearing in mind the Prosecutor's  
4 mandate, in the interest of the international community and the victims  
5 alike, because take my word for it, the victims would not like to see  
6 convicted someone who is blameless.

7 You, too, need authentic documents. Refuse any document that you  
8 believe to be unauthentic or useless, for example, because something has  
9 been sufficiently argued already. I will not be asking a single question  
10 about that.

11 Nevertheless, documents have been thrown out or refused at this  
12 late stage for formal or unknown but certainly not essential reasons.  
13 These formal reasons are now being dealt with through a special procedure  
14 which provides you with room to do what is only logical. In principle,  
15 now is not the time to decide on their relevance, given the fact that you  
16 could still refuse all those documents and decide not to admit them at

17 the end of trial.

18 My last topic. Judge Antonetti says, and I believe that his  
19 intentions were good, last Thursday, that he understands that I may be  
20 desperate, that psychologically the situation is difficult and that's why  
21 I am not appearing at trial. You cannot have me face a situation like  
22 that, given the three hours of waiting today. A man with faith can never  
23 be desperate. Needless to say, no one likes to be in prison.

24 I am disappointed, although I know how the world works and what  
25 it's like. That is no news to me. I am unafraid. I experienced the

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1 entire European history of the 19th and 20th centuries in a mere 10  
2 years.

3 As my own minister of the interior in the BH government,  
4 Jozo Leotar, used to say, who incidentally was killed in Sarajevo, and  
5 the killer was never found, I quote:

6 "I have no room for fear left after everything that I've already  
7 been through."

8 I do not seek your understanding or your mercy. I only seek what  
9 is no more than logical and just.

10 I do understand that yours is not an easy task. In this trial,  
11 the indictment being what it is, 126.000 alleged rulings that you need to  
12 make, bearing in mind the responsibility that is incumbent upon you,  
13 believe me, I would always prefer to be an accused rather than a judge.  
14 You could commit errors. I'm no longer in a position to make any errors.

15 Since most of us don't have the experience, believe me, there is no  
16 sensation of equanimity more beautiful or more complete than to feel  
17 blameless and yet be in prison.

18 In these five months, in addition to reading the transcripts from  
19 the trial and anything else related to the trial, I had more time to  
20 spare than before. I'm not undergoing all these checks and transports  
21 every day. Perhaps you don't know this, but each and every day four men  
22 in uniform, such as our guards, would check us head to toe, including all  
23 of our cavities.

24 I am now finishing the manuscripts for two of my new books. I  
25 also organised an installation -- an exhibition of pottery. I started

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1 playing music after 35 years. I'm setting up a band with my guards.  
2 Therefore, I'm not desperate, and I'm not shaken or, indeed, stirred. I  
3 have never taken a single pill throughout these five years. I am telling  
4 you this because it's been a long time since we last saw each other, and  
5 among other things, the Trial Chamber is supposed to take into account  
6 the overall situation of an accused.

7 Nevertheless, now that I am speaking about this, allow me to say  
8 one thing that I do mind. I would mind if you considered me to be a  
9 criminal who would run away if provisionally released. Even when one is  
10 allowed to leave for a couple of days for purely documentary reasons, one  
11 is to remain under house arrest, regardless of any guarantees offered by  
12 a country that happens to be a member of the Security Council of the UN

13 and NATO. You cannot consider me to be a criminal until I have been  
14 convicted. You don't have that right, and I don't want to know about any  
15 jurisprudence of any Appeals Chamber of this Tribunal. This is simply  
16 not to be found in any of the fundamental documents establishing this  
17 Tribunal. The presumption of innocence prevails and has the better  
18 overall of your bises, ters, and quaters.

19 In the Prosecution's opinion, I constitute a risk in terms of  
20 escape, and humanitarian reasons are not sufficient for them. For  
21 example, I was not provisionally released for a week during the winter  
22 break. As you all know, my father died subsequently. I thank everyone  
23 for their compassion. I'll skip this portion.

24 My Defence has been completed, and there is nothing that can be  
25 changed about it, nor indeed would I wish to change anything about it.

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1 Again, I impose no conditions, and I do not seek anything. My failure to  
2 appear here was not meant to exert pressure on anyone. It's just what I  
3 wrote. Please consider all documentary evidence. I've gone through all  
4 of it again just this last weekend, and I don't see anything problematic  
5 about it. I don't see anything that was not justified in keeping with  
6 your remarks; thousands of pages, very comprehensive, with all the dates,  
7 that the paragraphs of the indictment that this was in relation to, why a  
8 document was important, reasons for a document to be reviewed or  
9 reconsidered, how this was related to the indictment. And then in a  
10 particularly comprehensive annex, I stated the document's importance in

11 relation to the paragraphs of the indictment. I also asked that you read  
12 the addendum to my statement.

13 It is entirely up to you how you are going to treat this. You're  
14 professional Judges, you're not a jury. I'm prepared to by doing what I  
15 propose to do throughout this time to allow for a continuation of the  
16 trial and in this way be of assistance to this Trial Chamber.

17 All I ask of you, I repeat, is to be given a chance to tender  
18 relevant evidence, even if the bar is set far higher up than in the case  
19 of the Prosecutor, evidence that might help you to make a good and just  
20 decision. I do not understand why you deprive yourselves of these  
21 documents that might help you to establish the truth. If that proves to  
22 be impossible, then my answer to your question about the character of  
23 this procedure is very explicit. Do not allow for me to lose my last  
24 illusion that this is, in fact, the case.

25 I do apologise.

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1 JUDGE ANTONETTI: [Interpretation] Very well, Mr. Prlic.

2 I could just say, well, the Trial Chamber will deliberate and  
3 we'll give you our position later on, but I want to assume our own  
4 responsibility, and because of that I want to answer.

5 As I told you earlier in the preamble, I'm very glad to see you  
6 back. Your departure a few months ago, and I said so at the time, seemed  
7 to be a disproportionate response to the problem at hand. Even if you  
8 could follow the trial from your cell, still it is best for you to be

9 there. It's more useful for you, as well as for your co-accused.

10 Secondly, in your statement we see that the main problem for you  
11 is the admission of documents. Now, on this issue, you know what my  
12 personal position has been. I stated it over and over again. I wrote a  
13 number of dissident opinions. I even wanted the Appeals Chamber to rule  
14 on the merits on the following question: When a Judge wants a document  
15 to be in the procedure, can a majority rule against it? The  
16 Appeals Chamber decided not to answer this question, saying that Trial  
17 Chamber decisions can only be made as a majority. So the question that I  
18 had raised was not answered by the Appeals Chamber. And because of this  
19 the Trial Chamber has admitted unanimously a number of documents and has  
20 also sometimes rejected a number of documents according to a majority  
21 rule, and it's always been the practice.

22 Then, suddenly, we had the issue of the document you had written,  
23 could we admit it, "yes" or "no," and the Trial Chamber here issued a  
24 unanimous answer. We could not technically admit this document, even  
25 though this document could be easily reintroduced.

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1 And I can now deal about the problem of time. Your counsel and  
2 yourself complained a number of times for not having enough time. Let me  
3 remind you, Mr. Prlic, that the Trial Chamber had given you 95 hours to  
4 present your case. I can tell you that at the time, this was a great  
5 challenge for the Trial Chamber. In order to determine the time that you  
6 would be allotted, we had to take a great number of parameters into

7 account. There is one parameter that we did take into account, which was  
8 the fact that you would testify. We really thought that you would come  
9 and testify, which is why we allotted you 95 hours, whereas the others  
10 only had 55. We believed that you were supposed to have 40 hours extra,  
11 compared to the others. But I remind you that the liability and the  
12 responsibility that you incur is exactly the same as your co-accused.  
13 But we believed that you were going to testify, which is why we allotted  
14 95 hours to the presentation of your case. We were very surprised to see  
15 that you didn't testify, and in place of that you called other witnesses.  
16 This was your defence strategy. It's your problem, your business. But  
17 if you had testified, as you must have noticed, with Mr. Praljak's  
18 testimony, I would have put questions to you, just like I put questions  
19 to him. And thanks to that, I'm sure that we would have scanned the  
20 entire amount of questions possible. Maybe I would have asked questions  
21 for 12 hours, not 6 as with Mr. Praljak, but maybe 12 days, but you did  
22 not, so I was not in a position to put questions to you.

23 Now, you telling us that you would ask for a disjunction of this  
24 case. You know that the Trial Chamber made a decision and the  
25 Appeals Chamber confirmed it, so it was absolutely impossible to disjoin

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1 this case, especially when there is an accused who is allegedly a member  
2 of a JCE. Technically, it was impossible, so the decision of the Trial  
3 Chamber was confirmed by the Appeals Chamber. But you can, of course --  
4 you mentioned this again, telling us that this for you was a problem, but



5 I think that the problem was ruled on. The question of time was also an  
6 issue that was ruled on.

7 Now, you say that you didn't have -- you weren't allotted enough  
8 time. You gave us a few examples. Very well, I'm not challenging the  
9 examples that you chose to give us.

