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1 Thursday, 24 September 2009

2 [Open session]

3 [The accused entered court]

4 [The accused Coric not present]

5 --- Upon commencing at 2.13 p.m.

6 JUDGE ANTONETTI: [Interpretation] Registrar, can you kindly call
7 the case, please.

8 THE REGISTRAR: Good afternoon, Your Honours. Good afternoon
9 everyone and around the courtroom. This is case number IT-04-74-T, the
10 Prosecutor versus Prlic et al. Thank you, Your Honours.

11 JUDGE ANTONETTI: [Interpretation] Thank you, registrar. Today,
12 the 24th of September, 2009. I would like first and foremost to greet
13 the accused, the Defence counsel, all the prominent representatives of
14 the OTP, as well as all the people assisting us in this courtroom.

15 I have two oral decisions to hand down, but before doing so I
16 would like to give the floor to the registrar who has IC numbers to give
17 us.

18 THE REGISTRAR: The Petkovic Defence has submitted its response
19 to the Prosecution's objections to documents tendered through
20 Slobodan Praljak. This response shall be given IC1048. The Prosecution
21 has submitted its objections to the list of documents tendered for
22 admission by 3D, 1D, and 4D through witness Josip Jurcevic. This list

23 shall be given IC1049, and 3D has submitted its list of documents to be
24 tendered through Witness Arbutina Alojz, this list shall be given IC1050.
25 Thank you, Your Honours.

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1 THE INTERPRETER: Microphone, please, Your Honour.

2 JUDGE ANTONETTI: [Interpretation] I had forgotten my microphone.

3 This is an oral decision relating to the testimony of the expert
4 Witness Milan Gorjanc. In support of a motion recorded on the 2nd of
5 September, 2009, the Praljak and Petkovic Defence have disclosed to the
6 parties and to the Chamber the expert report of their common witness,
7 Mr. Milan Gorjanc. The two Defence teams have indicated that the witness
8 would testify when the Petkovic Defence teams present its case, which
9 they agreed upon. The schedule presented by the Petkovic Defence
10 indicates that this witness should come to testify on the 2nd of
11 November, 2009.

12 The Trial Chamber would like to remind the Praljak Defence that
13 to date -- at that date it will have no time left for the presentation of
14 its case. Therefore, it will not be able to conduct the
15 examination-in-chief of the witness Milan Gorjanc. It is only the
16 Petkovic Defence that will be able to conduct the examination-in-chief.

17 Furthermore, the Trial Chamber that -- reminds you that the
18 Praljak Defence will not be able cross-examine -- to cross-examine this
19 witness insofar as it is one of its own witnesses. When this expert
20 witness comes to testify, it is Ms. Alaburic who will conduct the
21 examination-in-chief.

22 Second oral decision, which relates to time allocation for the
23 testimony of witness Zrinko Tokic on 28th -- from 28th of September to
24 the 1st of October, 2009.

25 According to an e-mail that was sent on the 23rd of September,

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1 2009, to the legal officer, and a copy was sent to the other Defence
2 teams, the Trial Chamber understands that the Petkovic and Praljak
3 Defence teams would like to conduct their examination-in-chief one after
4 the other for one hour and 15 minutes and 45 minutes respectively. This
5 means that the Petkovic and Praljak Defence teams agree to deduct the
6 time of the examination-in-chief and redirect used by the Praljak Defence
7 team from the overall time for the presentation of the Petkovic Defence
8 case.

9 The Trial Chamber therefore decides to accord one hour and 15
10 minutes to the Petkovic Defence to conduct its examination-in-chief and
11 possible redirect of the witness and decides to grant 45 minutes to the
12 Praljak Defence to conduct its examination-in-chief and possible redirect
13 of the witness. The Trial Chamber would like to stipulate that those 45
14 minutes allocated to the Praljak Defence will be deducted from the
15 overall time allocated to the Petkovic Defence team. Since the parties
16 have not made any specific request and in light of the subjects to be
17 addressed in the presence of this witness, the Trial Chamber decides to
18 grant one hour to all the other Defence teams to conduct their
19 cross-examination and two hours for the Prosecution.

20 The Trial Chamber would like to specify that the Praljak and

21 Petkovic Defence teams will not conduct a cross-examination of this
22 witness.

23 In short, the Trial Chamber has decided that the Petkovic Defence
24 team will have one hour and 15 minutes, and the Praljak Defence will have
25 45 minutes. The 45 minutes of the Praljak Defence will be deducted from

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1 the time allocated to the Petkovic Defence team. The Petkovic and
2 Praljak Defence teams will, of course, not cross-examine the witness.
3 The other Defence counsel will have one hour, and the Prosecutor will
4 have two hours.

5 I believe that all of this is clear for everyone.

6 In addition, Mr. Stringer has sent us an e-mail indicating that
7 he will be able to cross-examine of -- the expert witness Gorjanc on the
8 26th of October, 2009.

9 MS. ALABURIC: [Interpretation] Good afternoon to you and
10 everybody else in the courtroom. I would like in this open session to
11 thank my colleagues from the Prosecution for investing extra effort to
12 prepare for the testimony of our joint military expert and to enable the
13 Petkovic Defence to start off as they had planned to do with Mr. Gorjanc.

14 Now, I contacted Mr. Gorjanc today and looked into the
15 possibility of going ahead one week in advance, that is, earlier on, and
16 he said that he was ready to come in October. So I'd like to tell you
17 now that we are going to start with our Defence case on the 26th of
18 October. And in conformity with that, we'll be preparing a new list and
19 schedule for our witnesses. So we'll let you know who is going to come

20 into this courtroom to the end of November. Thank you.

21 JUDGE ANTONETTI: [Interpretation] Very well. Thank you,
22 Ms. Alaburic.

23 I would also like to thank Mr. Stringer for having responded so
24 quickly, which enables everyone to work in excellent conditions.

25 There's just one outstanding issue, which is to know whether 3DA,

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1 this witness will be coming or not. If this witness comes he will come
2 in the week precedes the 26th of October. If he doesn't come, there's a
3 fair chance that we will have no witness for that particular week.

4 We will wait for the Praljak Defence to tell us exactly how it
5 stands vis-a-vis Witness 3DA.

6 Mr. Stringer.

7 MR. STRINGER: Thank you, Mr. President. Good afternoon. Good
8 afternoon, Your Honours, Counsel, and to everyone else.

9 Just in respect to scheduling, I wanted to inform the
10 Trial Chamber of two things. The 30-day deadline on the Prosecution
11 filing on the expert report of Mr. Gorjanc is next Tuesday, and when we
12 file that on Tuesday, we're going to also indicate to the Trial Chamber
13 how much time we would like to have on cross-examination. So that's
14 going to be coming to the Trial Chamber by Tuesday at the latest. Also,
15 one of the witnesses before Mr. Gorjanc, one of the remaining witnesses
16 for the Praljak Defence, I won't say his name. I think it's public but
17 I'm not a hundred per cent at the moment, so I won't say the name, but I
18 expect that either later today or first thing tomorrow morning we'll send

19 a letter to the Trial Chamber indicating how much time the cross -- the
20 Prosecution would like to cross for that witness. He's a 92 ter witness.
21 He's indicated as a one-hour witness for direct. I think the
22 Prosecution's going to ask for two hours for cross based upon his 92 ter
23 statement, but you'll have that either today or tomorrow morning,
24 Mr. President.

25 JUDGE ANTONETTI: [Interpretation] Thank you. We shall introduce

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1 Mr. Skender into the courtroom. Let me remind you that the Praljak
2 Defence will have one hour, the other Defence teams will have 45 minutes,
3 and the Prosecutor will have one hour and a half. Ideally we should be
4 able to finish the examination-in-chief and the cross-examination of the
5 witness, and the Prosecution could then start on its cross-examination on
6 Monday.

7 [The witness entered court]

8 WITNESS: ZVONIMIR SKENDER

9 [Witness answered through interpreter]

10 JUDGE ANTONETTI: [Interpretation] Good afternoon, sir. Could you
11 give us your first name, last name, and date of birth, please.

12 THE INTERPRETER: Microphone, please.

13 THE WITNESS: [Interpretation] My name is Zvonimir Skender. My
14 name is Zvonimir Skender. I was born on the 10th [as interpreted] of
15 July, 1939, in Zagreb in Croatia.

16 JUDGE ANTONETTI: [Interpretation] What is your nationality, or
17 what are your nationalities?

18 THE WITNESS: [Interpretation] I have dual nationality. I'm both
19 French and Croatian.

20 JUDGE ANTONETTI: [Interpretation] What is your current position?
21 Are you retired? Do you have a job?

22 THE WITNESS: [Interpretation] I am retired.

23 JUDGE ANTONETTI: [Interpretation] You are retired from the
24 Croatian Army and the French Army?

25 THE WITNESS: [Interpretation] I am retired from the French Army

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1 and from the Croatian Army.

2 JUDGE ANTONETTI: [Interpretation] What were your ranks in both
3 these armies?

4 THE WITNESS: [Interpretation] I'm lieutenant-colonel in the
5 French Army and major general in the Croatian Army.

6 JUDGE ANTONETTI: [Interpretation] General, have you already
7 testified before a Tribunal on the events that unfolded in the former
8 Yugoslavia or are you testifying for the first time today?

9 THE WITNESS: [Interpretation] This is the first time -- I'm
10 testifying for the first time today on the events concerning Croatia.

11 JUDGE ANTONETTI: [Interpretation] Could you please read the
12 solemn declaration which the usher is about to show you.

13 THE WITNESS: [Interpretation] I declare that I shall tell the
14 truth -- I solemnly declare that I shall tell the truth, the whole truth,
15 and nothing but the truth.

16 JUDGE ANTONETTI: [Interpretation] Thank you, General. You may

17 sit down.

18 General, some information about the way in which this hearing
19 will unfold. You have been called by the Praljak Defence team. You will
20 therefore answer questions which will be put to you by his counsel,
21 Ms. Pinter, whom I'm sure you have met either this morning or yesterday.
22 After that, the other Defence counsel of the other accused who are
23 sitting on your left may put questions to you as part of their
24 cross-examination. General Praljak may even put questions to you of a
25 military nature in the time limit he has been granted. The four members

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1 of the bench may at any time intervene to put questions to you, and the
2 Prosecutor, who is on your right, will undoubtedly take the floor on
3 Monday as part of his cross-examination.

4 Had you come yesterday, we could have held our hearing yesterday
5 and today, which means you could have gone home today since you come from
6 Corsica which is long way away. You were unable to be here yesterday.
7 You will, therefore, unfortunately have to stay here over the weekend.

8 Please try and be as accurate as you possibly can when you answer
9 the questions. If there's something you don't understand, please don't
10 hesitate to ask the person who has put the question to you to rephrase
11 it, even if it is a Judge who put the questions to you. If you don't
12 understand the question, please let him know.

13 Everything you are saying is being recorded on the transcript
14 which is on the screen before you. This is -- these are oral
15 proceedings. Therefore, what you tell us is extremely important.

16 The Praljak Defence team will show you documents, and during the
17 cross-examination of the Prosecution some documents may also be shown to
18 you.

19 Today we will have 20-minute break after an hour and a half and
20 resume our hearing again after that and finish at 6.00. Next week, on
21 Monday, we shall start at a quarter past 2.00 and the hearing will end at
22 7.00 p.m.

23 This is the information I wish to share with you to make sure
24 this hearing unfolds as smoothly as possible so that you can contribute
25 to the truth, General.

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1 On Friday and Saturday you will be staying here, and the Trial
2 Chamber orders you not to have any contact with the media or anybody
3 else, for that matter. You mustn't tell anyone, Those are the questions
4 that I've been asked and this is what was being said. You mustn't say
5 anything at all.

