

1 Wednesday, 5 November 2008

2 [Appeals Hearing]

3 [Open session]

4 [The appellant entered court]

5 --- Upon commencing at 9.00 a.m.

6 JUDGE POCAR: Good morning, everybody. Madam Registrar, may I
7 ask you to call the case.

8 THE REGISTRAR: Good morning, Your Honours. Good morning
9 everyone in and around the courtroom. This is case number IT-00-39-A,
10 the Prosecutor versus Momcilo Krajisnik.

11 JUDGE POCAR: I thank you. May I ask Mr. Krajisnik if he can
12 hear me and follow the proceedings through the translation.

13 THE APPELLANT: [Interpretation] Yes, Your Honour.

14 JUDGE POCAR: Thank you. Now let me call for appearances. For
15 Mr. Krajisnik's counsel on the matter of JCE, please.

16 MR. N. DERSHOWITZ: Nathan Dershowitz --

17 THE INTERPRETER: Microphone, please.

18 MR. N. DERSHOWITZ: Nathan Dershowitz.

19 JUDGE POCAR: I thank you. And for the Prosecution, please.

20 MR. KREMER: Yes, Mr. President. Peter Kremer appearing with
21 Julian Nicholls, Mr. Alan Tieger, and our case manager this morning is
22 Mr. Iain Reid.

23 JUDGE POCAR: Thank you. For the amicus curiae.

24 MR. C. NICHOLLS: Colin Nicholls appearing with Michelle Butler.

25 JUDGE POCAR: Today we resume the evidentiary hearing on appeal

1 in the case of the Prosecutor against Momcilo Krajisnik. At the outset,
2 you recall that Monday the Prosecutor inquired about a word limit for the
3 supplemental briefs. The parties and the amicus curiae are allowed to
4 file on any impact of exhibits AD1 and AD2, the rebuttal evidence and the
5 viva voce evidence of Mr. Mano and Mr. Karganovic, and on any impact on
6 Mr. Karadzic's testimony during today's hearing.

7 As both supplemental briefs are due on 14 November 2008, the
8 Appeals Chamber had decided that they be filed in a consolidated filing,
9 which shall not exceed 7.500 words.

10 Now, the purpose of today's hearing is to hear the testimony of
11 Radovan Karadzic, who has been admitted as a witness under Rule 115 of
12 the Rules in the Appeals Chamber's decision of 16 October 2008.

13 On 31st October 2008, Mr. Krajisnik filed a summary of facts on
14 which Mr. Karadzic will testify during today's hearing.

15 On 3 November 2008, Mr. Krajisnik requested the Appeals Chamber
16 to admit into evidence, pursuant to Rule 92 ter of the Rules, a written
17 statement of Mr. Karadzic, which is identical to the summary of facts
18 filed on 31st October 2008 except for one deletion. On the same day, the
19 Appeals Chamber decided that this written statement should be admitted
20 under Rule 92 ter of the Rules at today's hearing provided that the
21 requirements set forth in Rule 92 ter are met, that is, that Mr. Karadzic
22 is present and is available for cross-examination and other questioning
23 by the Judges, and will attest that the written judgement -- the written
24 statement accurately reflects his declaration and what he would say if
25 examined.

1 THE WITNESS: [Interpretation] Yes.

2 JUDGE POCAR: Thank you. Could you now please read the solemn
3 declaration given to you by the usher.

4 THE WITNESS: [Interpretation] I solemnly declare that I will
5 speak the truth, the whole truth, and nothing but the truth.

6 JUDGE POCAR: Thank you. You may now be seated.

7 Could you please tell the Court your full name and date of birth.

8 THE WITNESS: [Interpretation] Radovan Karadzic, the 19th of June,
9 1945.

10 JUDGE POCAR: Thank you, Mr. Karadzic. Before we begin, I noted
11 on 23rd October 2008 the registrar assigned Mr. Peter Robinson as your
12 counsel for the purposes of this evidentiary hearing. May I please ask
13 counsel for Mr. Karadzic for his appearance.

14 MR. ROBINSON: Yes, thank you, Mr. President. Good morning and
15 good morning to members of the Appeals Chamber. I'm Peter Robinson,
16 counsel for President Karadzic. Thank you.