10 And now there's a new problem, the question related to your  
11 counsels, and you are providing us with a solution. Of course, the Trial  
12 Chamber will take a look at this solution. I cannot say what possible  
13 solution will be chosen. The Trial Chamber will have to deliberate on  
14 this and rule on this. I don't believe that I'm competent at the moment  
15 to say anything. We have to wait for deliberation to have a joint  
16 decision. But you know that I've always been in favour of allowing an  
17 accused to put questions. What you said actually is very much in line  
18 with my concerns.

19 Then there's another issue, the fact of all of this work that you  
20 did, the thousands of pages that you worked on, and you feel that Judges  
21 just didn't even read it, just discarded it. It was discarded for  
22 technical reasons, that's true, but everything was read, and it is still  
23 technically possible to reintroduce this document maybe through a  
24 witness. So nothing has been decided once and for all regarding this  
25 issue.

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1 Let me tell you that the examination and cross-examination of  
2 Mr. Praljak can allow to readdress elements that are introduced and

3 presented in your document, and this at any time.

4 So to sum things up, I believe first that it is a good thing to  
5 have you with us, it's a good thing to be able to hear what you have to  
6 say. I note with great satisfaction, because I was a bit worried at one  
7 time, that psychologically you are doing well, you're following -- and  
8 you're able to follow this trial. Very good.

9 Now, you talked about provisional release. Let's be clear on  
10 this point. Requests for provisional release while waiting for the end  
11 of the trial has been rejected unanimously by the Trial Chamber and  
12 confirmed by the Appeals Chamber.

13 Then you also mentioned the pending request. You know that the  
14 Trial Chamber gave a favourable answer to this, but the Prosecutor is  
15 appealing this decision, and it's up to the Appeals Chamber to rule on  
16 this. So let's wait and see, serenely. But the Trial Chamber gave a  
17 favourable answer to your motion, and this is evidence that the Trial  
18 Chamber is using presumption of innocence to your benefit, and fully,  
19 fully so. I really want you to be absolutely sure of this. This is  
20 absolutely present in my mind, as well as in the mind of my fellow  
21 Judges. Otherwise, we would never have granted this motion.

22 Now, regarding Rule 98 bis, you told us that you didn't really  
23 understand what had happened, but I'm sure that your counsel told you  
24 that it is an Anglo-Saxon procedure. Normally at this stage in the  
25 trial, you only look at the Prosecution case and Prosecution evidence and

1 nothing else, you take look at the Defence case or the Defence exhibits,  
2 that's just the way it is. It was actually written in our decision, and  
3 in the decision on Rule 98 bis, what you said was not taken into account.  
4 The Trial Chamber only looked at the Prosecution exhibits and evidence,  
5 which is actually the spirit and the letter of the law regarding this  
6 Rule, anyway. And let me -- and the Appeals Chamber said in its ruling  
7 that this decision had no impact on any guilt or -- verdict of guilty or  
8 not guilty that could occur in the end. So that's for Rule 98 bis.

9 But what's essential for the moment is to know whether you will  
10 take the floor later on, when we have -- for the rest of our witnesses,  
11 Mr. Praljak and Mr. Praljak's witnesses, and so forth, but we have to  
12 wait for the ADC to render its decision. They should do this within a  
13 month, and we will have enough time to issue a decision regarding this  
14 point while we're waiting for the answer from the ADC.

15 This is what I wanted to say, Mr. Prlic, right away. This has  
16 not been thought out, you know, it's a very spontaneous response. I  
17 don't know if this is reassuring or concerning, as far as you are  
18 concerned. I don't know. But let me tell you, it's very important to  
19 have you here. I believe it's very important to have you here in the  
20 courtroom so you can listen to what's happening, so you can give advice  
21 to your counsels, notably when there are witnesses testifying, testifying  
22 either against you or for you. I mean, it's very important for you to be  
23 here in order to contribute to the manifestation of the truth.

24 You reminded us that you were an advocate of this Tribunal, that  
25 you took part in the Rome Conference, and you've always been -- you've

1 always said that you supported this Tribunal. Unfortunately, you end as  
2 an accused, and the Trial Chamber, using the indictment and using the  
3 elements presented by the Defence, will have to deliberate on all this  
4 and rule on your guilt or innocence. We're not there yet, anyway. We  
5 still have about a year's worth of work before we can actually end this  
6 trial, at least end the presentation of the cases. Then there will be,  
7 of course, some time for the drafting of the judgement.

8 In a nutshell, this is all I had to say, Mr. Prlic.

9 Mr. Karnavas, do you have anything to add? Otherwise, if not, we  
10 could continue with our questions, but --

11 MR. KARNAVAS: Just a point of clarification, Your Honour,  
12 because I don't want the record to reflect --

13 JUDGE PRANDLER: I wonder if I may interrupt you, because I also  
14 would like to say a few words. And afterwards, of course, then you may  
15 rise.

16 As the President explained at the beginning of his statement, of  
17 course, the Trial Chamber will deliberate and we are going to study the  
18 statements made by Mr. Karnavas and also Mr. Prlic, and definitely, as  
19 also the President used to say, as a reasonable judge, "juge  
20 raisonnable," we have to look in all, very seriously, all arguments which  
21 we have heard today.

22 I take the liberty to say only a few words because my name was  
23 also mentioned by Mr. Prlic, and also because Judge -- not "Judge" but

24 Maitre Karnavas has made a certain reference to the Trial Chamber's  
25 approach and how the Trial Chamber regards the work of the Defence. And

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1 here what I would like really to emphasise very categorically: This  
2 Chamber, and I'm sure that I speak for my fellow Judges, but of course  
3 they are invited to comment whatever I am going to say, we have always --  
4 we are sticking to the very basic principles of our procedure, the very  
5 basic principles of the fair trial, and we are doing our best really to  
6 follow all those rules which are, inter alia, are also included into  
7 Judge Trechsel's book which was mentioned by Mr. Karnavas as well, and we  
8 do not want to depart from those principles in the future, as in no other  
9 time and in the forthcoming trial of the trial. Now, it is my first  
10 point.

11 My second point is that Mr. Prlic mentioned that he doesn't want  
12 to have a spot of blemish on his Defence team, and I do share his  
13 concern, and I believe I may say, really with all firmness, that this  
14 Trial Chamber doesn't want to blemish -- to blame, rather, the team, of  
15 course not only Mr. Karnavas but the team as such, the co-counsel as  
16 such, as well, and therefore it is my final remark that we are not  
17 looking at the Defence team as, and I quote Mr. Karnavas "deceitful  
18 lawyers," and we do not regard them, again I quote Mr. Karnavas, "lawyers  
19 as sleazy lawyers." So no Damocles sword is being hung above your heads.

20 Mr. Karnavas and the team, you may rest assured that this trial  
21 will be continued with all insistence on the well-accepted principles of

22 international national criminal law, and we are going to do our best to  
23 see to it that this trial is to be concluded in this spirit.

24 Thank you.

25 MR. KARNAVAS: Just two quick points of clarification,

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1 Mr. President, because I want the record to be very clear.

2 When we were provided with the amount of hours ultimately that we  
3 would have, it was at that time that a decision was made for Mr. Prlic  
4 not to testify. We did not choose to call other witnesses in lieu of  
5 Dr. Prlic's testimony. Our problem was we couldn't have our cake and eat  
6 it, too, as it were. We couldn't have all the witnesses that we thought  
7 were necessary and Dr. Prlic take the entire amount of time. We couldn't  
8 have Dr. Prlic testify and then delete half of our witnesses, and we felt  
9 that we needed all of those witnesses in order to put on a complete  
10 defence. So I just wanted to make that very clear. So it wasn't as if  
11 we called others in order to fill in the gap. This was a full  
12 complement.

13 And then we understood -- Ms. Tomanovic and I understood that the  
14 Appeals Chamber was unlikely to change the Trial Chamber's decision  
15 regarding time. Others appealed; we did not. We did not because we knew  
16 that this was a discretionary matter, and we decided that we would have  
17 to live by those hours and make the necessary adjustments. So  
18 adjustments were made, and as in any trial the situation is dynamic, you  
19 make changes as you go along. We made changes that we thought were

20 necessary at the time, and unfortunately one of the problems was  
21 Mr. Prlic's work regarding Tomljanovich was not able to come before you  
22 either through his testimony or through him reading it, and that -- so I  
23 just wanted to put that -- make that very clear.