6 In addition, there is another something else I would like to tell
7 you, is that you have taken the oath and you are a witness of this
8 Tribunal, and you may not have any contact whatsoever with the Praljak
9 Defence team.

10 Ms. Pinter, I shall now give you the floor so that you can
11 conduct your examination-in-chief.

12 MS. PINTER: [Interpretation] Thank you, Your Honour. Good
13 afternoon to you and all my colleagues in the courtroom and good
14 afternoon to everybody else in the courtroom, especially to the

15 interpreters, who always have a bit of trouble with me, but I'll do my
16 best to be a good girl this afternoon and not go too fast.

17 Examination by Ms. Pinter:

18 Q. [Interpretation] Good afternoon, General. May I ask you to
19 decide whether you're going to speak Croatian or French, because that
20 will facilitate the work of the interpreters -- or, rather, if you mix
21 your languages, it's a bit difficult for them. I would suggest that you
22 take off your headset while you're listening to me and while I'm asking
23 you the questions, because you'll hear and understand me in Croatian, and
24 you'll understand and be able to hear the Presiding Judge when he speaks
25 in French, and then you can decide. So perhaps that would be a good

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1 idea.

2 A. I shall be speaking French.

3 Q. Very well. Then take your headsets off.

4 MS. PINTER: [Interpretation] And may I ask the usher to --

5 THE REGISTRAR: Your Honours, sorry to intervene, but I think
6 it's not proper for the witness to take off his headset so he can at
7 least hear when some other party intervenes in some other language.

8 MS. PINTER: [Interpretation] And what channel is the French on,
9 please?

10 MS. ALABURIC: [Interpretation] I think that channel 3 is the
11 floor. So perhaps it would be best if the witness were to switch to
12 channel 3, which is the floor, and then he can hear the languages in
13 their original.

14 MS. PINTER: [Interpretation]

15 Q. General, we're going to provide you with the documents now.

16 MS. PINTER: [Interpretation] Could the usher help us out, please,
17 and provide the General with the documents.

18 Q. General, I've been told that you would be required to put your
19 headsets on and switch to channel 3, please. Thank you.

20 You've now been given the documents, and since that is the case,
21 would you turn to the first document, and it is 3D03710. Do you
22 recognise the document?

23 A. Yes, I do. I wrote it. I wrote this.

24 Q. It's the statement that you gave to the Praljak Defence. And did
25 you give it to the best of your knowledge and recollections and

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1 truthfully?

2 A. That's right.

3 Q. May I ask you to wait for me to finish before you start speaking,
4 which gives the interpreters a chance to interpret without any
5 overlapping.

6 So you signed this statement; right?

7 A. That's right.

8 Q. The first part of your statement relates to your military
9 education, training, and your experience in the army. Could you tell the
10 Court, please, as briefly as possible, because we've already got it all
11 in your statement, where you were educated and trained and so on?

12 A. I was trained in the Foreign Legion in Algeria. I joined on the

13 10th of April, 1959. The basic training lasted four months. I then
14 joined a unit which was fighting as part of the Legion. After a few
15 months, I went back for a four-months' training, and I then obtained the
16 rank of corporal. After one year, approximately, I went back for another
17 training course in Algeria and became a sergeant. I was part of a
18 fighting unit until the end of the Algerian war. I then returned to
19 France, more specifically to Corsica, on the 28th of June, 1962.

20 Q. General, you needn't go into the details. We've heard what
21 you've just said. We have the details in your statement.

22 How long were you in the French Army, and what was the rank when
23 you -- your rank when you left the French Army?

24 A. I retired from the French Army on the 17th of July, 1989. My
25 rank was that of a lieutenant-colonel then.

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1 Q. And your military experience and knowledge enable me to ask you
2 the following question: What, according to you, is the chain of command?

3 JUDGE ANTONETTI: [Interpretation] One moment, General, before we
4 address the issues of chain of command. So we know that you were a
5 lieutenant-colonel when you left the French Army. If I understood you
6 correctly, when you joined on the 10th of April, 1959, you were a
7 Croatian by nationality. In the Foreign Legion you acquired French
8 nationality. As one says, in the Foreign Legion, through the blood that
9 you have spilt. When did you become French actually?

10 THE WITNESS: [Interpretation] I became French at the beginning of
11 June 1965.

12 JUDGE ANTONETTI: [Interpretation] You entered lieutenant -- as a
13 lieutenant-colonel in the French Army. Can you confirm that your
14 training in the French Army was quite remarkable? You started off as a
15 private, and you were, when you left the French Army, a
16 lieutenant-colonel. That was quite exceptional.

17 THE WITNESS: [Interpretation] Yes, to be quite frank, this was
18 exceptional.

19 JUDGE ANTONETTI: [Interpretation] In other words, you were a
20 member of the elite corps, the crack troops.

21 THE WITNESS: [Interpretation] Yes, could you say it this way.

22 MS. PINTER: [Interpretation] Thank you, Your Honour.

23 Q. With all due respect, I'm listening to the interpretation, and
24 I'd like to warn the witness that -- or, rather, could -- Witness, could
25 you wait after a question has been posed.

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1 And I was asking you about the chain of command. What does the
2 term "chain of command" mean and the concept, and what are the basic
3 requirements for the chain of command to function without a hitch or to
4 function well?

5 A. The chain of command is a chain -- when a commander of a unit
6 gives an order, the order goes downwards, so to speak. In other words,
7 down to the last echelon, i.e., the private. For this to work, it is
8 necessary, of course, to have the right men, those that are used to
9 giving the orders and those that are used to executing the orders.

10 Q. Can we then say that for the functioning of -- we need a line

11 from bottom to top and from top to bottom? Would that be right?

12 A. Yes, we can.

13 Q. In your statement you say that you came to the Republic of
14 Croatia -- well, could you tell the Court when that was and why? When
15 did you come to Croatia and why?

16 A. I arrived in Croatia in June of 1993. There was a Croatian
17 officer there whom I had met in the Foreign Legion, who contacted me and
18 who asked me if I wanted to go and come and give a helping hand to the
19 Croatsians to defend their country.

20 Q. Did you stay in the Republic of Croatia for any longer, or did
21 you go somewhere else?

22 A. When I arrived in Zagreb, I knew no one there except this officer
23 who commanded a battalion, and he asked me to -- he allowed me to be
24 billeted with him.

25 JUDGE ANTONETTI: [Interpretation] General, when in June you were

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1 called by this officer, you got this telephone call from this officer
2 asking you to come, you were under oath and you were telling us that you
3 went to Croatia on your own volition. No one in France told you, "You're
4 needed over there. You must go over there," no one from the secret
5 services, the French Army? Could you tell us whether anyone from the
6 French State intervened to tell you that you must go over there, or is it
7 or is it something you made on your own volition?

8 THE WITNESS: [Interpretation] This is something I did on my own
9 volition.

10 JUDGE ANTONETTI: [Interpretation] What was the name of this
11 officer who called you?

12 THE WITNESS: [Interpretation] Filipovic.

13 JUDGE ANTONETTI: [Interpretation] At the time you were in
14 Corsica, were stationed in Calvi?

15 THE WITNESS: [Interpretation] I lived in Corte, in the middle of
16 Corsica.

17 JUDGE ANTONETTI: [Interpretation] Very well. Ms. Pinter.

18 MS. PINTER: [Interpretation]

19 Q. General, you arrived in Croatia. Did you stay in Croatia or did
20 you go elsewhere?

21 JUDGE TRECHSEL: I'm sorry, on the 5th channel --
22 [Interpretation] Channel number 5 we're hearing Croatian instead of
23 French. It's the second question from Ms. Pinter which was not
24 translated.

25 MS. PINTER: [Interpretation]

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1 Q. My question to the General was: Could you please answer,
2 General?

3 A. No, I didn't stay in Croatia. I left for Bosnia-Herzegovina.

4 Q. Where exactly?

5 A. In Citluk.

6 Q. Very well. In order to gain time - there is a lot in your
7 statement - what was the situation in Citluk like when you came there?

8 I'm interested in the military organisation. What was the situation in

9 the HVO at the time when you arrived there?

10 JUDGE ANTONETTI: [Interpretation] General, the counsel is going
11 very quickly, but I believe that we should go step-by-step. Filipovic
12 called you and said, "We need you," and then you left for Citluk in the
13 Republic of Bosnia-Herzegovina.

14 Could you tell us whether at that time you actually signed a
15 contract with the Croatian Army, or whether you were just a volunteer
16 with a very undetermined status who just went to go and give a helping
17 hand in Citluk? Could you tell us what your position was at the time?
18 Or maybe you had been recruited as a "mercenary."

19 THE WITNESS: [Interpretation] No, I was not recruited as a
20 mercenary. I arrived in Croatia where I knew no one. I ended up in this
21 barracks with Filipovic. At that moment, Bugojno in Bosnia-Herzegovina
22 had fallen, and someone from the Ministry of Defence asked me whether I
23 would volunteer to go to Bosnia-Herzegovina.

24 I signed no contract whatsoever with the Croatian Army, but I
25 decided to go as a volunteer to help the Croatians in Bosnia-Herzegovina.

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1 JUDGE ANTONETTI: [Interpretation] Yourself, did you have any
2 kinship with Bosnia-Herzegovina? Do you have relatives over there?
3 Where does your family hail from? Does it hail from Croatia or from
4 Bosnia and Herzegovina?

5 THE WITNESS: [Interpretation] I have no connection whatsoever
6 with Bosnia-Herzegovina. My family comes from Zagreb. Well, what's left
7 of my family.

8 JUDGE ANTONETTI: [Interpretation] So why did you go to Citluk?

9 Why did you go to Bosnia-Herzegovina? What motivated you to go there?

10 THE WITNESS: [Interpretation] I was motivated because of the
11 problems encountered by the Croatian population. There was no
12 afterthought or -- as far as separation or any other idea. I had -- did
13 not have that in mind at all with Croats on the one side or on another
14 side, whatever.

15 JUDGE ANTONETTI: [Interpretation] Very well. Ms. Pinter.

16 MS. PINTER: [Interpretation] Thank you, Your Honour.

17 Q. General, my question was this: What did you find in Citluk?
18 What was the situation like in terms of the HVO -- or, rather, the
19 military component of the HVO?

20 A. When I arrived in Citluk after a long road trip, going through
21 the island of Pag, I was asked the following question: "How can you help
22 the HVO?"

23 Q. They [Previous translation continued]...

24 A. I believe at the time it was Colonel Matisse. I believe that was
25 his name, or close to that. Not Matisse, Matic. Matic.

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1 Q. That's correct.

2 A. There was no command post at the time, or command position, and
3 therefore Colonel Matic asked me to tour, to inspect, if I could say so,
4 the front line and then report to him.

5 Q. And what did you establish?

6 A. On the field I found a catastrophic situation. The units were

7 poorly equipped, hardly trained, or very poorly trained. They were all
8 volunteers, and they were commanded by people who had no basic military
9 training.

10 Q. You said that they were volunteers. Could you please describe a
11 military unit for us when you toured the field and when you saw them?

12 A. They were organised according to brigades or regiments. Either
13 in brigades or regiments. They were just normal people, village people,
14 or people coming from small towns. They were integrated into these units
15 and sent to the front line. There was a rotation. There was a rotation,
16 usually one-third at a time.

17 Q. And were there any problems with sending people to the front line
18 or whether that was organised well? Was the response good? Could you
19 have troops along the whole front line without any problems?