17 JUDGE POCAR: Thank you. I would like to inform you,
18 Mr. Robinson, that, as is usual practice, you may make interventions
19 concerning your client's rights but not in relation to the factual basis
20 on his testimony.

21 Now, Mr. Karadzic, you have been summoned to testify in the
22 appeal proceedings in the case of the Prosecutor against
23 Momcilo Krajisnik. You have prepared a written statement, and the
24 appellant will ask you in a moment whether this accurately reflects what
25 you said and what you would say if examined. Afterwards, the Prosecution

1 will pose its questions to you, and then you will be re-examined by
2 Mr. Krajisnik or his counsel on the matter of JCE. Please also note that
3 the Judges may ask you questions at any point of this hearing.

4 Now I want to add this: Given that you are an accused person
5 before this Tribunal, I have to alert you that you have the right to
6 remain silent if you feel at any time that the questions asked of you may
7 require you to give information that may incriminate you. In such
8 instances, irrespective of who is asking you the question, you have a
9 right to ask the Appeals Chamber to exempt you from answering such
10 questions.

11 Do you understand this advice that I have just explained?

12 THE WITNESS: [Interpretation] Yes, and I would rely on my counsel
13 for that and his advice.

14 JUDGE POCAR: Thank you. There is one more thing I need to
15 mention. You are currently detained in the UN Detention Unit together
16 with the appellant, Mr. Momcilo Krajisnik. Therefore, the Registrar was
17 directed to order your segregation from Mr. Krajisnik for the duration of
18 your testimony here, after which the segregation will stop. The Chamber
19 has been informed by the Registry that this segregation is being carried
20 out today. Are you aware of this segregation, and if so, do you
21 understand the meaning of this segregation?

22 THE WITNESS: [Interpretation] Yes, fully.

23 JUDGE POCAR: Thank you. Well, I now will give the floor to the
24 Defence for Mr. Momcilo Krajisnik.

25 Examination by Mr. Krajisnik:

1 Q. [Interpretation] Good morning, Mr. Karadzic. My first question
2 has to do with procedure. You have before you the statement signed, so
3 my first question is: Is that indeed your statement?

4 A. May I just receive that statement, please. Yes, that is my
5 statement.

6 Q. Can you attest to the Trial Chamber that that statement is
7 accurate and that it accurately reflects what you would say here in court
8 were you to testify?

9 A. Yes, fully.

10 Q. My third question is this: Do you agree to place yourself at the
11 disposal of the Prosecution today for a cross-examination, and would you
12 allow the Trial Chamber to ask you additional questions and indeed
13 anybody else who has the right by procedure to ask you questions?

14 A. Yes.

15 MR. KRAJISNIK: [Interpretation] Your Honours, I hope I have
16 fulfilled my procedural obligation and that the proceedings can continue.
17 Thank you.

18 JUDGE POCAR: I thank you, Mr. Krajisnik.

19 I believe now we can ask the Prosecutor to start the
20 cross-examination.

21 MR. TIEGER: Thank you, Mr. President, Your Honours. Good
22 morning.

23 Cross-examination by Mr. Tieger:

24 Q. Good morning, Mr. Karadzic.

25 A. Good morning.

1 Q. Mr. Karadzic, your statement at page 12 asserts that the
2 Bosnian Serb leadership had no policy of ethnic separation. During the
3 course of the trial, over 31 months, there was a great deal of evidence
4 adduced that in many, many municipalities within Republika Srpska or the
5 areas claimed by Republika Srpska in 1992 that the forces of the army of
6 Republika Srpska, the VRS, and the Ministry of the Interior, the MUP,
7 forcibly transferred, detained on a massive scale under inhumane
8 conditions, murdered, exterminated Bosnian Muslims and Croats.

9 My question is: Do you deny that those crimes took place,
10 acknowledge that those crimes took place, or assert that you do not know?

11 MR. ROBINSON: Excuse me, Mr. President. I would like to make an
12 intervention at this time and ask you to exempt Mr. Karadzic from
13 answering that question, and if I may make a brief submission on that
14 point.