24 And just secondly, just very briefly, the 98 bis, the motion for  
25 judgement of acquittal, I would agree with you that this is an

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1 Anglo-Saxon procedure, had it been kept the way it was meant to be kept  
2 initially. But since the Rules were amended, in my opinion, it's nothing  
3 more than a reconfirmation of the indictment when you don't consider  
4 anything that was presented. And, unfortunately, on the one hand, it is  
5 rather meaningless, to be very blunt, to have a 98 bis. I would just do  
6 away with it completely. It's a waste of judicial time and effort. On  
7 the other hand, the Appeals Chamber then turns around and says, Now that  
8 we've had the 98 bis judgement of acquittal, and nobody's been acquitted,  
9 now you are more of a security risk, and therefore the bar goes up with  
10 respect to other issues, such as provisional release for humanitarian  
11 reasons.

12 So that's -- I just want to make it clear that the Rule, as it is  
13 today, is not Anglo-Saxon. I don't know what it is. And I would be the  
14 first one to say let's just get rid of it and save the time and energy  
15 and just go right into the Defence case after that. It would just save  
16 everybody time. Initially, it was meant that all of the evidence would  
17 be taken into consideration, if a judgement was, as in the Blagojevic,

18 one-third of the case was eliminated, it wasn't appealed. So then we put  
19 forward a defence based on the two-thirds that remained. But be that as  
20 it may, I just wanted to clarify that point.

21 And we appreciate the comments and the courtesy and the  
22 consideration provided by everyone from the Bench today.

23 Thank you.

24 JUDGE ANTONETTI: [Interpretation] Mr. Stringer, would you like to  
25 take the floor on the fact that Mr. Prlic would like to put questions

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1 during this interim phase, after Mr. Praljak's testimony, maybe up until  
2 October, while we're waiting for a Trial Chamber decision regarding the  
3 opinion it asked from the ADC?

4 MR. STRINGER: Mr. President, I think that on that, I would  
5 request -- I'd like to confer with my colleague, Mr. Scott, and perhaps  
6 others in the Office of the Prosecutor to see what the Office's position  
7 would be on that. And it's obviously not a terribly urgent matter, and  
8 I think it's something that we could come back to the Trial Chamber about  
9 at a later time.

10 If I could add, however, I think that I can say that the  
11 Prosecution would oppose a suspension of the trial, which I know  
12 Mr. Karnavas has mentioned. And I know that there is disagreement among  
13 the Defence team about that, but the Prosecution position -- and I think  
14 at this particular stage procedurally, with one of the Defence teams  
15 cross-examining, perhaps one more cross-examination by the Pusic Defence



16 team, and then moving into the Prosecution cross-examination, and then of  
17 course the summer recess beginning the week after next, I think  
18 procedurally we're in a safe zone, if I can put it that way, and that  
19 it's perhaps not an issue that would arise in any event over the next few  
20 days, and that would give us all time to consider what our position would  
21 be.

22 Thank you.

23 MR. KARNAVAS: Just to be clear, I stated what I believe should  
24 be the case. However, I defer to my client. My client gives me  
25 instructions. My client did not categorically give me the permission to

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1 insist and thereby placing the Trial Chamber in some sort of a conundrum.  
2 I stated my position. I leave it to the Trial Chamber's discretion to  
3 decide what to do, whether to suspend or whether to allow Dr. Prlic, if  
4 it becomes necessary, to ask questions. But perhaps I wasn't as  
5 articulate as I could have been in stating that position. So we're  
6 not -- I am not, as his counsel, insisting on that. That is my position.  
7 I do tend to believe that no one should be representing themselves in  
8 court. I mean, that's -- we have that old adage, a lawyer who represents  
9 himself in court has a fool for a client.

10 Now, that's not always the case, because I've seen people who  
11 represent themselves who do a better job than their lawyers. But we are  
12 concerned, but we leave it to Your Honours' discretion, and we are  
13 certainly not going against the wishes of our client. We defer to

14 whatever Mr. Prlic wishes the outcome to be.

15 JUDGE ANTONETTI: [Interpretation] Very well. So the Chamber will  
16 hand down a decision on this issue.

17 Yes, Mr. Prlic.

18 THE ACCUSED PRLIC: I didn't propose that I represent myself.  
19 This was not my idea, and it's not necessary to call a big legal  
20 procedure about it. My proposal was just that I will be public face of  
21 my defence in this period of time until this solution would emerge  
22 regarding this request to the chamber of lawyers next to this Tribunal.  
23 Just to be very clear on that, I am not going to take this possibility to  
24 represent myself.

25 JUDGE ANTONETTI: [Interpretation] Mr. Prlic, in your proposal, to

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1 be very clear, from what I understood, you are going to want to ask  
2 questions, but I would like to know whether your counsels would also have  
3 the possibility to ask questions. Are you saying that during this  
4 time-frame, you will be the only one to be able to ask questions?

5 THE ACCUSED PRLIC: The questions would be asked by me, or if I  
6 decide, it would be asked by someone from my team whom I authorise to do  
7 that, so this is not a big deal. But frankly speaking, I don't expect  
8 that any question is going to be put, but we'll see. I don't want to say  
9 no before such a situation emerged.

10 JUDGE ANTONETTI: [Interpretation] Mr. Prlic, let's just assume  
11 for one moment that in a few minutes the counsel of Mr. Coric takes the

12 floor and talks about the HVO authorities and of yourself, and then  
13 Mr. Praljak will answer the questions, and at that juncture you feel that  
14 you would like to ask some clarification to Mr. Praljak, but at the same  
15 time Counsel Karnavas says, Well, actually, I would also like to ask a  
16 question. At that point, should Mr. Karnavas ask for your authorisation  
17 before he can take the floor and ask a question?

18 THE ACCUSED PRLIC: I'm not lawyer. I used to be diplomat.  
19 There is one rule in diplomacy. Never ask a hypothetical question. I  
20 don't know how to answer on that, but basically I would be asking -- I'm  
21 not able to now to say what is going to happen, but we just want to be  
22 clear that before dissolution of that, I understand position of my  
23 attorney. He doesn't want to be this public face without resolving this  
24 issue. So my attempt is just to find a solution, to be part of solution,  
25 not to make a problem of that. And let's not make a problem by not -- by

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1 trying to find a way how it's not going to function in such and such way.  
2 Let's think about that constructively. This is my --

3 JUDGE TRECHSEL: Thank you very much. Mr. Prlic, we certainly  
4 appreciate your cooperative attitude. I just think perhaps the matter is  
5 not yet entirely clear.

6 Do we understand, Mr. Karnavas, Ms. Tomanovic, that you will  
7 immediately, from this moment, cease to act in the courtroom on behalf of  
8 your client? Was that what you were telling us?

9 MR. KARNAVAS: Well, what I am saying is from this moment on

10 until this matter is cleared, Dr. Prlic will be asking the questions, and  
11 this is in order to ensure that if Dr. Prlic says something or makes a  
12 representation, that it is accepted. Given -- as I noted before, given  
13 what we've read and how we've read it, and we've analysed it and tore it  
14 apart, we saw the forms of the questions, we saw some things that we  
15 thought were some insinuations, we believe that we are essentially  
16 hurting his case, not helping his case, and that is our concern. The  
17 moment I make a representation, if the Trial Chamber does not have  
18 confidence in me being a truthful advocate, that's the moment that I no  
19 longer belong in the case. And at this moment, at least there are  
20 allegations of truthfulness and deceitfulness, as we see them, and we  
21 want to make sure that this matter is cleared so then we can move on,  
22 because we are of the opinion that we did nothing wrong, we followed  
23 instructions given to us, we consulted with our client in advance. We  
24 provided the Trial Chamber what we believed was the entire truth. The  
25 Trial Chamber, on the other hand, said that we were content to just give

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1 vague answers. Well, when you look at it, cryptically what the Trial  
2 Chamber is saying is, we lied, to put it bluntly. So if that's the case,  
3 I'm concerned that when I stand up and I make an objection or I put --  
4 make a representation, the Trial Chamber has less confidence in me.

5 If you may recall, Judge Trechsel, when another accused made  
6 references about me and there was no reaction, I responded publicly in a  
7 very aggressive manner. Why? Because I felt that at that point in time,

8 either the gentleman should put up or shut up. He should either  
9 demonstrate or he should be reprimanded. And that's why -- and my cause  
10 for reacting was that I believe that by not reacting, the impression was  
11 that the representation being made by the gentleman, the accused in the  
12 other case, were true, accurate, and complete.

13 And so we take this very seriously, I can assure you. I spent  
14 the weekend consulting with lawyers, and I'm prepared to fly in experts,  
15 if necessary, to resolve this issue, because I take my professional  
16 responsibilities quite seriously.