20 A. The response was -- when these people joined the combat units, it
21 was very difficult for them to be integrated into these units. There
22 were a lot of people absent from the front, but mainly on the front
23 line --

24 THE INTERPRETER: Interpreter's correction: Notably when the
25 front line was far from their own village.

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1 THE WITNESS: [Interpretation] These people just didn't like going
2 to fight far away from their village.

3 Q. Did you have an occasion to see what the discipline was like
4 among the troops?

5 A. It was hardly -- there was no discipline whatsoever, or hardly

6 any. There were small groups commanded by -- by small little chiefs in
7 such a way that it was very difficult for the unit commander to command
8 these people.

9 JUDGE ANTONETTI: [Interpretation] Just one minute. These HVO
10 soldiers who were often absent, who were far from their village, there
11 was a total lack of discipline, no training, no military training
12 whatsoever, compared to the situation you experienced during the war in
13 Algeria with the Fellaghas, was there a different nature between those
14 who you fought in Algeria who were civilians with a military command or
15 were these HVO people just plain civilians? They were just given a
16 weapon and a uniform but no military training whatsoever? Could you tell
17 us?

18 THE WITNESS: [Interpretation] These were civilians, civilians to
19 whom weapons were given, but they didn't -- there wasn't much command.
20 There wasn't enough people commanding them. Whereas in Algeria, the
21 French Army was organised, trained, and there was no -- there was no
22 command problem. There was no problem regarding the reporting of orders
23 also in the line of command, bottom to top, with reporting. This did not
24 exist within the HVO.

25 JUDGE ANTONETTI: [Interpretation] I have a question from my

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1 fellow Judge.

2 JUDGE MINDUA: [Interpretation] Witness, I would like to come back
3 to the volunteers in the HVO, these volunteer soldiers. You said that in
4 the HVO you met volunteers and small chiefs, as you called them.

5 According to you, is "volunteer" a pejorative or is it positive as far as
6 you were concerned? And in the Foreign Legion you were a volunteer.

7 THE WITNESS: [Interpretation] To answer your first question, the
8 volunteers in the ranks of the HVO were civilians. On paper they were
9 part of the military organisation, but only on paper, whereas in the
10 Foreign Legion, the volunteers become professional soldiers.

11 JUDGE MINDUA: [Interpretation] Thank you. So we talked about the
12 volunteers. Now let's talk about the small chiefs. You know that an
13 army can only work with discipline, and with discipline you have to have
14 sanctions. If you have no sanction, there's no discipline and then
15 there's no army.

16 So you mentioned these small chiefs. Could you tell us whether
17 they would severely punish their soldiers, their volunteers who were
18 under their command?

19 THE WITNESS: [Interpretation] No, because -- that was the
20 problem. These small -- small chiefs were able to impose their will on
21 small groups, and the unit commanders were almost unable to do anything,
22 because when they -- if they behaved with severity, they might lose a
23 good number of volunteers. And actually, the situation became such --
24 was such -- became such that each man counted at that time.

25 JUDGE MINDUA: [Interpretation] Thank you.

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1 JUDGE ANTONETTI: [Interpretation] General, you told us that you
2 toured the front line, that according to you the situation was
3 catastrophic. Did you draft a written report on the situation, or did

4 you just report on this orally to those who were asking you about it?

5 THE WITNESS: [Interpretation] I wrote a number of reports,
6 reports which were addressed to the Main Staff.

7 JUDGE ANTONETTI: [Interpretation] And there you drew -- you told
8 them about the situation, which was very poor, very bad.

9 THE WITNESS: [Interpretation] Yes.

10 JUDGE ANTONETTI: [Interpretation] Given the situation, why did
11 you stay?

12 THE WITNESS: [Interpretation] It was just one additional motive
13 for me to stay, to help out, to help these people out so they could stay
14 on their land, and I wanted to provide them with my military knowledge.

15 JUDGE ANTONETTI: [Interpretation] Thank you.

16 Ms. Pinter.

17 MS. PINTER: [Interpretation] Thank you, Your Honours. We have
18 General Skender's reports, but through my omission they were not put on
19 65 ter list, and that's why they have not been prepared for this
20 examination-in-chief. One of the reports have already been -- has
21 already been used, and I can give you the Defence numbers for the
22 documents. They have not been put on 65 ter list through my omission.

23 Q. General, I'm going to refer to your statement in which you
24 describe the situation with regard to reporting along the vertical line
25 up and down, and you say that the situation was very difficult in terms

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1 of both control and reporting. You are saying this on page 3D42-5273 of
2 Croatian, and in English it is 3D42-5281.

3 Now I would like to ask you this. The situation was bad and
4 that's how you found it. Your assessment in view of your experience and
5 your stay in that area, would you say that the commanders consciously
6 provided for such a bad situation, the chain of command and the flow of
7 information up and down the chain, did they just simply ignore the facts
8 and issued an order that they then neglected, or is there a third reason
9 why the situation was as it was?

10 A. No, they did not neglect that, but when an order was issued, an
11 order was issued top down, it was very difficult if not impossible to be
12 absolutely sure that this order actually ended up where it was supposed
13 to end up, and it was even less sure to know whether the order hadn't
14 been changed while it was being transmitted.

15 What I mean is the following: When a unit commander said
16 something, issued an order, to be sure that the order was correctly
17 understood, the only solution was for the -- was to directly ask the --
18 the last addressee of this order whether he obtained the order, and there
19 often there were surprises. Most of the time the order that had been
20 issued, I'm not saying all the times, but most of the times the order
21 that had been issued had changed along the line of command, and the
22 reason for that was that the entire chain of command had been very poorly
23 trained. Everyone would interpret the order according to his own ideas,
24 and there were hardly any contradiction on the way back up. Because of
25 this situation, the command never knew whether the order issued had

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1 actually been carried out.

2 JUDGE PRANDLER: Excuse me, Ms. Pinter, that I interrupt you.

3 The general spoke about the implementation of the orders and the
4 difficulties connected to those, to the implementation, and also in his
5 statement there are references to the rules to be followed and -- and at
6 the very beginning of his statement, on English text page 1, second
7 paragraph, there are references to the -- at one of the places to the
8 Geneva Conventions in plural, and then in the end of that very paragraph
9 there is a reference and I quote that:

10 "We are -- that even in harsh discipline environment we are not
11 obliged to execute orders which are not in accordance with the Geneva
12 Convention on -- Convention," in singular, "on human rights." And there
13 are also references to the Geneva Conventions later on.

14 I would like to ask the general, because probably it is a
15 question of translation that there was a reference to the
16 Geneva Convention on human rights that, according to his knowledge and
17 what he learned, what kind of conventions are we speaking of, so what
18 would he recall -- what would you recall about the Geneva Conventions in
19 a more detailed way? I do not say that you have to give us a lecture
20 about the Geneva Conventions, but if you would be able to tell us one or
21 two of those Conventions which you are referring to.

22 THE WITNESS: [Interpretation] Unfortunately, I don't speak
23 English and I did not get the French translation. [In English] Excuse
24 me.

25 JUDGE PRANDLER: Well, that's a pity. Of course, really I don't

1 want to take too much time with this question. Let me summarise what I
2 would like to -- to ask from you and give the following: In your
3 statement there are references to the Geneva Conventions and also to a
4 Geneva Convention on Human Rights, but I would like to ask you that as a
5 soldier who was trained in the Foreign Legion, and also you later on took
6 responsibilities in the -- in -- actually in Herzegovina,
7 Bosnia-Herzegovina, what kind of Conventions do you know about when you
8 talk about the Geneva Conventions? In concrete terms what kind of rules
9 you believed that they are contained in the Geneva Conventions? Thank
10 you.

11 THE WITNESS: [Interpretation] Of course there are a lot of rules
12 in the Geneva Convention, but for the main part at that time that needed
13 to be applied on the ground were the rules that stipulated that one
14 should not brutalise, kill the prisoners of war of the opponent.

15 JUDGE PRANDLER: Fine. Thank you very much.

16 JUDGE ANTONETTI: [Interpretation] General, without addressing the
17 legal issue of the Geneva Conventions, when you joined the
18 Foreign Legion, you signed what is called the Code of Honour of any
19 legionnaire. Can you confirm that at the time you joined the
20 Foreign Legion you were shown this code which you signed?

21 THE WITNESS: [Interpretation] Quite right.

22 JUDGE ANTONETTI: [Interpretation] Do you remember that in this
23 code of legionnaires, chapter 7, one mentions this, and I quote:

24 "In combat you must act dispassionately and without hate. You
25 must respect the enemies that have been conquered. You must never

1 abandon either the dead or the wounded or your arms."

2 In chapter 7 there is this sentence: "You must respect the
3 enemies that have been conquered."

4 Since you were a high-ranking officer, how did you understand
5 this when you were in the military in Citluk and elsewhere, this notion
6 of respecting the enemies that had been conquered?

7 THE WITNESS: [Interpretation] This is indeed an item in the code
8 of the legionnaires. That is exactly it. When I arrived in
9 Bosnia-Herzegovina, I advocated this to everyone I was in contact with,
10 and I told everyone that the prisoners should not be hurt, the prisoners
11 should not be killed, even less so, because people who do that will be
12 held liable for murder, but after these killings those people will never
13 be able to rest in peace.

14 JUDGE ANTONETTI: [Interpretation] If I understand you correctly,
15 you conveyed this message, and you told these men that they should not
16 commit any crimes.

17 As far as the people under you were concerned, did you remind
18 these men that the Conventions existed that had clear indications of what
19 to do with the prisoners of war? Did you really convey the spirit of the
20 Geneva Conventions?

21 THE WITNESS: [Interpretation] Every time I had the opportunity, I
22 did.

23 JUDGE ANTONETTI: [Interpretation] Ms. Pinter.

24 MS. PINTER: [Interpretation]

25 Q. General, do you know whether the other commanders did the same?

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1 That is to say, did they caution their men about how to behave towards
2 civilians, prisoners of war, and so on, or do you not know?

3 A. I don't know, but what I do know is that I had in my possession a
4 small booklet - I don't know who had signed it - which explained or
5 spelled out the Geneva Conventions. This had been published by the HVO.

6 Q. Yes. Thank you. Thank you. Published by the HVO, yes.

7 I'd now like to ask you to open the following document: It is
8 3D00796. And we'll come back to the situation in Herzegovina where you
9 were. And it's a document dated the 26th of October, 1993.

10 You were shown this document, General, yesterday. I showed it to
11 you; right?

12 A. Could you please give me the number of this document?

13 Q. 3D00796. It's the first document after your statement?

14 A. 76. Fine.

15 Q. You've already seen the document. You saw it yesterday.

16 A. Yes, of course.

17 Q. Do you stand by what it says in this document, or do you
18 disagree?

19 A. This is document 5D76, is it?

20 JUDGE ANTONETTI: [Interpretation] Witness, I think it's difficult
21 for you to find your way around the documents. In the binder which
22 Ms. Pinter has given you, you have small tabs, yellow tabs. You should
23 find this on the second and it, which is dated the 26th of October.

24 THE WITNESS: [Interpretation] Yes, I got it.

25 Yes, I can see this document. I must say that I did not attend

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1 this meeting for the simple reason that I was in France for a few days.

2 But on reading this document, I find it quite adequate since a number of
3 questions are put to the Ministry [as interpreted] of Defence. It's
4 quite appropriate.

5 MS. PINTER: [Interpretation]

6 Q. From anybody else in addition to the Ministry of Defence?

7 A. It's also addressed to the civilian and political authorities,
8 since they are to adopt a series of laws that would enable this proposal
9 to go through.