15 Mr. Karadzic is here to testify to the involvement of
16 Mr. Krajisnik in the various organs as set forth in his statement, and as
17 you know, he has his own trial yet to face at which the issues
18 encompassed by Mr. Tieger's question will be fully explored, but this is
19 not the time and place for that.

20 Under Rule 90(H), you have the discretion to control the
21 proceedings by requiring only questions to be answered relevant to the
22 case being heard before the Appeals Chamber, and initially, I simply ask
23 you to exercise your discretion under Rule 90(H) and exempt Mr. Karadzic
24 from answering that question.

25 In the event that the Chamber is not willing to do that, then we

1 will invoke another provision of Rule 90. Thank you very much.

2 [Trial Chamber confers]

3 JUDGE POCAR: I consulted my colleagues. You're exempt from
4 answering this question.

5 MR. TIEGER:

6 Q. Mr. Karadzic, your statement asserts that the A and B variants
7 document, as you called it, which is P64A, tab 390, in evidence, was an
8 ordinary pamphlet drafted by mostly elderly men, had essentially nothing
9 to do with the SDS and that the SDS never attempted to implement it.

10 Now, first of all, P64A, tab 390, the A and B document, is
11 formally entitled, "The instructions for the organisation and operation
12 of organs of the Serbian people in Bosnia and Herzegovina in emergency
13 conditions." It's dated 19 December 1991 and is headed "Serbian
14 Democratic Party, SDS, of Bosnia and Herzegovina, Main Board." And as I
15 think you alluded to in your statement, at least by the description, it's
16 a document that contains two variants, A and B, representing
17 municipalities in which Serbs were a majority and municipalities in which
18 Serbs were a minority, and two levels or stages of activation.

19 Now, with respect to your assertion that this was a pamphlet
20 prepared by elderly men with nothing to do with the SDS, let me direct
21 your attention to some of the evidence in this case and ask if you
22 acknowledge that or deny that or are unaware of it.

23 P529, tab 49, was a statement at the 50th session of the
24 Bosnian Serb Assembly in April 1995, made by you, Dr. Karadzic, as
25 follows: "At the moment the war began in the municipalities where we

1 were in the majority, we had municipal power, held it firmly, controlled
2 everything. In the municipalities where we were in the minority, we set
3 up secret government, Municipal Boards, Municipal Assemblies, presidents
4 of executive boards. You will remember the A and B variants. In the B
5 variant where we were in the minority, 20 per cent, 15 per cent, we set
6 up a government and a brigade, a unit, no matter what size, but there was
7 a detachment with a commander. Distribution of weapons was carried out
8 thanks to the JNA," and so on.

9 Mr. Karadzic, do you acknowledge that you said that? Do you deny
10 that you said that, or do you not recall?

11 MR. ROBINSON: Excuse me, Mr. President. Again I'm going to ask
12 you under Rule 90(H) to except Mr. Karadzic from answering that question
13 because, again, he's here to help the Appeals Chamber clarify the role of
14 Mr. Krajisnik, and bearing in mind that he has his own case in which
15 these statements and issues will be aired, we would ask you that you
16 exercise your discretion and exempt him from answering the question.
17 Thank you.

18 [Trial Chamber confers]

19 JUDGE POCAR: Again, Mr. Tieger, I consulted my colleagues, and
20 we are of the view that Mr. Karadzic should be exempted from the
21 question.

22 MR. TIEGER: Your Honour --

23 JUDGE POCAR: You should explain which these questions relate to
24 the position of Mr. Krajisnik.

25 MR. TIEGER: Your Honours, this goes to --

1 JUDGE POCAR: And not of the accused himself -- the witness
2 himself as an accused.

3 MR. TIEGER: Your Honour, as it was made clear during the course
4 of the trial, the accused and Mr. Krajisnik walked hand-in-hand through
5 the process of the establishment of the structures, the implementation of
6 the policies, and the pursuit of the objectives. Every question related
7 to this witness's credibility will necessarily touch upon the issues in
8 his statement. It's Mr. Karadzic in his statement who raised the
9 question of Variant A and B, not the Prosecution, who asserted a position
10 with respect to that document. Surely the Prosecution is entitled to
11 confront him with evidence in the case that it asserts is incompatible,
12 inconsistent, and belies the statement -- or the assertions made in his
13 statement. It's a classic confrontation on a credibility issue, and
14 the -- I don't believe that the witness should be entitled to proffer a
15 statement to the Court to tell the Court, "This is what I say happened,"
16 and then turn around and hide behind an assertion of self-incrimination
17 after he's just fundamentally waived that by making the very assertion in
18 his statement. He's the one who said, "This is the nature of this
19 document." Surely the Prosecution is entitled to confront him with
20 evidence to the contrary.