17 Now, I may be very aggressive in court. It may not be up to  
18 everyone's style. But when it comes to ethics, I know where the line is,  
19 and I certainly don't cross it.

20 JUDGE TRECHSEL: This is not actually what I wanted to discuss,  
21 and I do not wish to discuss it now, of course, it would be, I think,  
22 improper. But I would like to know what your attitude from now on, until  
23 this matter is closed, will be. Will you continue to be in the  
24 courtroom? Will you continue, as the case may be, to make objections,  
25 for instance, which is the typical lawyer's work? And Mr. Prlic has just

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1 said that he's not a lawyer. Or will you actually withdraw and not be  
2 present? It would be helpful to know what we have to expect.

3 MR. KARNAVAS: Well, no one is withdrawing from the case. I  
4 cannot withdraw without permission, one, from the Trial Chamber and, two,  
5 from the Registry, most importantly. I think that's pretty established

6 case law in this Tribunal. You know, I was the one that established it  
7 in another case, in fact, with a client insisting on me withdrawing and I  
8 was not -- and it was Ms. Tomanovic and I remained in the case  
9 throughout. So we're not withdrawing.

10 Does that mean that both of us will be in the proceedings the  
11 entire time? The answer to that is "no," and the reason for that is as  
12 this case is rather complicated and there are other things that need to  
13 be done, when one of us is not in here it's because we're either working  
14 on other matters related to the case. When both of us are here, it's  
15 because we feel that it is most necessary, because we are in a process,  
16 I can assure you -- I don't think it's a major secret, but we are in the  
17 process at this moment of -- the early stages of looking and organising  
18 ourselves for the final brief.

19 So we are not withdrawing, I can assure you. Dr. Prlic is not  
20 going to be left to dangle in the wind without legal protection. I can  
21 assure you of that. But -- and for the purposes of the Court, Dr. Prlic  
22 had a suggestion. I think this is his way of trying to assist his  
23 counsel in this hour of need, because we feel that we are damaging his  
24 case, and therefore he's stepping up to the plate to take over any  
25 questioning in court, if necessary, while we assist him and continue to

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1 assist him in our full capacity as his lawyers, counsel and co-counsel.

2 JUDGE TRECHSEL: I may be very naive, and I don't know,  
3 Mr. Karnavas, but my -- my question is very simple. I was not thinking

4 of a withdrawal from the case at all, because what you told us is not  
5 news to me. The question is actually: Are you going to be represented,  
6 one, the other, or both, in the courtroom?

7 MR. KARNAVAS: Yes.

8 JUDGE TRECHSEL: Yes?

9 MR. KARNAVAS: Yes.

10 JUDGE ANTONETTI: [Interpretation] And you will be perhaps acting  
11 for Mr. Prlic when you think an objection must be made?

12 MR. KARNAVAS: Yes. I act whenever I think anybody needs  
13 assistance on the Defence side, to be honest with you. That's my nature.  
14 I've even done that when I wasn't in the courtroom, if I was sitting in  
15 the back, in the audience. I've always believed that accused deserve --  
16 if they need help, I'm willing to pitch in. So if I -- but having said  
17 that, we don't believe, at this stage of the proceedings, in light of  
18 what is happening in the courtroom right now, that we need to be active.

19 JUDGE TRECHSEL: So you are going to go on representing Mr. Prlic  
20 a little, but not for questioning? Is that the result?

21 MR. KARNAVAS: It's not a little. I can assure you, we work six,  
22 seven days a week, Your Honour, and that's the work that -- we will  
23 continue to work that. We will continue. In the courtroom, Dr. Prlic  
24 wishes to be a more active player henceforward, and I think this is --  
25 this is good. Now, to the extent if, for instance, it becomes necessary

1 for us to step in, we will step in.

2 JUDGE TRECHSEL: Oh, okay. Then practically what's going to  
3 happen is that 1D will become Praljak-ised, it will be more or less what  
4 Mr. Praljak has been doing so far?

5 MR. KARNAVAS: Well, I guess you could say that. You may recall  
6 when we first -- the motion, we were the team that filed the motion,  
7 actually, to allow accused to ask questions, in addition to their  
8 lawyers. But the answer is "yes." My reaction, to be very frank, I  
9 would like the proceedings to be stop, because I do think that this cloud  
10 needs to be lifted. My client does not want under any circumstances for  
11 the proceedings to stop, and so -- and he's suggesting that he assist  
12 while, you know -- while the proceedings continue. And, of course, this  
13 is his case, it is his skin, and he's entitled to assist in his own  
14 defence, so he wishes at this point to be a more active participant in  
15 the proceedings.

16 JUDGE TRECHSEL: This question is before the Chamber now.

17 MR. KARNAVAS: Right.

18 JUDGE TRECHSEL: So it will be deliberated.

19 I think now we have gained some clarity on what we have to expect  
20 from --

21 MR. KARNAVAS: I apologise for not being as clear as I could have  
22 been. Thank you.

23 JUDGE TRECHSEL: You certainly did your best. Thank you.

24 JUDGE ANTONETTI: [Interpretation] Mr. Karnavas, in order for me  
25 to understand properly, you are going to carry on assisting Dr. Prlic,



1 and if Dr. Prlic feels that he should ask questions, he will. If you  
2 feel that you would like to raise an objection, you will also take the  
3 floor because you're counsel. So this is very clear as far as we are  
4 concerned. Well, actually, as far as I'm concerned.

5 Mr. Scott.

6 MR. SCOTT: Good afternoon, Your Honours, each of Your Honours.  
7 My name is Ken Scott, and I appear for the Prosecution sometimes.

8 Your Honour, I think what's been demonstrated quite clearly in  
9 the last few minutes, that -- this hearing, with the greatest of respect,  
10 has turned into largely a proceeding of everyone thinking out loud.  
11 Various things have been said. They change from minute to minute. In  
12 response to Judge Trechsel's questions, things develop further, things  
13 are clarified, not clarified. It's very likely, Your Honour, that no  
14 matter what happens in this situation, no matter what the Chamber rules,  
15 there will likely be an appeal by one party or another. This is not a  
16 matter that lends itself to off-the-cuff, unpremeditated thinking or  
17 deliberation.

18 As, Your Honour Mr. President [Realtime transcript read in error  
19 "President Putin"] you said a few moments ago, everyone in this  
20 proceeding except for Mr. Prlic and Mr. Karnavas who, with great respect,  
21 have obviously given the matter great thought in advance of coming here  
22 day, but neither the Chamber has had a chance prior to the last few  
23 minutes to consider these matters, nor the Prosecution. We are all  
24 essentially making unconsidered comments at this time, except for

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1           The Chamber has said several times it will expect to rule. We  
2 understand, of course, that in all these matters, the Prosecution -- the  
3 Chamber will not rule until the Prosecution's had a full opportunity --  
4 after a fair opportunity to consider these matters, which has just now  
5 been raised now for the first time, to prepare a timely written response,  
6 and in fact we would suggest, Your Honour, given the seriousness of the  
7 matters raised, given the seriousness of a need to make a record for  
8 appeal, that Mr. Karnavas and Mr. Prlic, if they deem it necessary, both  
9 individually to make written submissions as exactly to what it is how  
10 they propose to proceed, because, again, just as Judge Trechsel was  
11 indicating a moment ago, we're now dealing with a moving target. The  
12 rules are going to be this one day, the rules are going to be this  
13 another day. That is not a court of law. A court of law does not make  
14 up the rules as we go. There are rules that apply every day in advance  
15 that all the parties can live by and predict and prepare their behaviour  
16 accordingly.

17           So, Your Honour, the Prosecution's position on this, and our  
18 request at this time, is that before anything further is done, written  
19 submissions be made by Mr. Karnavas and by Mr. Prlic, if necessary, the  
20 two of them, that they outline their positions very clearly in writing,  
21 that the Prosecution, under the Rules, has a fair opportunity to respond  
22 to those submissions in writing, and then, of course, the Chamber will be

23 better postured to make a reasoned decision.

24 Thank you, Your Honours.

25 JUDGE ANTONETTI: [Interpretation] Very well. The Trial Chamber

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1 will deliberate on this motion.

2 A small correction in the transcript. Page 75, line 2, I'm not  
3 yet President Putin. I don't know, there is something on the record that  
4 is strange.

5 We'll now break for 20 minutes.

6 --- Recess taken at 5.37 p.m.

7 --- On resuming at 6.01 p.m.