10 Q. Very well. Thank you. Now, from this document may we conclude
11 that the military component of the HVO had problems with mobilisation, or
12 was mobilisation something that did not pose a problem, that the brigades
13 were up to strength and equipped properly? And can we conclude that
14 there weren't too many deserters either, so that didn't pose a problem?
15 Or perhaps there were deserters and that did pose a problem. Which? And
16 can we also say that all the components did their job?

17 A. Not at all. There were enormous amount of deserters and a great
18 deal of absenteeism. I could -- this is something I could check myself
19 when I inspected the brigades that were in the south, brigades of the HVO
20 on the military attendance list, and I could also check their presence on
21 the ground. There were huge gaps between the two, huge discrepancies.

22 For instance, there was something like 1.700 men on the

23 attendance list, but it was something like 1.100, in fact. This
24 discrepancy could only be due to the fact that some were deserters or to
25 a high rate of absenteeism.

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1 JUDGE ANTONETTI: [Interpretation] General, in your written
2 statement there is a short gap which I would like you to fill for us,
3 please. You say in your statement that you became a commander of the
4 operational zone in Tomislavgrad in December 1993. The document we have
5 before us is dated October before you commanded the operational zone.
6 Can you tell us from June 1993 onwards what was your position inside the
7 HVO before the 1st of December, 1993?

8 THE WITNESS: [Interpretation] I wasn't in command of anything. I
9 was part of the HVO. I was something of an instructor, save for an
10 emergency, which in fact was the case when the Muslim offensive was
11 launched on the 15th of August, 1993. I was then asked to assume the
12 command and, if possible, to get back onto ground and regain the
13 territory lost by the HVO. This only lasted a few days, and then I was
14 no longer in command until the 20th of December, 1993, when I assumed the
15 command of the military area in Tomislavgrad.

16 JUDGE ANTONETTI: [Interpretation] On the 15th of August, during
17 this military operation, where exactly did this operation take place?

18 THE WITNESS: [Interpretation] South of Mostar, around or close to
19 the Neretva and the Buna.

20 JUDGE ANTONETTI: [Interpretation] Between June and December, did
21 you have an opportunity to meet the commander of the HVO, who was

22 General Petkovic, who was then replaced by General Praljak? Were you in
23 contact with these two generals at any time?

24 THE WITNESS: [Interpretation] I had no contact with
25 General Petkovic, because he was almost all the time in contact with

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1 representatives of the international community. General Praljak, well, I
2 saw him for the first time by the by in Prozor. This only lasted a few
3 moments. We didn't even introduce each other, didn't -- however, I met
4 him on the ground in the battle-field in this area between the Neretva
5 and the Buna.

6 JUDGE ANTONETTI: [Interpretation] When you acted as an
7 instructor, what were people saying in the HVO about the command? Who
8 was the commander? The commander -- who was the commander? Was it
9 General Petkovic, was it General Praljak, X, Y? What did people say?

10 THE WITNESS: [Interpretation] I -- I can only say that
11 General Praljak --

12 JUDGE ANTONETTI: [Interpretation] Please repeat your answer.

13 THE WITNESS: [Interpretation] I was saying that General Praljak
14 was very much liked by his men. General Petkovic, a little less so,
15 despite the fact that he was my friend, because people at the time did
16 not like the officers that came from the Yugoslav Army.

17 JUDGE ANTONETTI: [Interpretation] You were on the ground,
18 General. From where you were, did you have the feeling that the supreme
19 commander was Mate Boban, or the defence minister, or the commander of
20 the HVO, or no one?

21 THE WITNESS: [Interpretation] I had the feeling, and I am
22 practically sure that everything had to go through Mate Boban. But I
23 cannot vouch for it 100 per cent, because I have no proof of it.

24 THE INTERPRETER: Microphone, Counsel, please.

25 MS. PINTER: [Interpretation]

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1 Q. Since we've just mentioned General Praljak, apart from that
2 meeting in Prozor and in August 1993, did you ever meet him again before
3 you became commander of the Tomislavgrad Operation Zone?

4 A. I was in contact with General Praljak when I commanded the area
5 in Tomislavgrad.

6 JUDGE ANTONETTI: [Interpretation] General, we have a big problem,
7 which is the following: You have just told us that you assumed the
8 command of the military area in Tomislavgrad in December.

9 General Praljak left his position in November. He went to Zagreb then.

10 How can you explain this to us, this discrepancy in the time
11 line?

12 THE WITNESS: [Interpretation] When I was in contact with
13 General Praljak in January 1994, he was no longer the leader of the HVO,
14 but in light of the huge problems that arose at the time in Prozor, I had
15 asked him to come and give us a hand to try and find a solution to this
16 problem which was a serious one, since he knew the men who were there and
17 the men who were there knew him, and he was well-respected. He agreed to
18 come, because at the time he was in Bosnia and Herzegovina, and we found
19 a solution to this serious problem.

20 JUDGE ANTONETTI: [Interpretation] General, what we knew so far is
21 this: That General Praljak left his position as the commander of the HVO
22 at the beginning of November, the 8th of November. He goes to Zagreb,
23 and he then seemingly has a hard time for a short while before emerging
24 on the scene again as a close aid of President Tudjman and as a military
25 advisor. We have seen material evidence of this, that he re-surfaces

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1 again afterwards. In January 1994, he is no longer part of the HVO and
2 does not figure anywhere on the administration files of the HVO.

3 When you saw him again or when you saw him, how was he? Was he
4 dressed as a civilian, as a military?

5 THE WITNESS: [Interpretation] As far as I remember, he was
6 dressed in civilian clothes.

7 JUDGE ANTONETTI: [Interpretation] If I understand you correctly,
8 he came to give you a helping hand to solve a problem.

9 THE WITNESS: [Interpretation] That's quite right. This was
10 something he did on a personal note.

11 JUDGE ANTONETTI: [Interpretation] This is something which is
12 normally done in such a situation?

13 THE WITNESS: [Interpretation] No, but it was important to calm
14 things down. The people involved in all these problems were having
15 difficulties. The tensions had risen very high.

16 JUDGE ANTONETTI: [Interpretation] And was your command of the HVO
17 aware of this?

18 THE WITNESS: [Interpretation] I don't know. I believe so, but I

19 don't know.

20 JUDGE ANTONETTI: [Interpretation] Very well.

21 MS. PINTER: [Interpretation]

22 Q. Since we're at this point, General, could you describe what the
23 situation was like when General Praljak was called to come and give his
24 assistance, and could you tell us the period of time that this happened?

25 A. This had to do with a very serious incident. This occurred

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1 towards the end of January. I can check the dates.

2 In the town of Prozor, there were people who were drunk, and two
3 killings occurred.

4 Q. Just a moment, please. Just one moment. Are we talking about
5 HVO members -- or, rather, Croats, or are you talking about an event
6 where both the Muslims and Croats took part?

7 A. No. I'm talking about an incident that occurred between Croats
8 of the HVO. Let me specify.

9 This had to do with men from the Rama Brigade and soldiers or men
10 from a brigade that came from Bugojno. Two men from the Rama Brigade
11 were killed in a bar, which gave rise to the withdrawal of a great number
12 of the military in Rama on the defence lines, and they started moving
13 towards Prozor. On the other side, the military that were part of the
14 Bugojno Brigade did likewise.

15 The men from the Rama, from Rama surrounded the command of the
16 area -- or, rather, the area of my command. Prior to that, I arrested
17 and made sure that the man who was suspected of having killed these two

18 men was protected in a shelter -- who was suspected of having killed.

19 It was clear that there had been this conflict between the two
20 brigades. This would have affected the whole area. The Rama Brigade, in
21 other words the men -- the military from the Rama Brigade, then demanded
22 that I hand over this man from Bugojno, which I refused to do, because I
23 knew full well that if I did that, that man would be a dead man.

24 Given that the situation was so serious, we decided -- or,
25 rather, I -- I appealed to General Praljak, I appealed to the military

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1 police and to a military judge in Livno, and in addition I appealed to a
2 number of prominent political figures.

3 The situation calmed down, and after having provided guarantees
4 to the men of the Rama Brigade that this man would be tried according to
5 the law, and that's what happened.

6 It took a good 48 hours for the situation to calm down a little.

7 Q. Did General Praljak manage to calm the situation down? Was he
8 involved in that?

9 A. Yes. General Praljak played the most important role in defusing
10 the situation, given, as I said, that the men knew him and he knew his
11 men. He knew these men.

12 Q. You said that you had seen General Praljak in Prozor and that you
13 had also seen him near Mostar in the month of August. Did you meet him
14 in the Main Staff as he well? When you arrived you were in Citluk, in
15 the Main Staff, as you've told us.

16 A. No. I never met him at the Main Staff. I was on the field every

17 day. And when I went to the Main Staff, he wasn't there. I guess that
18 he was doing the same as I was. He was also on the field.

19 JUDGE ANTONETTI: [Interpretation] General, we have heard a good
20 number of witnesses, and we've also heard General Praljak. He sat in
21 your seat just a few days ago.

22 We understood that in the HVO there was the Main Staff and the
23 operational zone commands, and you, for example, were commander in
24 December of the Tomislavgrad command.

25 Now, this is what I would like to know, because you are the first

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1 one that we have who is right under the -- you're the first that we have
2 that is right under the HVO command. I'd like to know whether the three
3 Cs, the C cube -- the C cube was always enforced in the Main Staff, and I
4 would like to know whether there was always someone on duty at the Main
5 Staff who would be totally always in contact with the duty officer in the
6 operational zones. I'd like to know whether there was a permanent
7 communication between these duty officers, because you've just told us,
8 "I went to the Main Staff and he wasn't there." Fine, but I guess there
9 must have been a duty officer there. And in your own operational zone,
10 there was also a duty officer. At least I guess so.

11 Was that the way things worked?

12 THE WITNESS: [Interpretation] Yes. Each staff or military region
13 or operational zone had a duty officer, and these duty officers were
14 always in contact with each other.

15 JUDGE ANTONETTI: [Interpretation] Fine. So communication between

16 the Main Staff and the operational zone was ensured round the clock.

17 THE WITNESS: [Interpretation] Yes.

18 JUDGE ANTONETTI: [Interpretation] Very well. I believe it's time
19 for the break, or our only break. It's 10 to 4.00. We will now break
20 for 20 minutes. Therefore, we will resume around 4.10 or 4.15, and we'll
21 run until 6.00.

22 --- Recess taken at 4.53 p.m.

23 --- On resuming at 4.15 p.m.

24 JUDGE ANTONETTI: [Interpretation] Court is back in session.

25 MS. PINTER: [Interpretation]

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1 Q. General, in response to a question from Judge Antonetti about
2 whether communication between the Main Staff and the zones were constant
3 and secure, your answer was yes.

4 A. Yes.

5 Q. And in that communication there was no problem either with
6 respect -- either from the operative zone to the Main Staff or vice
7 versa, from the Main Staff to the operative zone; is that right?

8 A. To my knowledge, no.

9 Q. Thank you. Now would you look at the next document, and as
10 Judge Antonetti told you, you have a yellow sticker where it says
11 3D01098.

12 Have you found the document? It is dated the 11th of September,
13 1993, signed by someone for Slobodan Praljak. Have you found it?

14 A. 98. Yes. September 11, 1993.

15 Q. Tell us, please, General, according to your military experience,
16 is it customary for a Main Staff commander to write "urgent" on these
17 reports?

18 A. No, this is not customary. Normally when a commander issues an
19 order, the order is carried out, but in this document I see that he's
20 asking to be told quickly why the order was not carried out, which proves
21 once again that the chain of command did not work from top down.