21 JUDGE POCAR: Can you give us the exact reference in the
22 statement?

23 MR. TIEGER: It's on page 13, Your Honour. And it would begin
24 with the third paragraph under the heading on that page.

25 [Trial Chamber confers]

1 JUDGE POCAR: Mr. Tieger, we considered your submission, but the
2 question, the way you put it may be taken as extracting information that
3 may be self-incriminating. So if the -- if the witness invokes that
4 point, that reason I think he should be exempted.

5 MR. TIEGER: First of all, Your Honour, I believe the invocation
6 was to 90(H) on relevance. I think it's clear that this question is
7 relevant. So if that is the basis for the invocation, I would ask the
8 Court to overrule it.

9 JUDGE POCAR: Mr. Robinson. I heard Mr. Robinson invoking the
10 two reasons, although one as the second one.

11 MR. ROBINSON: Yes, I was invoking first your discretion under
12 Rule 90(H). In the event that you feel this is something you would like
13 to hear, then we would be invoking Mr. Karadzic's rights under
14 Article 21(4)(g), that evidence not be used against him, and under
15 Rule 90(E). And when you're confronting him with a prior statement, just
16 acknowledging the prior statement itself can be used against him in his
17 trial and relieve the Prosecution of the burden of establishing that, and
18 therefore, we ask that he be exempted if not under 90(H), then these
19 other Rules and Articles. Thank you.

20 JUDGE POCAR: So I correctly interpreted your submission. Thank
21 you.

22 Please continue, Mr. Tieger.

23 MR. TIEGER:

24 Q. Mr. Karadzic, please tell the Trial Chamber whether you are aware
25 if anyone in the Bosnian Serb leadership or during the course of Assembly

1 sessions, municipal and Executive Board sessions, deputies club sessions
2 which you attended invoked Variant A -- the Variant A and B document and
3 mentioned the Variant A and B document.

4 MR. N. DERSHOWITZ: Your Honour, if I -- if I may. Solely in
5 terms of JCE and the thrust of the assertion, I would object to questions
6 unless there's some indication that Mr. Krajisnik was present or had any
7 knowledge or involvement or anything else, but to the extent that it
8 deals solely with events that have no connection to this defendant and
9 the charges against him and the JCE elements, I would object to them.

10 And then I have an inquiry, and my only inquiry is I will try to
11 object solely in terms of JCE. I just wanted to confirm that that's my
12 role not to object any broader than that.

13 MR. TIEGER: Your Honour, if I may --

14 JUDGE POCAR: Mr. Dershowitz, I believe the question as it has
15 been put can be put, actually, and we can't -- depends on the line of
16 questioning that the Prosecutor's intending follow. I mean, this maybe
17 relevant for -- in light of the line of questioning the Prosecution is
18 taking. So I believe the question should be admitted.

19 Please, Mr. Karadzic, you can -- if you can answer the question.

20 THE WITNESS: [Interpretation] In order for the full truth to come
21 out, I have to expand my answer a little bit. Although my Defence
22 counsel has advised me not to answer that question, it is true that this
23 is not a document originating from the Serbian Democratic Party. It is
24 true that the officers, when they -- when their apartments were being put
25 on the list and they -- their lives came into danger, they came closer to

1 the positions of the SDS and --

2 MR. TIEGER: Your Honour, may I object. May I object, please.

3 Excuse me, Mr. Karadzic. I'm sorry to interrupt but I'm trying to ...

4 It's clearly not a platform for the witness to provide
5 information that he may, at the moment, deem of interest. Questions are
6 being put to the witness. I would ask that he answer it.

7 MR. ROBINSON: Excuse me, Mr. President. I believe that the
8 witness ought to be able to make a complete answer to the questions that
9 are being put to him. Thank you.