8 JUDGE ANTONETTI: [Interpretation] We are going to hand down an  
9 oral order regarding the submissions.

10 The Chamber is asking the parties to send written submissions to  
11 the Chamber, and the Chamber will ask the Prlic Defence to submit the  
12 written submission by Wednesday, at the latest, and is asking the  
13 Prosecutor and other Defence teams to also submit their written  
14 suggestions by Monday, 9.00, 9.00 a.m., at the latest. Mr. Karnavas will  
15 send us his written submission before Wednesday, and the Prosecutor and  
16 the other Defence teams will have until Monday, 9.00 a.m., to make  
17 suggestions before us, and this is Monday, 9.00 a.m., once again.

18 So I believe everything is clear, and I'm going to give the floor  
19 to Ms. Tomic.

20 MS. TOMASEGOVIC TOMIC: [Interpretation] Thank you, Your Honour.

21 THE INTERPRETER: Could counsel speak into the microphone,  
22 please. Thank you.

23 MS. TOMASEGOVIC TOMIC: [Interpretation] We're going to move on to  
24 the second binder, and it says "Binder 2." So I hope you'll be able to  
25 find it, and let's start off with document P00309.

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1 Q. Mr. Praljak, this is a document which is already an exhibit, as  
2 my colleague Ms. Alaburic has already told you, and she put it to you  
3 during her cross-examination. It is a mandatory directive on the  
4 application of current regulations and possible pronouncement of final  
5 sanctions for acts committed against the armed forces. This directive  
6 was passed by the head of the Defence Department, at the proposal, as it  
7 says at the top, of the president of the judiciary, and I'd like us to  
8 focus on the crimes listed, crimes against the armed forces.

9 Among the crimes listed there, the first crime is: "Failure and  
10 refusal to carry out orders." And the term of imprisonment there which  
11 can be prescribed is from three months to ten years. Can you see that,  
12 Mr. Praljak?

13 A. Yes.

14 Q. Before I go on with my questions, I'd just like to mention, to  
15 avoid all misunderstanding, is that I'm going to use the word  
16 "zapovjednik," "commander." When I say "zap ovjednik," I don't have any  
17 single commander in mind or the senior commander of the army, but I have  
18 in mind commanders from the level of squads and then up the structure.

19 Do you agree with me, Mr. Praljak, that carrying out orders is  
20 the basis for discipline in every army?

21 A. Yes.

22 JUDGE ANTONETTI: [Interpretation] General Praljak, I would like  
23 to come back on this document. I wanted to ask you a question the first  
24 time around we looked at this document, but because we didn't have a lot  
25 of time I decided to not ask you the question then. But since Ms. Tomic

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1 is touching upon this, I'll seize this opportunity.

2 Please correct me if I'm mistaken, but this document talks about  
3 the articles of the former Penal Code or Criminal Code of the former  
4 Yugoslavia. These are articles from the former Yugoslavia, normative  
5 instruments, and you can see -- it can't have failed to your attention  
6 that Article 226 is also added with a comment. It says that in  
7 peacetime, imprisonment sentence can be handed down, but in wartime it  
8 can go up to death penalty. So this is very good, nothing to add to  
9 that.

10 However, there is something missing, I believe. When you read  
11 the text, you have the feeling that it only applies to acts committed  
12 against armed forces of the HZ-HB, so I put myself in the shoes of a  
13 private who hasn't done a lot of studies and who is, however, able to  
14 read, and say, Okay, this will apply if an act is committed against  
15 myself or against my fellow privates. However, if they are acts  
16 committed the against the ABiH, there is nothing.

17           So what is your take on this? Is it a mistake by the drafters or  
18 was that done on purpose, or did this fail to the attention of the  
19 lawmakers of the time?

20           THE WITNESS: [Interpretation] That was a mistake, or omission,  
21 rather, because it says the -- for example, the federal law, et cetera,  
22 et cetera, the federal law that applied to the Yugoslav People's Army.  
23 And so apart from the true desire on the part of Mr. Stojic, who signed  
24 this directive, and the opinion of the judge who probably helped him or,  
25 rather, the lawyer who helped him draft it, this is applicable to the

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1 Yugoslav People's Army that existed during Tito's day and in some army  
2 that exists when a state exists, in the full sense of the word "state,"  
3 as a legal state, a lawful state, and so on. So not only as far as the  
4 HVO is concerned and the BH Army is concerned, but this was not  
5 applicable even in the Yugoslav People's Army during the two years,  
6 because even before -- or, rather, at the beginning of the armed  
7 conflict, or, rather, the JNA's attack on Croatia, a large number of  
8 officers from the JNA left, senior officers as well, and soldiers alike,  
9 they fled, a large number of Muslims fled, too, and a large number of  
10 Serbs, for that matter, dozens of thousands of Serbs. Young men from  
11 Serbia who were military recruits left and went abroad. Anybody who had  
12 any money or had anybody abroad did so, escaped. So the whole system  
13 collapsed; not only the HZ-HB, but Yugoslavia collapsed. So that apart  
14 from the very good wishes to do something along these lines, to be quite

15 frank, from start to finish this was completely unrealistic. You could  
16 not put this into practice at all.

17 JUDGE ANTONETTI: [Interpretation] Thank you.

18 MS. TOMASEGOVIC TOMIC: [Interpretation] Thank you, Your Honour.

19 Q. Now, my previous question, and you answered in the affirmative,  
20 was that every army is based on the soldiers carrying out orders. Now,  
21 my next question is this: A commander who has issued an order is the  
22 person who knows that his subordinate refused to carry that order out or  
23 chose to ignore the order; am I right?

24 A. Yes, you are.

25 Q. Let's now look at the next document, which is P00293, and they

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1 are the rules governing military disciplinary measures. And let's look  
2 at Article 3 of the rules of military discipline.

3 In Article 3, we see stipulated what is considered violations of  
4 the military rules, apart from the definition of the violation itself,  
5 and let's look at point 7, which says:

6 "Punishable actions for which proceedings are initiated  
7 ex officio."

8 Tell me, please, Mr. Praljak, are you acquainted with that  
9 provision?

10 A. No. That the commission of a criminal act would come under  
11 military disciplinary measures, no, I can't understand that.

12 Q. Mr. Praljak, I'm going to make an additional comment, but

13 could -- I think one of the Judge's microphone is on, because it creates  
14 a noise in the courtroom. Thank you.

15 Now, Mr. Praljak, I'm going to be quite frank with you. Until  
16 Ms. Alaburic cross-examined you, I wasn't going to deal with rules and  
17 regulations, and I wasn't going to ask you about that, because during the  
18 examination-in-chief you said that you didn't have time to read any  
19 rules, nor did you read them, nor are you informed of them.

20 A. In part, the essential parts which had to do with the  
21 functioning. But -- that I studied them, no, I did not, I didn't do that  
22 at the time.

23 Q. However, you did comment on some rules and regulations in  
24 response to Ms. Alaburic, so I'm only going to address those same rules.  
25 And one of these sets of rules are the rules on military discipline that

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1 we're looking at now.

2 Now, let's look at Article 8. We saw that criminal acts come  
3 under military discipline, and in Article 8 -- may we have Article 8 on  
4 our screens, please, and the last two sentences there, where it says:

5 "If a criminal act," and here the Croatian term is the same, "the  
6 perpetrator can be responsible before military disciplinary courts if  
7 this is required by the special interests of the service. The procedure  
8 before a military disciplinary court evolves regardless of the outcome of  
9 the penal proceedings."

10 Did you know about that?



11 A. No.

12 Q. Let us now look at Article 14.

13 A. I don't understand this, if I can be quite frank. I don't  
14 understand what you've just read out and what it means. How can a  
15 criminal act be dealt with by military disciplinary courts and penal  
16 proceedings? I don't understand any of that.

17 JUDGE ANTONETTI: [Interpretation] General Praljak, this is a  
18 very complex issue; I realise that. And this may have consequences on  
19 Article 7(3) of the Statute.

20 Since you were the commander of the HVO and you know that  
21 officers can hand down disciplinary rulings and sentences; for instance,  
22 the brigade commander can say to his soldiers, You are going to be sent  
23 to prison for ten days as a disciplinary measure because you did not show  
24 respect to your superiors, so he will be in a military confinement for  
25 ten days as per the sentence, and as the text states, and,

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1 General Praljak, there are also disciplinary sanctions that are no longer  
2 the remit of the brigade commander, but of a higher disciplinary entity,  
3 namely, the disciplinary tribunal or court, hence your query. You say,  
4 Well, if a crime has been committed, why should there be a disciplinary  
5 sanction, and you are very right, because when we deal with crimes, if  
6 you just said to a soldier, You have killed a civilian, and therefore you  
7 are going to be sent to prison for 15 days, this would be an outrage, and  
8 this is why the prosecutor gets to know the matter; hence, for a brigade

9 commander to be fully aware of what is in his own responsibility or remit  
10 and what is the remit of the military prosecutor.