22 Q. Thank you. Tell me, please, General --

23 JUDGE TRECHSEL: [Interpretation] If I may. Witness, you say that
24 this shows that the command chain did not operate properly, but if I
25 understand you correctly, this means that a communication was not

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1 transferred or transmitted at one point in time, but maybe another is --
2 another solution is that the Livno Command forgot to answer, so it would
3 be a communication problem but a discipline problem?

4 THE WITNESS: [Interpretation] Well, I can't say what it was. I
5 cannot be sure that the communication was actually transmitted. But I
6 believe that the order was not carried out, and there was no -- but it
7 wasn't carried out and there was no report on why it wasn't carried out.

8 JUDGE TRECHSEL: [Interpretation] Thank you. I see that you agree
9 with my observation, which says that there are several possibilities to
10 be envisaged here.

11 JUDGE ANTONETTI: [Interpretation] General, in -- as far as HVO is
12 concerned, you're the first commander of an operational zone to come and
13 testify. So far we have seen no one at your level, which is why it's

14 extremely interesting to have you in the witness box, and this gives us
15 the opportunity to put a number of technical questions to you.

16 When we look at this document, which is issued by General Praljak
17 as the HVO Main Staff commander, when this document arrives in the
18 operational zone could you tell us whether the operational zone commander
19 is going to read the document himself and maybe put some -- mark it and
20 then issue orders, or is it his assistants or someone else who is going
21 to receive the document, which means in that case that the operational
22 zone commander might not see this document.

23 Could you tell us whether the military rule is that all orders
24 coming from the top must be read by the people under the superior?

25 THE WITNESS: [Interpretation] This document must have been read

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1 by the commander of the operational zone. He was the -- he was to
2 receive this document, because the Livno Brigade is under the command of
3 the Tomislavgrad Operational Zone.

4 THE INTERPRETER: Or military region, interpreter's correction.

5 THE WITNESS: [Interpretation] I don't know why the commander of
6 the region did not react before he -- General Praljak reacted, because he
7 should have been the first one to react.

8 JUDGE ANTONETTI: [Interpretation] Very well. Let me give you an
9 example. Let's say that the commander of the military region is not at
10 his desk. He's touring the front. He's inspecting a unit. A very
11 urgent order arrives coming in for Mate Boban, for the Ministry of
12 Defence, or for the commander of the HVO, personally sent to the

13 commander of the operational zone. The duty -- what should the duty
14 officer do in such a case?

15 THE WITNESS: [Interpretation] The duty officer is first must
16 write down this document in the logbook, then secondly, he must contact
17 the commander of the regional district to which this order was sent in
18 any kind of fashion to make sure that the region commander can read the
19 document and then react.

20 JUDGE ANTONETTI: [Interpretation] Very well. Another technical
21 question but the last one. The commander of the military region, let's
22 say you, for example, in December, you arrive at your desk in the
23 morning. Are you going to take a look at the logbook to see what exactly
24 happened overnight? Is it something that you do customarily?

25 THE WITNESS: [Interpretation] Yes, because I was trained to do

Page 45201

1 that.

2 JUDGE ANTONETTI: [Interpretation] Thank you.

3 Ms. Pinter.

4 MS. PINTER: [Interpretation].

5 Q. According to your personal experience while you were the advisor,
6 while you were not appointed in official terms in the HVO as commander of
7 the operative zone, did you come across situations in which you were able
8 to see what the commanders' of the operative zones conduct was? Did they
9 look at the various books and logbooks and so on? Do you have any
10 knowledge about that? If not, you needn't speculate or guess.

11 A. No. I don't know exactly whether all operational zone commanders

12 worked as I did because I wasn't there when they arrived and took over
13 their regional command.

14 Q. Tell us, please, General, do you know the following:

15 General Praljak was sitting in the HVO HQ, in the command, from, say,
16 July 1993 when you were in the area of Herzegovina. Was he there, or he
17 went to Zagreb, or was he up at the front line or was there some other
18 explanation as to where he was which explained why you couldn't meet?

19 A. I said that I met General Praljak twice on the field, once in
20 passing in Prozor at the end of July, and a second time in the middle of
21 August during the operations to recapture the terrain lost by the HVO
22 between the Neretva and the Buna. I didn't know where he was apart from
23 these two times.

24 Q. Was it normal for General Praljak as the commander of the Main
25 Staff of the HVO to be on the front line?

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1 A. No. But if you want to know exactly what's happening, you have
2 to go -- that's the way -- that's what you have to do. As I said
3 earlier, to know exactly what is happening, you have to go on the field
4 to check what's happening, which proves that the report chain didn't work
5 well from bottom up.

6 Q. In this courtroom we also heard that General Praljak spent most
7 of his time in the months of July, August, and September on the front
8 line. What you're saying is that that was the only possible -- possible
9 way for him to work, or do you think that he had to act differently in
10 order to provide for the three Cs, the command, control, and information?

11 A. As far as I know, General Praljak likes direct contact. He'd
12 rather go for human contact, and he always wanted to prove, to show to
13 his men on the field that he was with them, amongst them.

14 Q. How did it reflect on the foot soldiers? Do you know anything
15 about that?

16 A. Excellent, as far as the morale was concerned. Men on the field
17 liked to see their commander with them in the same quagmire, if I could
18 say so.

19 Q. According to what you personally experienced and saw in the
20 territory of Herzegovina, was that the only possible way to have an
21 insight into the entire -- into the whole situation, or was there any
22 other mechanism in place? Was that only because General Praljak had felt
23 the need to be in contact with his men, or was it just a necessity?

24 A. General Praljak liked this kind of contact, but it was also a
25 necessity. The morale of the troops was a bit low. But every time a

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1 commander would come to visit the men and to get direct information from
2 them, that way he could get a better idea of what was happening on the
3 ground.

4 JUDGE TRECHSEL: [Interpretation] If you -- if I may, Ms. Pinter.

5 What you're telling us is not new. We've heard about this
6 already. However, I would like to know what was the relationship between
7 this commitment on the field, which is probably extremely positive, as
8 you just told us, and the tasks of a commander when he's in his
9 headquarters. Do you know how General Praljak maintained contact with

10 the headquarters when he was touring the front?

11 THE WITNESS: [Interpretation] No, but I guess that the front was
12 never too far away. So it didn't take a long time to return to the Main
13 Staff, to the HQ, where meetings were probably held.

14 JUDGE TRECHSEL: [Interpretation] Thank you, but this is a bit --
15 this conjecture is --

16 THE WITNESS: [Interpretation] [Overlapping speakers] No. No.
17 Look at the front line. The front line at the Neretva and the Buna, they
18 were just a few kilometres from the Citluk HQ.

19 JUDGE TRECHSEL: [Interpretation] That's not where I see you
20 giving us a hypothesis. You said, "I suppose the front was not long. I
21 guess the front was not long -- far away."

22 THE INTERPRETER: Interpreter's correction: Far away.

23 JUDGE TRECHSEL: [Interpretation] And then you said there were
24 probably meetings at the HQ, probably, which means that it is not
25 something you know for sure. You're just supposing that that's the way

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1 things happened.

2 THE WITNESS: [Interpretation] Yes, which is why I added this
3 probably. I wasn't there. I'm not 100 per cent sure that these meetings
4 were actually held.

5 JUDGE ANTONETTI: [Interpretation] General, in the same line of
6 questioning regarding this problem with communications, if I understood
7 you correctly, in August, around August 15th, you came to help in the
8 framework of this military operation on the Neretva-Buna front, and if I

9 understood you correctly, you saw General Praljak on that occasion.

10 Now, when you saw him, in August he was -- he's just taken
11 command of the HVO. So he's the number one in the HVO. He's the
12 number-one man.

13 And when you saw him, could you tell us whether he was escorted
14 by a de'conte [phoen], a transmission man, someone that would be equipped
15 with a radio set to make sure that the connection remains with -- the
16 [indiscernible] connection with the HQ, whether he's coming with a
17 vehicle that has a radio set, you know, so that there's continuity in the
18 chain of command and communication with the chain of command. Can you
19 tell us whether you remember whether this was the case or not?

20 THE WITNESS: [Interpretation] I remember this very well. It was
21 at night, and he came alone. His vehicle was not very far away, but I
22 don't know whether there was a radio link in this vehicle.

23 JUDGE ANTONETTI: [Interpretation] General, in an army worthy of
24 this name, could you -- can one consider that the number-one man, the
25 commander, would go and tour the front line, go -- without any logistical

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1 support with him so that he can continue to control all the operational
2 zones under his command, or could this be the proof of a certain
3 amateurism in the forces?

4 THE WITNESS: [Interpretation] In all force -- armed forces it's
5 absolutely impossible for a commander no longer to be linked to the
6 staff. If this happens, this is very serious. However, in a combat --
7 in the context of the combats that were going on in these areas, this was

8 not of major importance after all, because there was the duty officer and
9 the assistant commander who were there and who could always take over.
10 And then on the other hand, I think that General Praljak, like everyone
11 knows, was not trained as a military, so he acted -- I don't want to say
12 as an amateur, but he wanted to go and tour the terrain to see what was
13 happening at all times.

14 JUDGE TRECHSEL: [Interpretation] Let's continue with this line of
15 questioning. Do you have any idea of how informed General Praljak was as
16 far as what was happening in general in other places than where he was?
17 Did he have an overall view of the situation?

18 THE WITNESS: [Interpretation] I don't know.

19 JUDGE ANTONETTI: [Interpretation] One last question on this
20 topic, but before answering, please be very careful about my question.

21 We know that you were on the field as early as June 1993. We
22 know that you took command of an operational zone as of December 1993.
23 We know, because you told us, that you took part in military operations,
24 in combat operations, in August, for example.

25 Now, here's my question, and it's very important, so listen

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1 carefully: At your level, did you feel -- did you get the feeling, or
2 were you sure that everything that was happening militarily was
3 militarily controlled from Zagreb?

4 THE WITNESS: [Interpretation] No, because the operations that
5 were under way in the area were local operations. Now, whether Zagreb
6 was told about it or not, probably so, but I can't vouch for this.

7 JUDGE ANTONETTI: [Interpretation] A follow-up question: While
8 you were in command, in your own HQ, did it ever happen that you received
9 a call from Zagreb, either by phone or called through the radio or
10 through another way, asking you to report on such-and-such situation or
11 such-and-such problem? Did this ever happen to you? Remember that you
12 are under oath.

13 THE WITNESS: [Interpretation] It never happened.

14 JUDGE ANTONETTI: [Interpretation] You're absolutely sure?

15 THE WITNESS: [Interpretation] A hundred per cent sure.

16 JUDGE ANTONETTI: [Interpretation] Very well.

17 Ms. Pinter.

18 MS. PINTER: [Interpretation]

19 Q. General, can one say that the HVO as you found it when you came
20 there was an organised army?

21 A. It was an organised army but poorly organised. There had been a
22 call-up so that men were sent to the front lines, but this call up had
23 been poorly done, because as I told you, there was a huge amount of
24 absenteeism. You could see that the training also very poor. Of course,
25 with time it improved slowly, but this was a far cry from an effective

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1 and professional army.

2 Q. Could you tell us, please, whether that was the -- because there
3 was no wish to organise the army or was there any other reason why the
4 situation was as it -- as you found it?

5 A. No, this was not deliberate, but have a well-organised and

6 well-trained army, it takes more than a few months or even a few years.
7 It takes years and a lot of work to make sure that you end up with a
8 well-trained army.

9 Q. And what was the role of the war in establishing that army? How
10 did the role affect the whole process?

11 A. It only made the process worse, because this new army had to be
12 set up and developed while combat were under way, and it was a tall order
13 for the HVO.