10 MR. TIEGER: Your Honour, that's not an answer, it's a filibuster
11 and there is no answer to the question. The Prosecution has 90 minutes
12 to pursue its examination. I'm trying to present the Court with as much
13 relevant evidence as possible, and I would ask that the witness simply
14 answer the question.

15 JUDGE POCAR: Yes. Please, Mr. Karadzic, just answer the
16 questions that are put to you.

17 THE WITNESS: [Interpretation] Could you please repeat your
18 question.

19 MR. TIEGER:

20 Q. Mr. Karadzic, the question was: At any of the deputies club
21 sessions, Assembly sessions, meetings of the Municipal and Executive
22 Board members, party gatherings, did you hear members of the Bosnian Serb
23 leadership or members of those gatherings refer to or invoke the A and B
24 document?

25 A. Yes. It's possible that that was the case, but that was not a

1 party document. That was a document that we did not have any right to
2 keep confidential, so we circulated it.

3 Q. And when you say, "We circulated it," who circulated it and when
4 was it circulated?

5 A. It was passed -- it was actually brought to a meeting of the
6 Serbian Democratic Party and I asked someone to provide explanations.
7 They did not want to provide a statement of reasons. We did not have
8 time to discuss it and to adopt it. We simply circulated it because we
9 did not have the right to conceal from the people something that might
10 have a bearing on the defence of the people.

11 Q. And did any Bosnian Serb leader advise members of the party at
12 any gathering to implement the document, either stage 1 or stage 2?

13 A. Well, I don't have the document here before me, so I don't know
14 what stages 1 or 2 would entail, but it is quite possible that at the
15 time when war was looming, it is possible that a recommendation was made
16 for the material that had been studied by the military circles, by the --
17 all the officers to be taken into account. Naturally had the war not
18 occurred, it would make no sense had the conference on the reorganisation
19 of Bosnia succeeded, had everyone accepted the Lisbon Agreement as we
20 had, then it would all have been moot.

21 Q. That wasn't my question, Mr. Karadzic, and I believe you know it.
22 The question is whether any member of the Bosnian Serb leadership told
23 the party members to implement stage 1 or stage 2.

24 MR. ROBINSON: Excuse me, Mr. President. If I could just make a
25 small intervention at this point. I don't believe that it's appropriate

1 when Mr. Tieger comments that he believes that Mr. Karadzic knows the
2 answer or to suggest that he's evading an answer. I don't think that's a
3 professional conduct that we should have in the Appeals Chamber. So I
4 would ask that he direct him when he makes a question not to give his own
5 opinion or comment on the -- his view of the way the evidence is going.
6 Thank you.

7 MR. TIEGER: The evidence is not going, Your Honour, because I'm
8 not getting answers to the question.

9 Q. And the question was: Did any of the party members tell members
10 of the party to, for example, activate level 2 or stage 2 of the A and B
11 document?

12 A. It is quite possible, but now whether this was this document or
13 something else, I cannot tell you because I did not attend all the
14 meetings. If we're talking about the A and B variant document and it was
15 presented, then it's possible, but I can't really tell you. I don't know
16 that. So I have to be clear about what stage was recommended, what
17 measures, what document, and in what circumstances and in what context.

18 Q. Members of the party received the A and B document from the
19 Main Board of which Mr. Krajisnik and you were members, in fact of which
20 you were the president, and implemented it. Isn't that correct?

21 A. Well, in most municipalities it was not implemented, in fact.

22 Q. In how many municipalities was it implemented, Mr. Karadzic?

23 A. I think it was not fully implemented in any of the
24 municipalities. Perhaps some of the defence measures implemented in some
25 of the municipalities may correspond to the measures proposed in this

1 military document, I don't know that, but I'm sure that the paper was not
2 implemented in full anywhere. In most of the municipalities none of it
3 was implemented and some of it may have been implemented in some
4 municipalities.

5 Q. And where it was implemented, to whatever extent, it was
6 implemented because it was distributed by the Main Board and its
7 authority and acted upon for that reason at the party's direction. Isn't
8 that correct?