11 As HVO commander, were you faced with this sort of situation  
12 where you did not know whether the sanction or the recourse was of your  
13 remit? Say, for instance, a soldier had stolen a car, was that a  
14 disciplinary sanction or should it be the remit of the military  
15 prosecutor? Were you faced with this sort of situation, and if that is  
16 the case, how did you solve it?

17 THE WITNESS: [Interpretation] Well, Your Honour, I did find  
18 myself in situations like that, and it was very clear to me.  
19 Disciplinary measures have to do with offences, so if a soldier got drunk  
20 or committed some minor offence or misdemeanor, or if he wasn't  
21 performing his duty in the trenches properly, that kind of thing. But I  
22 was quite clear on the fact that theft and everything above theft, crimes  
23 above theft, were criminal acts and, therefore, needed to be reported so  
24 that criminal proceedings could be initiated.

25 On one occasion, for example, in Sunja I captured a soldier -- or

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1 a soldier was brought to me who had stolen something. I escorted him to  
2 the prison in Sisak, and then from my own money I paid for defence  
3 counsel to defend him. So I'm not a layman. I knew the procedure. Of  
4 course, I'm not an expert, but I'm not a complete layman either. So I  
5 took him into custody, took him to the prison there, and then I paid  
6 defence counsel to defend him, to represent him.

7           So all criminal acts are dealt with by the courts. They can't be  
8 dealt with by commanders, not even the commander of the Main Staff, the  
9 chief of the Main Staff. They can't get involved in anything that the  
10 law sees as a criminal act, starting with theft, or brawls, or grievous  
11 bodily harm, where grievous bodily harm was inflicted, and so on. If  
12 they just have a brawl in a bar, that's a different matter, without any  
13 consequences. Then, disciplinary measures could be applied, but  
14 otherwise not.

15           JUDGE ANTONETTI: [Interpretation] Another example that might give  
16 you some clarification.

17           Let's assume that you realise that a soldier is wearing a Swiss  
18 watch. In his pocket, he has some Hungarian delicatessen, and then he's  
19 wearing a jacket from a French designer, and you're asking him, Where  
20 does it come from, and he says, It's war booty, what do you decide? Is  
21 it a disciplinary sanction or will it be the jurisdiction of a military  
22 prosecutor?

23           THE WITNESS: [Interpretation] That of a military prosecutor. He  
24 can't keep this war booty by just seizing it. That is theft. That's how  
25 the offence should be classified. And as was the case with the policeman

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1 in Ljubuski, would report him. I would sit down to it, I would say, Such  
2 and such a person did this or did that, ranging from that policeman to  
3 anyone at all, if the elements are there. I reported such cases. This  
4 is not a disciplinary measure. It's not about that. This is an offence.

5 It's not war booty. War booty, when it comes to weapons and other such  
6 items, must be declared. If a soldier comes across something like this  
7 in an abandoned house or something like that, he has to declare this to  
8 the brigade, to the military police, to the SIS, or indeed his own  
9 commander, and then the commander would have to make a note and pass this  
10 along. We cannot just have war booty by allowing individuals to take  
11 whatever they like.

12 MS. PINTER: [Interpretation] If my learned friend Dijana could  
13 please forgive me, page 81, one thing that was not recorded was the  
14 answer by General Praljak when he was speaking about disciplinary courts.  
15 The last thing that was recorded was that he said he didn't understand  
16 this, but the general also says: "I'm not sure if that even existed."  
17 If we listen to the tape, we can check that very easily, but I don't want  
18 it to go unrecorded. And then we could ask the general whether he said  
19 that.

20 THE WITNESS: [Interpretation] Well, as a matter of fact, I know  
21 that. There was simply no lawyers anywhere around, and that's why  
22 military disciplinary courts did not operate. I'm not sure if that  
23 decision was taken or not, but there weren't any lawyers who could work  
24 on that. How do you make a decision? There were no lawyers. They had a  
25 hard time setting up the military criminal courts, or whatever that was

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1 called, to the extent that they did.

2 MS. TOMASEGOVIC TOMIC: [Interpretation] Thank you very much, Your

3 Honours.

4 Q. Mr. Praljak, I would like to press on for another couple of  
5 minutes with this same issue that I started off with.

6 What happens when, at the same time, we have something that is a  
7 disciplinary infraction which also amounts to an offence? The last thing  
8 I asked was to look at Article 14, paragraph 4 which reads:

9 "The Statue of Limitations on a disciplinary infraction which  
10 also constitutes an offence takes effect at the same time as the Statue  
11 of Limitations in relation to an offence."

12 Are you aware of this, sir?

13 A. No, I'm not.

14 Q. Now, please, let's move on to Article 29. Article 29 reads:

15 "When an authorised official assesses that there has been an  
16 infraction of military discipline leading to the commission of an  
17 offence, the case shall be handed over to an authorised prosecutor  
18 through official channels. If it is believed to be in the interests of  
19 the service, the officer shall undertake measures to initiate  
20 disciplinary proceedings in this regard."

21 Were you aware of this, sir?

22 A. No, madam. I took a different approach. When there was a  
23 disciplinary procedure, whenever an offence was committed, this would be  
24 handled by a court, or at least that's what I thought at the time.  
25 Regardless of this paragraph, I think that is still the case.

1 Q. The next paragraph in that same article:

2 "When a violation of military discipline represents a punishable  
3 act against the armed forces which, pursuant to the Penal Code, is  
4 subject to disciplinary proceedings, the superior officer shall transfer  
5 the case to the officer authorised to decide on the breach of  
6 discipline."

7 Were you aware of this?

8 A. Madam, I don't understand this. If there is an infraction of  
9 military discipline that constitutes a criminal offence, then it's a  
10 criminal offence; right? I fail to fathom this, to be perfectly frank.  
11 And then we don't have disciplinary proceedings or steps because we are  
12 dealing with a criminal offence, and this is something that should be  
13 handled by a court. I simply fail to understand how a disciplinary  
14 infraction might have the features of a criminal offence and then be  
15 treated as such.

16 Q. Mr. Praljak, I'm in no position to furnish any explanations or  
17 clarifications here. I'm just trying to shed light on what actually  
18 applied at the time, what regulations, and I'm trying to work through  
19 this with you in a bid to learn whether you knew about some things or  
20 not, or maybe you were uninformed on a number of issues. Had you been  
21 properly informed, you would have taken different steps, as opposed to  
22 the ones you did. That is the intention of my cross-examination. I  
23 can't change the regulations that once applied and were in force. At  
24 this point in time, it is quite irrelevant whether you or I find them  
25 logical.

1           A.    I would not have acted differently even if I had been fully aware  
2           of all these.  Even if I had been fully aware of this entire document, a  
3           disciplinary procedure would have still constituted a disciplinary  
4           procedure, and a criminal offence would always have remained a criminal  
5           offence.

6           Q.    All right.  Let us now look at Article 69, which reads:

7                    "When a disciplinary infraction is committed by the same act as  
8           the criminal offence --"

9                    JUDGE ANTONETTI: [Interpretation] Before Article 69, there is  
10           Article 63 that could allow you, General Praljak, to answer some of your  
11           queries.  Do you see Article 63?  It states that if, during the  
12           investigation, another type of proceedings should be launched, then the  
13           officer will decide to refer the case to the relevant authority.  So it  
14           is possible for an officer to make a mistake and to launch an  
15           investigation of a disciplinary nature, and then eventually they realise  
16           that it should be the jurisdiction of a military disciplinary court.  So  
17           do you think that Article 63 could solve this problem?

18                   THE WITNESS: [Interpretation] Your Honour, I am being perfectly  
19           clear, speaking about what I did and what I said to my own officers.  
20           Discipline is discipline.  You shall punish anything that amounts to a  
21           criminal offence.  Will you report this, and criminal proceedings will be  
22           initiated.  There you go.

23                   Now, as to whether this article sheds any light on that, that is

24 a legal issue for you to deal with. What I can say is what my position  
25 was when I led the soldiers and what I said to my officers. Discipline

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1 to the extent that it is possible. I'm talking about intentions here.  
2 Anything that constituted a criminal offence should be handled by a  
3 court. It wasn't down to officers to rule on anyone's guilt whenever a  
4 criminal offence was committed.

5 At any rate, international law, which is something that I try to  
6 hammer into the heads of each of Croatia's and HVO's soldiers, and I must  
7 say that each and every soldier at one point or another was familiarised  
8 with the provisions of International Humanitarian Law or Law of War, they  
9 all knew that there were a number of provisions -- standards that had to  
10 be met to have a fair trial once they ended up facing a trial chamber.  
11 There are 16 or 17 paragraphs there, actually; the public nature of the  
12 trial, the right to a defence, and so on and so forth.