14 Q. In your statement you speak about an event after you were
15 appointed the commander of the area of Tomislavgrad. Before I put my
16 question to you, can you remember when that happened? When did you
17 become the commander of that area?

18 A. If I remember correctly, I assumed command on the 20th of
19 December, 1993.

20 Q. I received a message from the General that he has some military
21 questions to put to you closely tied to military issues, that is, but
22 before the General stands up, I have one more question.

23 General, could you please describe for us the situation when you
24 were personally arrested, the event that you mention in your statement
25 and that involves and has to do with Banja Luka.

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1 A. Yes, you are quite right. This event took place around the 10th
2 of January, I believe. It might have been the 12th of January, 1994.

3 I was in the refectory. I was eating in the refectory. There
4 were a hundred or so men, military men. At some point in the refectory,

5 right at the entrance, there was an armed man. As soon as he entered, he
6 started shooting with his assault rifle. He started aiming at the
7 ceiling, and while so doing asked kill Skender [as interpreted]. Given
8 that the situation was dangerous for me and since I didn't know what this
9 was all about, I answered and I said, "It's me." He was very excited and
10 starting shooting again.

11 He captured me and took me to the command of the Rama Brigade.
12 He forgot to take my pistol away from me, which meant that I could kill
13 him any time I liked. Since I didn't know what all this was about yet, I
14 preferred to wait and see.

15 Once I got to the command of the Rama Brigade, I was asked, "What
16 is all this about? This man was involved in a brawl in town, disarmed,
17 and somebody has taken his pistol away from him." While this happened,
18 somebody told him that this was an order that had come in from
19 Colonel Skender.

20 In the meantime, the brigade commander of the Rama Brigade
21 arrived. He brought this man along with him. Obviously the man was
22 drugged, and he tried to calm him down in another room. I don't know
23 where that was.

24 I then returned to my command where I went on with my work.

25 Now, I then reflected on it and said to myself, What do I need to

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1 do?

2 MR LAWS: Mr. President, before we lose the relevant passage

3 before the General goes on to describe what he did next, line 23 where it

4 says, "... and while so doing asked kill Skender," I think I'm right in
5 saying that the General said in French he asked "Who's Skender." So I
6 just thought I'd clarify that before we lose it.

7 JUDGE ANTONETTI: [Interpretation] Please continue.

8 THE WITNESS: [Interpretation] At the time it was out of the
9 question of just not dealing with this. The question for me and the most
10 important one for me was what will happen if I send this man to gaol --
11 to gaol. The situation was so serious in this particular area that every
12 man was needed.

13 If I locked this man up, for sure 20 or so of his camp comrades
14 would leave the front line, or to avoid this happening, I could just
15 delay him being prosecuted by military tribunal. And from what I learned
16 afterwards, this is in effect what happened. He was tried by the
17 military tribunal a short while after my departure when I left for
18 Zagreb.

19 JUDGE ANTONETTI: [Interpretation] General, what you've just told
20 us by quoting this example, well, General Praljak has told us the same
21 thing.

22 In a given military situation, the command must assess the pros
23 and cons, and sometimes notwithstanding the fact that an incident has
24 occurred, a crime has been committed, even a serious event, it is
25 important to consider the military situation overall, not to react

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1 instantly, and wait for the right time before doing something. Is this
2 what you're telling us?

3 THE WITNESS: [Interpretation] You're quite right, Your Honour.

4 It was important to analyse the situation and take a decision which would
5 harm this particular area not too much.

6 JUDGE ANTONETTI: [Interpretation] This is a question which I
7 wanted to put to you right from the start. Let me remind you that in the
8 HVO structure you were placed immediately under the command of the HVO
9 command because you were commanding an operational zone. I'm quoting a
10 textbook example. This is a purely theoretical example.

11 When the commander of an operational zone realises that his
12 soldiers have committed a crime, for instance have burnt a house, have
13 stolen things, raped women, when a commander realises this, what does he
14 have to do?

15 THE WITNESS: [Interpretation] Well, in cases like these, the
16 military commanders must quite simply refer to the military police, who
17 will then pursue the investigation to try to shed some light on this or
18 to find the culprits. If this happens behind the front line, it's the
19 military police who is working together with the civilian police.

20 JUDGE ANTONETTI: [Interpretation] In your area were you
21 confronted with this kind of situation?

22 THE WITNESS: [Interpretation] Yes. When I was surrounded by the
23 Rama Brigade, not me personally but my command, I then called the
24 military police. They came in fairly quickly, and they in turn
25 surrounded the Rama Brigade. The military police did the work, shed some

1 light on who was responsible and where this had happened, and the

2 military police then strengthened the military police in the area and
3 reinforced it with extra men to make sure that similar things could occur
4 again, which was a very good thing since the situation improved in all
5 areas in this district.

6 JUDGE ANTONETTI: [Interpretation] You quote the case of the Rama
7 Brigade. We have seen a number of documents drafted by the SIS, which
8 indicated that as far as the Rama Brigade was concerned, at some point
9 the military police was corrupt. They -- or the military police abused
10 people. In this situation what must a commander of a brigade do, and
11 what must a commander of an operational zone do?

12 THE WITNESS: [Interpretation] You must know that at that time
13 there were two kinds of military police, one which was a military police
14 of the brigade, i.e., the military of the brigade, and the military
15 police, if you like, the real military police that came from outside.

16 The commander, if he heard about the abuses committed in the
17 area, always called up the real military police, so to speak, and the men
18 that were part of the military police in the brigade, well, everyone
19 knew, and this was something which the SIS was very well informed about,
20 were the first people to commit blunders. After that, the real military
21 police took over and it was reorganised. I can't give you an exact date
22 of when this happened, but the military police in the brigade
23 disappeared.

24 JUDGE ANTONETTI: [Interpretation] General Praljak described the
25 following situation to us: Being made aware of crimes committed by some

1 of his soldiers, being made aware of the front line, to protect the front
2 line it was important not to arrest the culprits, the soldiers, and he
3 rather let things be, because if he had arrested the culprits, there
4 would be fewer men on the front line, which would have enabled the enemy
5 to make a breakthrough. In that case, the enemy could have occupied that
6 territory.

7 In short, make sure that military discipline is respected through
8 arrests of the culprits, but on the other hand, make sure that the front
9 line is sufficiently manned. Well, he had rather make sure that the
10 front line was properly manned.

11 You as a professional, what is your view on this?

12 THE WITNESS: [Interpretation] In an organised army, I would
13 arrest this man who has committed some kind of crime. I analysed the
14 situation, and I delayed the arrest for my part and those individuals
15 were tried by a tribunal, to maintain the situation on the front line,
16 which was somewhat urgent and postpone the arrests and prosecution before
17 a tribunal which would rule on the case.

18 JUDGE ANTONETTI: [Interpretation] Now, as far as the Praljak
19 Defence is concerned, you have five minutes left. A member of the Bench
20 would like to put a question to you.

21 JUDGE TRECHSEL: [Interpretation] This has to do with the
22 situation which we have talked about and you have talked about. I would
23 like to have your view on the areas of responsibility.

24 THE INTERPRETER: Microphone for the Judge.

25 JUDGE TRECHSEL: [Interpretation] I was talking about the area of

1 responsibility of a commander.

2 A military commander, is he responsible for what is happening in
3 an area which is the area he is commanding, or is his responsibility
4 limited to a small part of the area? In other words, the area where the
5 front line is located.

6 I hope I have been clear. Otherwise, you can ask me to clarify,
7 of course.

8 THE WITNESS: [Interpretation] Military commanders are responsible
9 for their area of responsibility where they are fighting. They are
10 responsible for the front line. Anything which might occur behind these
11 lines in the towns or villages must be dealt with by the military police
12 or the civilian authorities.

13 JUDGE TRECHSEL: [Interpretation] On military maps, very often a
14 circle is drawn around a terrain which is the area of responsibility of a
15 commander. Are you saying that the commander of this area should only
16 deal with the front line and is not responsible in any way for what
17 happens in the rear?

18 THE WITNESS: [Interpretation] A military commander is only
19 responsible for the front line, because let me repeat, behind the front
20 line it is the military police and the civilian authorities that are
21 responsible.

22 JUDGE TRECHSEL: [Interpretation] You said a while ago, General,
23 that if you were a commander and if crimes were committed by soldiers,
24 you would have these men arrested. To me, there is a contradiction here.

25 If this has nothing to do with the commander, why would the commander

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1 deal with such a situation? He would let the military police deal with
2 it, because this does not seem to be what you are telling us. It doesn't
3 seem to be your view here.

4 THE WITNESS: [Interpretation] When I said that I would arrest the
5 military who have committed crimes, this means that these men moved
6 towards the front line or came back from the front line and went home.
7 So long as they're not at home, it is for the commander to make sure that
8 everything is working out properly. And if they are at home and if they
9 are armed, then it is for the military police and the civilian
10 authorities to take over.

11 JUDGE TRECHSEL: [Interpretation] I must say I don't find your
12 answer very convincing. I shall not take it any further.

13 JUDGE ANTONETTI: [Interpretation] General, you have told us that
14 you exercised your command in Algeria. I'm trying to establish a
15 comparison to try to understand clearly what you have said given that
16 there is something a little bit unclear.

17 When you were in Algeria, when soldiers committed offences, when
18 French soldiers committed offences, was it for the commander to arrest
19 these men, or was it for the military police - in that case it must have
20 been the gendarmerie - and the civilian authorities to do this?

21 THE WITNESS: [Interpretation] During the war in Algeria, it was
22 maintaining law and order that we were involved in, and in all the units
23 on the ground, there were the gendarme who are entitled to act and deal

24 with both the military police and the civilians. In cases where people
25 may -- when outlaws were taken prisoner, as we called them then, or

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1 civilians, the gendarme then moved in, i.e., the military police, then
2 dealt with these men.

3 JUDGE ANTONETTI: [Interpretation] In the case we will have to try
4 and in this case which we will have to deliberate on is an important
5 issue of the role of the military commander.

6 Now, if we take the case where you -- there is a front line,
7 which you have just explained to us. So there are HVO soldiers on the
8 front line, but let's say this is an area in which there are civilians,
9 and these civilians are victims, are the subject of offences or crimes.
10 Let's assume that civilians are 4 to 5 kilometres away from the front
11 line and that soldiers going to the front line then rob the civilians on
12 their way to the front line. The military commander who hears of that,
13 well, is he responsible for this? Should he arrest these men and
14 prosecute these men, or should he inform the military police, the real
15 military police, as you say, so that it can conduct an investigation?
16 Must he inform the civilian police or the civilian prosecutor of the
17 locality in question, or the military prosecutor who may refer it to an
18 investigating judge? What should a military commander actually do?

19 THE WITNESS: [Interpretation] A military commander must call the
20 military police and ask it to investigate the matter. The military
21 police would then refer it to the civilian authorities depending on the
22 situation -- depending on the situation. Whether this leads to anything,

23 we don't know, but the commander must refer all these cases to the
24 military police.

25 JUDGE ANTONETTI: [Interpretation] My last question. In this

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1 situation you experienced since you were on the ground, when a Muslim
2 civilian, or a Serb civilian, to be precise, was the victim of acts
3 committed by your own soldiers, what were you to do?

4 THE WITNESS: [Interpretation] I had to act immediately to stop
5 this from happening and to call the military police to refer these cases
6 to them.

7 JUDGE ANTONETTI: [Interpretation] That is the rule.

8 THE WITNESS: [Interpretation] That is the rule.

9 JUDGE ANTONETTI: [Interpretation] And if a military commander
10 doesn't do this?

11 THE WITNESS: [Interpretation] In that case, he is a culprit since
12 he has not called the police who are in charge of these matters. That
13 means he has hidden something.