9 A. But not in accordance with this document, with this paper. The
10 leadership, the authorities on the ground did not follow the instructions
11 of the party. First of all because the state apparatus was not party
12 based. People who were in key positions in municipalities such as the
13 police, the judiciary and so on were not party members. And the
14 municipalities as units had their powers in the sphere of defence,
15 Territorial Defence, as part of the All Peoples Defence and social
16 self-protection which was the defence doctrine during Tito's Yugoslavia.
17 So they had full autonomy in this respect.

18 Q. The Variant A and B document was distributed by the Main Board at
19 a meeting on or about December 20th. Isn't that right?

20 A. No. This document arrived there at that time, and we allowed it
21 to circulate, but this was not our document. It was not looked at by the
22 organs. It was not discussed. It was not adopted. It was simply an
23 expert opinion proffered by frightened officers who had witnessed the
24 genocide in 1941 and who considered that the people should not be left
25 without any precautionary measures. So it was of a defensive character,

1 and we allowed it to be circulated. But this was not our document. We
2 did not circulate it. We did not send it. And you can see that the
3 signatory is not the Main Board. You can see the heading "The Main
4 Board," but down there it says "The Crisis Staff." That's the signatory,
5 and we didn't know who was supposed to circulate it. We did not even
6 retype it. It was circulated in the same form that it was received by
7 us.

8 Q. Let me draw your attention to a few documents in evidence,
9 Mr. Karadzic. P529, tab 41, minutes of the 6th meeting of the
10 Executive Committee of the SDS Municipal Board in Kljuic.

11 Item 1, and this is from December 23rd, 1991, very shortly after
12 the Variant A and B document was distributed.

13 "Veljko Kondic informed the meeting of the instructions for the
14 organisation and activities of the Serbian people in Bosnia and
15 Herzegovina. All organs will be required to act in accordance with the
16 instructions. Whoever is not ready to fulfil his duties should say so
17 immediately and it will not be held against him."

18 P529, tab 378, December 23rd. "The meeting held in the premises
19 of the Novo Sarajevo Serbian Democratic Party heard and discussed the
20 materials, received the materials discussed by the SDS Bosnia-Herzegovina
21 Main Board. First degree and assignments were distributed accordingly."

22 P529, tab 42, December 27th. Minutes of the 3rd session of the
23 Executive Committee of Bosanska Krupa, agenda item 3. "The chairman
24 briefed those present on the instruction on establishing SDS Crisis
25 Staffs in Bosnia-Herzegovina and in accordance with the set instruction

1 proposed the establishment of a Crisis Staff. This was followed by
2 establishment of the Crisis Staff of the following make-up."

3 P529, tab 43. SDS Crisis Staff for the city of Sarajevo. "The
4 individual duties according to the instructions on the organisation and
5 activities of the Serb people of Bosnia and Herzegovina in a state of
6 emergency based on version B, first level are as follows," and then there
7 are -- there's a list.

8 Dr. Karadzic, do you deny that those SDS members received the
9 SDS -- received the Variant A and B document from the Main Board at a
10 meeting attended by the Bosnian Serb leadership, in fact presided over by
11 the Bosnian Serb leadership, and then acted in accordance with those
12 instructions as they were told?

13 A. This document was circulated at the time when a big session was
14 held, attended by about 200 to 300 people. It was a Plenary Session.
15 And the fact that some of the Municipal Boards, two or three of them,
16 found this paper useful, the paper that originated from military expert,
17 does not tell us that this was an instruction or an order from the
18 Main Board of the Serbian Democratic Party.

19 They simply found it expedient to look at this document and to
20 see whether they might find it useful in terms of the security of the
21 people in the -- the citizens in their municipality. It was not a secret
22 paper, secret document. We simply let anyone who wished read this paper,
23 and look at it the way they saw fit.

24 Q. Mr. Krajisnik was at that meeting, sitting next to you; correct?

25 A. I don't know that, but this meeting has nothing to do with the

1 paper. The paper was distributed. It was circulated like any other
2 document or paper. It was not a legal instrument. It was not a document
3 originating from the Main Board. It was not distributed on behalf and in
4 the name of the Main Board. And I don't recall who sat on the Presidency
5 at that time. I really don't recall. There were about 300 people at
6 that meeting.