13 MS. TOMASEGOVIC TOMIC: [Interpretation] Thank you, Your Honour.

14 Q. Article 69, this is the last article on this topic. Article 69  
15 reads:

16 "When a disciplinary offence has been committed in the course of  
17 the punishable action, the officer authorised to bring the offender  
18 before the military disciplinary court shall decide whether the service's  
19 special interests require that the offender also be brought before the  
20 military disciplinary court for the disciplinary offence.

21 "If service interests do not require that the offender be brought



22 before the military disciplinary court, the officer, as described in  
23 paragraph 1 of this Article, shall suspend the disciplinary proceedings  
24 and bring the punishable action to the authorised public prosecutor."

25 Were you aware of this, sir?

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1 A. Neither was I aware of this, nor, indeed, do I understand it.

2 This is outside my ken.

3 Q. Can we move on to the next document, please, 3D03027. This is a  
4 document produced by Colonel Blaskic, dated the 31st of August, 1993.

5 The document was sent to the HVO Main Staff, the Citluk Forward Command  
6 Post. The document reads: "Report," and then I'll go on to read certain  
7 portions; not all of the names, though. That will take too long. But  
8 where it says:

9 "On the 13th of August, 1993, I launched a disciplinary  
10 investigation against," and then a list of names, "who on the 10th of  
11 August, 1993, broke into the offices of the civilian police, disarmed the  
12 policemen there, and took their weapons and vehicles.

13 "Once the investigation was completed, the following steps were  
14 taken:

15 "Criminal reports for violent behaviour, as described in  
16 Article 204, paragraph 2, of the adopted KZ SR BH were filed ...," and  
17 then a list of perpetrators?

18 Item 2:

19 "Ranko Milicevic, the deputy commander, was relieved of his

20 duties."

21 General Praljak, I wish to ask you the following. I'm slightly  
22 confused after all your answers, saying that you didn't know that a  
23 disciplinary infraction might have continue constituted a crime and what  
24 happened next. I'm somewhat confused, but please tell me if you agree  
25 with me that this document illustrates precisely a situation of that

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1 kind, what I described a while ago.

2 THE INTERPRETER: Interpreter's note: Could all the other  
3 microphones not being used please be switched off. Thank you.

4 MS. TOMASEGOVIC TOMIC: [Interpretation]

5 Q. And the authorised officer decided that there should be  
6 disciplinary measures taken relieving the officer of his duties? Do you  
7 agree with me? This is an example that best illustrates this kind of  
8 situation.

9 A. Indeed, madam, he was relieved of his duties. But a person who  
10 is being charged with something cannot retain his or her position. It  
11 would have been illogical for them to say, And because of this, another  
12 30 days in prison. That was my understanding of the previous "..."  
13 Obviously, if there is a criminal procedure on the way against someone,  
14 that person cannot remain in his position as the commander of the HVO or  
15 anything.

16 Q. That, indeed, is my understanding as well.

17 Let us please briefly go back to P0029, the disciplinary "..."

18 JUDGE ANTONETTI: [Interpretation] General Praljak, the example  
19 chosen probably illustrates the difficulty of the thing. Colonel Blaskic  
20 is reporting to the headquarters. He's reporting on the behaviour of a  
21 person who disarmed the policemen. And here we have Article 204 that is  
22 mentioned, but when you look at Article 204, it is disobeying an order.  
23 Maybe, after all, this soldier was ordered not to take into account the  
24 civilian police, but here the civilian policemen are disarmed and their  
25 weapons and vehicles are taken away from them. It could very well be a

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1 military action dealing with the civilian police or it could be -- it  
2 could just be plain theft. So you could really have a double reading of  
3 the case. If the private disobeyed an order, then this can come under  
4 the jurisdiction of a disciplinary sanction because this order was not  
5 supposed to deal with the civilian policeman and actually did. But if he  
6 just wanted to steal the car and the weapons, then this is criminal  
7 conduct. It's different.

8 Were you ever confronted with this kind of situation where you  
9 could have a double reading of the event?

10 MS. TOMASEGOVIC TOMIC: [Interpretation] Mr. Praljak, just a  
11 minute.

12 I think there's been some confusion. Judge Antonetti,  
13 Article 204 is not from the military discipline rules. It's from the  
14 Criminal Code.

15 THE INTERPRETER: The interpreter didn't hear counsel because two

16 speakers were overlapping. Thank you.

17 JUDGE ANTONETTI: [Interpretation] This is exactly what I'm  
18 saying. Disobedience is on P0034, Article 204. This isn't what I'm  
19 saying, Ms. Tomic. Normally, I don't make mistake. I am saying that  
20 Article 204 deals -- is an article that we have in document P00-309, and  
21 that Article 204 deals with disobeying an order, punishable by up to a  
22 three-year prison sentence.

23 MS. TOMASEGOVIC TOMIC: [Interpretation] Your Honour, what you are  
24 reading from P00309 is an excerpt from the Criminal Code of the Socialist  
25 Federative Republic of Yugoslavia which applied throughout the territory.

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1 What I was reading from, Colonel Blaskic's document, is from the Criminal  
2 Code of the Socialist Republic of Bosnia and Herzegovina, which also  
3 applied. In the former Yugoslavia, there was the Criminal Code of the  
4 Socialist Federative Republic of Yugoslavia which applied throughout all  
5 of the republics, regulating one set of issues, and then some other  
6 issues were regulated by the criminal codes of each of the respective  
7 republics. In Bosnia and Herzegovina, both criminal codes applied before  
8 the war and during the war. The one that I read from, 204, is from the  
9 Criminal Code of the Socialist Republic of Bosnia and Herzegovina, and we  
10 are talking about violent behaviour.

11 JUDGE ANTONETTI: [Interpretation] I agree with you, Ms. Tomic,  
12 but I'm absolutely sure that Article 204 of the Criminal Code of Bosnia  
13 and Herzegovina is exactly the same one as the one we would have for the

14 Socialist Federative Republic of Yugoslavia. It's the same Article, but  
15 that's not where the problem lies.

16 Mr. Praljak, when a military commander is confronted with this  
17 kind of situation, he doesn't know whether an order was not correctly  
18 abided by or whether it isn't actually an offence, isn't there a doubt  
19 there as to what sanction needs to be given, whether it's up to the  
20 military courts to be seized or whether it is up to the commander to  
21 actually sanction the soldier?

22 THE WITNESS: [Interpretation] No, no, Your Honour  
23 Judge Antonetti. Colonel Blaskic knows perfectly well that these five  
24 persons broke into the premises of the civilian police, disarming police  
25 officers and seizing weapons and vehicles. Had he issued this order for

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1 whatever reason, obstruction of a military action and so on and so forth,  
2 then because of classified information having been given away, he would  
3 have had those military policemen prosecuted. Nevertheless, they did  
4 this at their own initiative, quite obviously, so he was taking some  
5 specific and clear steps there.

6 In a legal sense, this is both logical and fair. He returns the  
7 goods that were seized, relieves of his duties the commander of the 3rd  
8 Battalion, and hands over the entire case to the military judicial  
9 authorities; the prosecutor, more specifically. It would strike me as  
10 counter-intuitive for me for him to say here that he would punish  
11 Ranko Milicevic by imposing a punishment of 20 days in the military

12 remand prison. He should be prosecuted for violent behaviour for a  
13 criminal offence that he committed, and the sentence was likely to be  
14 much more considerable in that case. That was what I failed to  
15 understand about those paragraphs. What is a procedure that is both  
16 disciplinary and criminal at the same time? That wasn't clear. But this  
17 one is crystal clear. They report that he's dispatched to the  
18 Main Staff. There is nothing to add.

19 MS. TOMASEGOVIC TOMIC: [Interpretation] Thank you, Your Honour.

20 Q. Mr. Praljak --

21 THE INTERPRETER: Could counsel speak closer to the microphone.  
22 Thank you.

23 THE WITNESS: [Interpretation] Correct.

24 THE INTERPRETER: Interpreters note, could counsel please speak  
25 closer to the microphone. Thank you.

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1 JUDGE TRECHSEL: I'm sorry, this got completely lost. You have  
2 to go three steps back and then start again. If you look at the  
3 transcript, there's nothing here.

4 MS. TOMASEGOVIC TOMIC: [Interpretation]

5 Q. Mr. Praljak, it appears that the interpreters were not -- my  
6 question was what the intention was of Mr. Blaskic when he took these  
7 steps as described in this report.

8 A. Blaskic did the right thing. In a legal sense, in the military  
9 sense, this was logical. He did exactly what a commander would have been

10 expected to do.