14 JUDGE ANTONETTI: [Interpretation] In the case when a military
15 commander knows that an offence has been committed, but he believes or he
16 has some idea that the SIS or the military police is going to handle
17 that, in that case the military commander does nothing and continues
18 business as usual even if he assumes that the SIS or the military police
19 or the civilian police is going to do something about it. Should he not
20 make sure that something is being done about it?

21 THE WITNESS: [Interpretation] He should. It's important to check

22 this and to check what is going to happen after that, because after all,
23 it is his soldiers who have committed these offences.

24 JUDGE ANTONETTI: [Interpretation] So the military commander must
25 check and understand what the follow-up to it is.

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1 THE WITNESS: [Interpretation] He should at least be informed
2 about what happens after.

3 JUDGE ANTONETTI: [Interpretation] In my mind your answers are
4 very clear. I don't see what other questions I could put to you.

5 Let me remind the Praljak Defence that you have five minutes
6 left. General Praljak, you have five minutes to put your questions to
7 General Skender.

8 Examination by Mr. Praljak:

9 Q. [Interpretation] Good afternoon, General Skender.

10 A. Good afternoon.

11 Q. Just a few questions. From the moment you arrived in
12 Herzegovina, at least until I didn't go, did you see or take part in any
13 offensive plan, the elaboration of any offensive plan either vis-a-vis
14 the BH Army or the Army of Republika Srpska, or do you think that
15 throughout the time we were on the defensive?

16 A. As far as I know, we were always on the defensive, at least as
17 far as the southern front is concerned. The only offensive operations
18 were planned in January 1994.

19 Q. Thank you. My second question: You moved around nonstop. Did
20 you ever see with your own eyes any one of your soldiers, except for the

21 violence against you, but did you see, not that you were informed but you
22 saw with your very own eyes anybody rape, kill, set fire to, or in any
23 other way violate any international rules and regulations on warfare?

24 A. No.

25 Q. Can we then conclude that this information always reached you

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1 subsequently from certain sources? Some -- one wrote a report, someone
2 provided information, that kind of thing?

3 JUDGE TRECHSEL: I'm sorry, Mr. Praljak. This is not a correct
4 question, because you have not -- first you must ask whether there were
5 such informations, and then you can ask where they come from.

6 THE ACCUSED PRALJAK: [Interpretation] Well, Judge Trechsel, we
7 know that there was information like that. Information did come in of
8 that kind.

9 Q. Anyway, did you in one way or another -- or let me ask you, how
10 many times did you receive an official piece of information that
11 such-and-such a soldier at such-and-such a police at such-and-such a time
12 committed some violation of the international -- of international war
13 law? Throughout the time you were -- that you were there, did you ever
14 receive a report like that, a piece of paper to that effect?

15 A. Never.

16 JUDGE ANTONETTI: [Interpretation] A follow-up question. I
17 believe unless I'm wrong, and if I'm wrong please tell me so, I think
18 that your former comrades of the Foreign Legion were in Vares. Right or
19 wrong?

20 THE WITNESS: [Interpretation] I don't know if they were in Vares.
21 However, I know that they were in the Croatian Army, under the command of
22 Filipovic.

23 JUDGE ANTONETTI: [Interpretation] Very well. But I'm talking
24 about the legionnaires who were part of the UNPROFOR, of the United
25 Nations forces. Were you in contact with the UNPROFOR? Did you have any

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1 contact with them?

2 THE WITNESS: [Interpretation] Yes.

3 JUDGE ANTONETTI: [Interpretation] And as General Praljak was
4 saying earlier, did these people tell you, "We've heard about this or
5 that, this problem, this abuse that had been committed here, this crime
6 committed here or there"? Maybe hearsay only, but did they relay the
7 information to you? And then what did you say?

8 THE WITNESS: [Interpretation] They never put this question to me,
9 but let me give you an example. During the offensive in January 1994,
10 during the combats a captain visited me. It was a friend of mine. I
11 knew him. We'd been lieutenants together, and he asked me whether he
12 could visit Here combat zone. I said -- told him that he could, and I
13 even provided him with an escort so that he could see exactly this place
14 where the combat was occurring.

15 JUDGE ANTONETTI: [Interpretation] Very well.

16 Mr. Praljak.

17 MR. PRALJAK: [Interpretation]

18 Q. From of what you've said, General Skender, may we conclude -- or,

19 rather, tell me did you ever, while you were in the HVO, receive
20 information -- were you given information, did you have it in your hands,
21 in which you had exact information, exact data, about somebody at a
22 specific time in a specific place having committed violations which go
23 against the rules of warfare? Did you have a report like that in your
24 hands, and then did you say, "Act in such-and-such a way," according to
25 the rules of service? Were you ever handed a report like that?

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1 A. I never had any written document to this effect.

2 Q. I mean a document which your subordinates would hand to you on
3 the basis of which you could act. Did you ever receive a document of
4 that kind?

5 A. Never.

6 Q. And my last question, General Skender. In view of the overall
7 situation which you were very well acquainted with, tell me this, please,
8 regardless of my military knowledge, would my commanding from the Main
9 Staff, given the situation that we had, would it have succeeded in
10 defending us from the Muslim offensive, or was it necessary to be on the
11 spot, in the exact location to prevent a defeat -- our defeat by -- from
12 the BH Army?

13 A. I think that given that you're on -- that when you were on the
14 field it improved our effectiveness both in attack as well as defence.

15 Q. And just my last question. When you were the commander of the
16 operative zone, you had a car. Now, did you have a radio station in the
17 car, or whatever, which enabled you to communicate directly with your

18 operations officer in the zone or when we were dealing with the problem
19 in Rama, for example, during those 48 hours, did you receive information
20 as to what was going on in the -- on the Livanj battlefield facing the
21 Army of Republika Srpska?

22 A. No. Every -- every time I went on the terrain with my SUV,
23 my 4X4, I had no connection until I reached a place where the connection
24 could be set up, either through a land-line or through the portable radio
25 sets we had. But you know that these radio sets don't have a very large

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1 range.

2 Q. [Previous translation continues] ... Motorolas? Do you remember
3 whether there were any Motorolas?

4 A. These were Motorolas, but encrypted [as interpreted].

5 Q. That's right. Thank you, General Skender, for coming, and for
6 answering my questions.

7 And thank you, too, Your Honours.

8 JUDGE TRECHSEL: I'm sorry, there is I think a mistake in the
9 transcript. It says on line 16 of page 56, these were Motorolas, but
10 encrypted, and I thought that the witness said the opposite, namely that
11 they were open, they could be listened to by anyone. Maybe I
12 misunderstood.

13 THE WITNESS: [Interpretation] No, you're right. You're right.
14 There were two types of Motorolas, scrambled ones, encrypted, and the
15 normal Motorolas, but not everyone had a Motorola, those encrypted
16 Motorolas.

17 JUDGE TRECHSEL: [Interpretation] Thank you.

18 JUDGE ANTONETTI: [Interpretation] Ms. Nozica.

19 MS. NOZICA: [Interpretation] Good afternoon, Your Honours.

20 Cross-examination by Ms. Nozica:

21 Q. [Interpretation] Good afternoon, Mr. Skender.

22 MS. NOZICA: [Interpretation] Could my binders be distributed,
23 please.

24 Q. Now, Mr. Skender, we met during the proofing session; right? And
25 we discussed the documents that I'm going to put before you now, but I'd

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1 just like to go back for a moment to a question that General Praljak
2 asked you about what kind of information you received from the ground,
3 from the field, and can -- am I correct in saying that the only written
4 information was received from about the 20th of December, 1993, when you
5 became the commander of the military district of Tomislavgrad? Would
6 that be correct? Is that the period you meant?

7 A. Yes. Before that period of time I had no command authority and
8 no one was dealing with me.

9 Q. Mr. Skender, I'm going to ask you now to take a look at my
10 binder, the pink one, and -- open it and look at the first document. You
11 have it in front of you, and it's a report, your report, and I'm sure
12 you'll recognise it. And the number of that report is 2D3045.

13 A. Okay.

14 Q. I'll just say briefly that this is a report on combat readiness,
15 that's the title, of the Tomislavgrad Military District, and your

16 signature is on the first page. The date is the 24th of February, 1994,
17 and it is being sent to the HVO Main Staff of Posusje to the commander
18 personally.

19 Now, Mr. Skender, we have your signature on your first page, and
20 during the proofing session I showed you this report. Now, can you then
21 confirm that it is indeed a report which you compiled -- or let me ask
22 you first, did you sign it? Is that your signature?

23 A. Yes, I signed this report, but it was drafted by the officers in
24 charge of their areas, by each of the officers in charge of their areas.

25 Q. Mr. Skender, were they your assistants for the individual areas

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1 within the frameworks of the operative zone -- or, rather, in the
2 Tomislavgrad Military District?

3 A. Yes, these were officers of my staff, of the Tomislavgrad
4 Operational Zone.

5 Q. It's been a long time, Mr. Skender, many years since this report
6 was drafted, but you have seen it, and you had a chance to read through
7 it in detail during the proofing session. So can you now remember and
8 tell us whether you had an insight into the situation as it is described
9 and written down in this report, and do you today confirm that that was
10 what the situation was like as it is presented here?

11 THE INTERPRETER: Could counsel adjust her microphone, please,
12 and speak into it. Thank you.

13 THE WITNESS: [Interpretation] Yes. The situation was as it is
14 presented in this report.

15 MS. NOZICA: [Interpretation]

16 Q. Mr. Skender, I'm going to ask you now -- well, I'll try and get
17 through this as quickly as possible, get through the report, focusing on
18 parts of your statement and your testimony here today and your answers to
19 some of the questions you were asked during the examination-in-chief.
20 For us to do so, let's turn to page 2. It's 2 in the Croatian, and it
21 has a number 1 at the top. So all those looking at the English
22 translation, I'd like to draw your attention to the numbers at the top of
23 each page.

24 Under number 1, this is what it says in the report, Mr. Skender:

25 "The training and qualification at all layers of command and

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1 control is not at the required level for successfully carrying out combat
2 activities. The reasons are generally known: due to a deficiency of
3 educated staff, regular soldiers have been assigned to the aforementioned
4 commanding positions -- or, rather, to formational commanding positions,
5 to formational commanding positions of squads as well as establishment
6 positions and posts in the commands of the brigades and military
7 districts.

8 "There are few former JNA officers, reserve officers and
9 non-commissioned officers occupying commanding positions."

10 Mr. Skender, does that part of your report in fact reflect the
11 situation with the command staff at the -- in the HVO at this time, which
12 is February 1994?

13 A. I can't say what was happening at the command of the HVO, but

14 there were problems with the commanding officers, including commanding
15 officers in my own operational zone. There were people who had received
16 no military training at all but who were appointed just because no one
17 else volunteered for the position.

18 Q. Mr. Skender, you therefore confirm that that's what the situation
19 was like on the territory on which you were the commander, that is to say
20 the Tomislavgrad Military District, but what I want to ask you is about
21 the period before, when you travelled the HZ HB, did you come across
22 similar situations in other areas where you travelled? And I'm referring
23 to the Croatian Community of Herceg-Bosna, and from July -- you were
24 there from July 1993, and you moved around this general area.

25 A. This same situation prevailed elsewhere, if not worse.

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1 Q. I'd like to ask you now, on that same page, before we come to the
2 section titled "Conclusion," to look at the fourth line in the previous
3 paragraph, and you are listing some of the main problems in the military
4 district, and you say units are not up to strength, and even without the
5 necessary weapons and ammunition, winter clothing, artillery support,
6 communication equipment.