7 Q. P529, 385 is another document received in evidence, Mr. Karadzic.
8 That's an intercepted phone call between you and Mr. Cizmovic on
9 16 January 1992 in which you discuss the state of preparation and the
10 level of cooperation of various municipalities. Mr. Cizmovic says they
11 are prepared for full cooperation. "It's the same with Northern Bosnia.
12 I've prepared a small sort of questionnaire for all of them." And then
13 he says: "What have they managed to do? How far have they come? To
14 what extent are they prepared to implement the first level of the
15 instructions?" That was Mr. Cizmovic talking about the Variant A and B
16 document, wasn't it, Mr. Karadzic?

17 MR. ROBINSON: Excuse me, Mr. President. I'm going to interpose
18 an objection to any question that asks Mr. Karadzic to, in a sense,
19 authenticate an intercepted conversation or a document because that could
20 be used against him and relieve the Prosecution of the burden of
21 establishing that at his trial. So pursuant to Article 21(g) and
22 Rule 95(E), I ask that you exempt him from answering that question. Also
23 pursuant to Rule 90(H), on the issue of relevance. I noticed we've spent
24 30 minutes now and barely mentioned Mr. Krajisnik, which is the purpose
25 for Mr. Karadzic has come here, and so I also ask you to consider

1 exercising your discretion to ask Mr. Tieger to move on to a more
2 relevant line of questioning. Thank you.

3 JUDGE POCAR: Well, if you invoke the reason that this may
4 incriminate your client, I think we -- Mr. Karadzic has to be exempted
5 from answering.

6 MR. ROBINSON: Thank you, Mr. President. And if I can just
7 mention one other thing at this point and that is the other part of
8 Rule 90(E) which allows you to direct the witness to answer and the --
9 after you making such direction the result is his answers could not be
10 used against him in his own case, and I invite the Prosecutor, if it's
11 truly interested in having these answers, to make an application for you
12 to invoke that Rule. And if they do that, then Mr. Karadzic is prepared
13 to answer all of their questions, but they should not be allowed under
14 the guise of this hearing for Mr. Krajisnik to be trying to enhance their
15 position in his case, which seems to me to have been the entire gist of
16 all these questions you've heard so far. So I invite the Prosecution to
17 make an application under Rule 90(E). If you grant it, you can have the
18 answers to all of these questions. Thank you.

19 MR. TIEGER: One quick response, Your Honour. First of all, I'm
20 not going to comment on the procedure, but the questions I've asked,
21 number one, were raised by the witness's statement. They're matters that
22 go to credibility. And number two, they're matters that go to the
23 activities of the Bosnian Serb leadership, their efforts to implement
24 policy, their -- and objectives, their control over the party. It's of
25 course highly relevant. I will be moving on because I have limited time.

1 However, it's absolutely false to suggest that any questions that go to
2 matters raised by this witness in his statement that touch upon the
3 activities of the Bosnian Serb leadership of which Mr. Krajisnik was a
4 member, which is the heart of the case, is not relevant. This matter
5 was -- was relevant both in terms of creditability and in terms of the
6 activities and efforts of the Bosnian Serb leadership.

7 Let me move on to the War Presidency, however, Your Honour.

8 Q. Mr. Karadzic, your statement asserts that the June 2nd document
9 providing for the possibility of expanding the Presidency in a time of
10 war, that is a wartime or expanded Presidency was never put into effect
11 and that Mr. Krajisnik simply attended Presidency meetings like any other
12 invitee, and he was not a member.

13 Now, it's true, however, and it's one thing that's not mentioned
14 in your statement, that Mr. Krajisnik is explicitly identified as a
15 member of the Presidency in the minutes of the sessions and in a number
16 of the minutes of the sessions of the Presidency of Republika Srpska;
17 correct?

18 A. No, it's not correct. Substantively speaking, the minutes
19 endeavoured -- well, usually after the meetings, after the sessions, the
20 heading was written by the secretary. They weren't sessions of the
21 expanded Presidency but expanded meetings of the Presidency, and this
22 could not be done without the conditions written down in the constitution
23 and the laws.