11 Q. I'd like us now to take a look at the military disciplinary rules  
12 once again, please, for a brief moment.

13 JUDGE TRECHSEL: Ms. Tomasegovic Tomic has asked: What were the  
14 motives of General Blaskic? The answer was: "He did the right thing,"  
15 but that is not really an answer to that question. But it's a question  
16 that asks for speculation, and maybe, therefore, you say, How should I  
17 know what was the scope of Mr. Blaskic's action. But you are expected to  
18 answer this, Mr. Praljak.

19 THE WITNESS: [Interpretation] The document shows what the motive  
20 was, and the motive was to punish the person who violated the law.

21 MS. TOMASEGOVIC TOMIC: [Interpretation] I apologise.  
22 Judge Trechsel is quite right. I asked the question in one way and then  
23 I was interrupted, so I asked it in another way. So this was because of  
24 technical reasons.

25 But let's go back to P000293, the Rules on Military Discipline,

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1 and we can look at Article 24 for my next question. Let's look at  
2 Article 24, which says that the commanders of units or, rather,  
3 institutions -- the commanders of garrisons, and then it goes on to list  
4 who the garrison commanders are, pronounce disciplinary measures for  
5 other perpetrators that are not in their organic composition, if they are  
6 necessary in order to preserve law and order and discipline.

7 Q. Were you informed about that? And let me tell you straight away

8 that I interpret this in the following way: When a commander commands  
9 units, in the operational sense, which are not his own units but find  
10 themselves under his command, because of law, order, and discipline, for  
11 example, up at the front, is authorised to exercise disciplinary  
12 measures -- to take disciplinary measures against them. Is that how you  
13 understood this article?

14 A. Probably you understand this better than I do.

15 Q. Were you -- did you know about this article?

16 A. No, I did not. I was not informed about this.

17 Q. Now let's go forward and look at P -- 5D04039. 5D04039 is the  
18 document number. This a document from the commander of the 4th Battalion  
19 of the Military Police, Mr. Pasko Ljubicic. This is before your time,  
20 the 8th of July, 1993, before you took up your duties, but I'll show you  
21 the document and put it to you nonetheless. It is sent to the brigade,  
22 HVO Bobovac Brigade from Vares, to the commander, Emil Harah, in person.  
23 Pasko Ljubicic says the following in this document:

24 "Members of the military police, according to orders issued so  
25 far in the sense of command, are subordinated exclusively to the

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1 commanders of the brigades in their zone of responsibility. Military  
2 police units must comply with the mentioned order. Each member of the  
3 military units who oppose your orders or do not carry them out should be  
4 punished by you, just like other soldiers in your unit. According to  
5 your judgement, you have the right to exclude persons from the military



6 police unit whom you consider to have a negative influence."

7 Tell me now, Mr. Praljak, did you know of situations like this,  
8 and does this document reflect the situation as described in Article 24  
9 that we saw a moment ago linked to the composition of the units and  
10 command?

11 A. Well, partially, and let me explain this.

12 In March, I was in Central Bosnia, and at the time Mr. Blaskic  
13 had already very clearly assumed, just like all his services, that the  
14 situation would come to a head with the BH Army and that a conflict would  
15 break out, or, rather, that the BH Army would launch an attack. That was  
16 his assumption and his forecast. And going to Central Bosnia already at  
17 that time meant a great risk for every HVO member, it was risky, because  
18 apart from the regular BH Army check-points, if I can call them that,  
19 there were those check-points that had been set up by the man Paraga, for  
20 example, where he could kill you without giving it a second thought.

21 So when I, in March 1993, went up there, Blaskic asked me that  
22 because of the foreseeable future, I should discuss the return with  
23 Mate Boban and the rest, and that because of the specific position that  
24 Central Bosnia had, Vares and all the other places, that two things be  
25 enabled, that he be enabled to do two things: first of all, to appoint

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1 commanders, which otherwise was not the case because there was no  
2 communication and he could not communicate either with Petkovic, or  
3 Stojic, or anybody else; and, secondly, that he be allowed to use the

4 military police, because if there was an attack, he could not go through  
5 the lengthy procedure of sending in a request and then be given  
6 permission to deploy the military police. By that time, he could have  
7 lost a whole series of positions that he held.

8 Now, after my return, I certainly talked to Mate Boban and  
9 conveyed this to him, and I considered this to be a good idea. I also  
10 talked to General Petkovic, who considered it to be a good idea. I don't  
11 know if I discussed it with Mr. Stojic. I don't want to venture into  
12 that. But, anyway --

13 JUDGE PRANDLER: General Praljak, I wonder, if I may, interrupt  
14 you, because we are going to finish in ten minutes and two of us here  
15 would also like to ask questions. But if you have something very  
16 important to say, tell us in the next two minutes, and then we will  
17 proceed. Thank you.

18 THE WITNESS: [Interpretation] As I was saying, we're dealing with  
19 Central Bosnia, this is Central Bosnia and Pasko Ljubicic couldn't  
20 communicate with Vares, and this is what led to this letter being  
21 written. We didn't have the possibility of doing that, I didn't have the  
22 possibility to do that -- I'm giving you the right, brigade commander,  
23 to take steps which are not permissible in an army against the military  
24 police, which is doing bad things. That's how it should be understood.

25 JUDGE PRANDLER: Thank you.

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1 I would like to ask you a question, and afterwards also my fellow

2 Judge Mindua. My question is the following: that in that very document,  
3 in the last paragraph, there is a reference to certain unhonourable acts.  
4 Let me read the final part of that sentence:

5 " ... drew attention to all members of the MP that they are  
6 members of the professional unit and that at certain times rigorous  
7 measures will be taken against all if they have committed any  
8 unhonourable acts, as Mr. Vlado Knezevic plans, et cetera."

9 So I would like to ask you if you knew about -- of this certain  
10 Vlado Knezevic, and what kind of plans did -- he submitted or pursued.  
11 It is my question.

12 THE WITNESS: [Interpretation] Judge Prandler, on the 8th of July  
13 I was not the commander of the Main Staff of the HVO, and I don't know  
14 about this event. And we must bear in mind the map. Pasko Ljubicic was  
15 a long way off from Vares, and he had no communication with Vares, and he  
16 says, If we can't gain all the information and undertake criminal  
17 proceedings, remember that the time will come when you will be held  
18 responsible and taken to task because of your actions. This shows two  
19 things. First of all, we don't have the power to discipline and sanction  
20 because of the military situation, at least not in the way we would like  
21 to enforce it; and, secondly, you're not going to go unpunished because  
22 this military situation will pass ultimately.

23 JUDGE PRANDLER: Mr. Praljak, I'm sorry to interrupt you, but,  
24 really, when you said in the first sentence, and I quote you, that: "I  
25 do not know about this event," so then, therefore, I would like to invite

1 my fellow Judge, Judge Mindua, to ask his questions, if any.

2 JUDGE MINDUA: [Interpretation] Witness Praljak, I have one very  
3 short question. I'm sorry I'm a bit late in putting this question to  
4 you, but I think that Ms. Tomasegovic Tomic went a bit fast.

5 I would like to go back to the transcript page 95. You were  
6 asked a question about Article 24 of the Rules on Military Discipline.  
7 The question was the following: "Were you aware of Article 24?" And I  
8 believe that your answer was: "I was not informed of it."

9 I don't really understand. You were not informed of Article 24,  
10 regarding rules on military discipline, drafted by President Mate Boban?  
11 Am I supposed to understand that you didn't know anything about the  
12 military procedure, military rules?

13 THE WITNESS: [Interpretation] Judge Mindua, Your Honour, I said  
14 that I knew mostly and the essential points. Well, so it wouldn't be  
15 true to say that I didn't know. Even if I hadn't read it, I did know  
16 this: that if a certain military unit, for example, which was attached to  
17 some other military unit, or if the military police was attached to me at  
18 a point in time, and if that military policeman -- if a military  
19 policeman commits a disciplinary act, just like my soldier, an offence, a  
20 disciplinary offence, that I will punish him, regardless of whether I  
21 actually read this article or not. I knew the essential points of the  
22 law, and I don't want to avoid that. There's no doubt about that. I  
23 knew the essential points.

24 JUDGE MINDUA: Thank you.

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1 seconds from 7.00 p.m., so I think it's time to finish.

2 We'll continue tomorrow. We only have a short night, because we  
3 are sitting in the morning. So we'll start at 9.00 a.m.

4 I wish you all a pleasant evening.

5 [The witness stands down]

6 --- Whereupon the hearing adjourned at 7.00 p.m.,  
7 to be reconvened on Tuesday, the 7th day of July,  
8 2009, at 9.00 a.m.

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