7 Now, on page 17, lines 3 to 6, you said that the situation was
8 catastrophic and that the units were not supplied well enough, didn't
9 have the necessary resources.

10 Now, could you explain to the Trial Chamber what this 1BK means
11 and why it says here: "Even without 1BK." What is this BK that you're
12 referring to?

13 A. BK is equipment, is the number of ammunition per man. Each man
14 is supposed to have a number of rounds for his assault rifle. It's a
15 standard issue. If he don't have the standard issue, he must be
16 resupplied, and it could be a problem, of course, because he's coming to
17 the front and he's -- to the front line. If he's coming without any
18 rounds in his -- for his assault rifle, there's going to be a problem.

19 Q. Mr. Skender, can you tell the Trial Chamber whether there were
20 any standards in place in the army or in armies, the armies that you were
21 in, generally speaking, standards, well-known standards, on how many
22 combat sets were necessary when an offensive was under way or when some
23 military action was under way? Is there any difference between how many
24 combat sets you need when you're on the defensive and how many combat
25 sets you would need when you were on the offensive?

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1 A. In each army there's a standard issue per weapon. For the French
2 Army, for example, it's a hundred rounds for an assault rifle. But when
3 you are in an offensive operation or even sometimes a defensive
4 operation, each man may receive one or two additional standard issues, as
5 far as rounds are concerned, to make sure that the combat can continue,
6 because the main problem during combat is the logistics. Once the
7 combat's under way, if soldiers run out of rounds they need to be
8 resupplied and that takes time. After that, it's too late.

9 Q. Yes, that's why I was asking you, because of the standards. And
10 from your report, what happens is that your soldiers would turn up
11 without a single combat set. You didn't have it at your disposal. You

12 didn't have these combat sets or weapons at your disposal.

13 A. Yes. Often soldiers would arrive with a weapon but no
14 ammunitions, which is proof once again of the very poor command of this
15 unit. Any commander who hasn't checked beforehand that the soldier is
16 fully equipped with clothes -- clothing and ammunitions before sending
17 him to the front, I mean is responsible for this very poor situation.

18 JUDGE ANTONETTI: [Interpretation] Let me take the opportunity of
19 this question to ask you a follow-up question. It's absolutely
20 essential, as far as I'm concerned anyway.

21 You just told us that the soldiers were arriving with a rifle but
22 no rounds for their rifle and so forth and so on. So let's start from
23 this: When you were in command, when offensives were under way or
24 possibly defensive operations were under way but had already been planned
25 because you knew that the others were going to attack, could you tell us

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1 whether automatically a written order is issued, written order which is
2 sent throughout the chain of command to say at this day, this hour, this
3 area, this operational zone there's going to be an attack. This is what
4 is required, with a list.

5 I would like to know whether each operation is accompanied by a
6 written order.

7 THE WITNESS: [Interpretation] Yes. You need a written order,
8 because -- you need that to get the ammunitions.

9 JUDGE ANTONETTI: [Interpretation] That is the military rule
10 throughout the world, but I would like to know whether this military rule

11 applied also to the HVO.

12 THE WITNESS: [Interpretation] Well, it's true that in the HVO
13 many things happened just with verbal orders only.

14 JUDGE ANTONETTI: [Interpretation] Were there military operations
15 conducted with only verbal orders?

16 THE WITNESS: [Interpretation] No. There's always been a written
17 order.

18 JUDGE ANTONETTI: [Interpretation] Ms. Nozica, you have 15 minutes
19 before we are finished.

20 MS. NOZICA: [Interpretation] Yes. Thank you, Your Honour. If I
21 don't get through all my questions, I would like to carry on on Monday.

22 Now, I'd just like to put something right. Ms. Alaburic drew my
23 attention to it. On page 61, line 17, it says about this combat set that
24 we're talking about "standard issue" and it should say "combat set."
25 "Combat set" is the term that we see in this document.

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1 Q. Now, you said a moment ago, Mr. Skender, that if there wasn't --
2 weren't enough weapons -- if an army didn't have enough weapons up at the
3 front line that this was one of the problems of command and that the
4 commander should check this out and verify if they had everything they
5 needed, but can you tell us whether you know -- whether there exist --
6 whether there was enough ammunition and weapons generally in the HVO
7 HZ HB logistics for each commander to be able to receive as much weapons
8 and ammunition as his men needed?

9 A. The HVO had enough ammunition for the assault rifles. If men

10 arrived at the front line without any ammunition, it was because they had
11 left the ammunitions home, and their direct commander didn't check that
12 they had their ammunitions with them. There was hardly any control.
13 When men left the combat zone, there was no check as to whether -- how
14 many ammunitions left the zone. And there were hardly any checks either
15 on the incoming ammunitions.

16 Q. Mr. Skender, we'll look through the documents and see if that was
17 the actual situation as you saw it, but let's take this step-by-step.
18 Staying with the report, let's look at page 4.

19 Page 4 the last paragraph it says:

20 "The average number of men in the units does not exceed 30
21 per cent in any of the units."

22 Can you confirm that that was what the situation was at the time?

23 "The average strength of the military occupational specialties in
24 the units does not exceed 30 per cent."

25 Is that how it was in Tomislavgrad?

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1 A. It doesn't have anything to do with the number of men, but there
2 are speciality. In other words, there was only 30 per cent of the men
3 that had the required speciality in a particular unit.

4 Q. Yes. Yes, that's what I had in mind. Now, moving on to the
5 following page, page 5, let's see what the establishment strength was of
6 the units. And we have a table there where we see the number of
7 officers, the establishment strength, the actual strength, and the
8 percentage. And can you explain what this means to the Trial Chamber?

9 What does all this mean?

10 A. There is in any army an allowance for the officers,
11 non-commissioned officers, and the military of that form a unit. An
12 allowance. That is the theory. In practice, we have the facts on the
13 ground. In other words, the unit is then supplemented by a given number
14 of officers, non-commissioned officers, and soldiers. This is how you
15 can work out the number or percentage of men in these units.

16 Q. Let's take a look at section 5, logistic support, and it says
17 there towards the end of the page:

18 "The electricity on the floor where logistics works fails as soon
19 as it starts to rain."

20 And there's another observation made there, "the ratio between
21 civilian structures and the command for the military district, which is
22 unbearable. The attitude of the civilian structures towards the command
23 of the ZP is unbearable."

24 Now, we saw that the building where the -- where logistics was
25 put up was not adequate or suitable, and then you say that the attitude

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1 of the civilian structures towards the command was unbearable.

2 Could you explain that, please? What did you mean by that?

3 A. You need to know that all commands, including mine, were
4 installed in civilian buildings. Mine was in a former factory, and these
5 buildings were often quite old buildings. Work needed to be done on
6 these buildings. Large-scale improvements needed to be made. For
7 instance, the logistics section was located in an area of a building

8 when -- where whenever it started raining they got wet. So that was an
9 inappropriate location to work in good conditions. It was too expensive
10 to repair, and since the state had no money, this did not get repaired.

11 Q. And tell me, Mr. Skender, why was this observation made about the
12 relationship with the civilian structures and the command, and it says
13 that they were unbearable. So can you think back and try and remember
14 why you wrote this and what the situation was like?

15 A. Yes, indeed, because every time the military settled somewhere,
16 we were in the way. That's the first thing. And secondly, it is true
17 that the military destroyed a lot of the equipment and the houses. So
18 the civilians were not too happy about that.

19 Q. I'd like to ask you to look at page 7 of this report of yours
20 now, please. And on that page you speak about the quartermaster's corps,
21 and I'd like to draw your attention to the food supply, and you say that
22 food supply is coming from Grude, from the central logistics base, the
23 SLOB. What was this SLOB Grude?

24 A. Yes, indeed. Grude was the logistics centre of the HVO.

25 Q. So it says here that the food was good and there was a variety

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1 but in insufficient quantities and that the percentage of delivered food
2 was just 80 per cent, which sometimes causes problems in its
3 distribution. Do you remember that and the problems that you faced?

4 A. Of course I remember, because my command and I, well, very often
5 we didn't have enough to eat.

6 Q. Now, going further down the page, we see that it says that beds

7 were urgently required in order to put up the soldiers, and then it says
8 at the end that certain responsibilities had to be fulfilled but they
9 didn't have the wherewithal; that is say, that the army didn't have
10 enough beds for the accommodation of soldiers.

11 A. That's right. There wasn't enough accommodation and beds were in
12 short supply, because there were a great number of units that weren't
13 properly accommodated. I asked for more beds, which is a prerequisite
14 for a soldier when he's not in the field.

15 JUDGE TRECHSEL: [Interpretation] I'm a little bit surprised about
16 this bed question, because we've been told at length several times that
17 the HVO soldiers were not usually in the barracks. They went home when
18 they weren't on the front line, and at home we can assume that they had
19 beds. So you are discussing a situation which seems to be different
20 here.

21 THE WITNESS: [Interpretation] Yes, Your Honour. We need to place
22 this in context.

23 We were located behind a mountain. There was only Prozor there
24 and the forest. The units that arrived on the front line comprise a set
25 number of soldiers, of reserve soldiers, that were not on the front line,

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1 and these had to be accommodated somewhere. They were not in a barracks
2 because there weren't any barracks. So it was important to find places.
3 In our case it was in a building, to find a place to stay for these
4 people.

5 JUDGE TRECHSEL: [Interpretation] Thank you.

6 MS. NOZICA: [Interpretation]

7 Q. Thank you. I'd like to ask you to ask you to look at the next
8 document now, please, which P1077, in the pink binder. It's the next
9 document. Have you found it? It's a document signed by
10 Mr. Bruno Stojic, and it is on an appointment. And I'd like to ask for
11 your comments, and at the beginning of your report -- well, when you
12 refer to your report, you say that -- that the establishment posts --
13 that there weren't trained cadres for the establishment posts and that
14 ordinary soldiers were assigned to those posts. So may we have your
15 comments on that?

16 A. This only confirms what I have said already. People were
17 appointed to a command post without any military knowledge whatsoever
18 that goes with it, either via of political collection -- connection. I
19 don't know. A corporal was, for instance, appointed commander of a
20 brigade.

21 Q. Mr. Skender, we're talking about the deputy commander here, not
22 the commander. It's the deputy commander who is mentioned here.

23 A. Yes. Assistant commander.

24 Q. And I consider this to be an important point, and I refer to what
25 you say in your report, because in your report you're not talking about

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1 private connections. In your report you say that the reasons for acting
2 in this way are common knowledge because there were no trained officers,
3 and that is why ordinary soldiers were appointed to establishment posts
4 of commanders and lance corporals and so on, that they were appointed to

5 these posts although they didn't have the necessary qualifications in
6 terms of establishment and rank. It should have been a colonel here,
7 whereas we see there was a reserve lance corporal assigned to the post.

8 Am I right when I say that?

9 A. Yes, indeed. He was appointed colonel and second in command, and
10 this was obvious in two ways. Either he got there through his
11 connections or there was nobody else to fill this position, which was
12 unfortunately quite often the case. So someone got appointed, someone
13 who had been chosen by the people in the brigade either because the
14 person was a pal or he was well-built or whatever.

15 JUDGE ANTONETTI: [Interpretation] Witness, we shall stop for
16 today. Ms. Nozica will resume on Monday, and on Monday Ms. Alaburic will
17 finish her cross-examination, and then the Prosecutor will cross-examine
18 you.

19 We shall meet again on Monday at a quarter past 2.00. In the
20 meantime, I wish everyone a pleasant evening.

21 --- Whereupon the hearing adjourned at 6.00 p.m.,
22 to be reconvened on Monday, the 28th day
23 of September, 2009, at 2.15 p.m.

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25