24 Now, our minutes from the Presidency sessions were compiled in
25 different ways, and usually they were done by secretaries, male and

1 female --

2 Q. Mr. Karadzic, excuse me. Excuse me. You've had a chance to put
3 your assertions in your statement, now it's my opportunity to ask you
4 specific questions within a limited time. So my question is, and let me
5 turn your attention to specific minutes, P65, Treanor 13, tab 154.
6 That's the minutes of the 21st Presidency session held on 2 August, and
7 in those minutes reference is made to "Members of the negotiating
8 delegation who are also members of the Presidency (Dr. Karadzic,
9 Dr. Koljevic, and Mr. Krajisnik)." That's an explicit reference to
10 Mr. Krajisnik as a member of the Presidency; correct?

11 A. That is an imprecision of the person who kept the minutes. It is
12 of no importance. The members of the Presidency were Mr. Koljevic and I.

13 Q. And, Dr. Karadzic, you signed those minutes; correct?

14 A. The minutes weren't acts and documents of the Presidency. Those
15 were orders, decisions, conclusions. The minutes are something that are
16 quite unimportant. They just represent notes about what was said at the
17 meeting. It's not an official legal document of the Presidency. It's
18 just a set of notes compiled by a person who does not have extensive
19 knowledge about state government and state administration. So I would
20 never rely on minutes. You shouldn't take them as being that important.
21 You should look at the decisions. You should look at the conclusions.
22 The official documents and acts of the Presidency as passed according to
23 its constitutional remit.

24 Q. We will look at some statements in a moment, but I take it the
25 answer to that question is yes because that's what the document reveals,

1 and I'll ask you the following questions as well: The minutes of the
2 23rd Presidency session --

3 A. Just a moment. Just a moment. I don't know what yes, what are
4 you saying, because Krajisnik was not a member of the Presidency, and the
5 minutes are not a document on the basis of which you can conclude that.
6 As I say, minutes are an unimportant note on the basis of what was
7 discussed, but decisions, conclusions, orders are official Presidency
8 documents. So the minutes of itself mean nothing, because they are kept
9 by somebody who does not have a lot of knowledge about the constitution
10 and state administration.

11 Q. Is it correct that the minutes, I just ask you about the 21st
12 session, is it correct that the minutes of the 23rd Presidency session,
13 P64, P65, Treanor 13, tab 186, list Mr. Krajisnik explicitly as a member
14 of the Presidency or don't you know?

15 A. Well, I'd like see the document. And let me state again, why at
16 the 26th session would somebody write "member" by his name and not
17 having -- not written that in the first session or the first 25 sessions?
18 So it's just lack of skill on the part -- or lack of knowledge on the
19 part of the person keeping the minutes. And as I say once again, the
20 minutes are not a document. It's just an aide-memoire about what
21 happened, and on the basis of the minutes the secretary writes the orders
22 or I do and I sign it but as I say, minutes are unimportant. They're not
23 vital for you to be able to draw conclusions on the basis of minutes. It
24 is just an unimportant aide-memoire of what happened at any particular
25 meeting.

1 Q. In fact, Mr. Karadzic, it's true, isn't it, that Mr. Krajisnik is
2 indicated as a member of the Presidency on seven of the sessions -- of
3 minutes of the sessions of the Presidency which were held, all of which
4 you signed except for one which was signed by Mr. Krajisnik as presiding.
5 Isn't that right?

6 A. No, it's not right. The minutes that you're referring to, I saw
7 them during the proofing session, and it wasn't a Presidency session.
8 Two members were not there. There was one Presidency member, and while
9 they were waiting for us they held an unofficial discussion which they
10 recorded, but you'll see that in those minutes there's not a single
11 decision, conclusion, order, or official document from the Presidency's
12 domain, which is passed by the Presidency. So it wasn't a Presidency
13 session at all, and it was signed there that such-and-such a discussion
14 had taken place but nothing was passed, no decisions made. And they
15 couldn't have been because the two of us did not manage to arrive at the
16 meeting.

17 So I'm afraid you're attaching too much importance to minutes
18 which mean nothing. They're just the notes written down by a secretary,
19 nothing more than that.

20 Q. Mr. Karadzic, the Trial Chamber had an opportunity to review
21 those minutes in detail, as has the Appellate Chamber. You were
22 referring to the October 9th session on which you were not present -- at
23 which you were not present, and in fact the only persons present were
24 Mr. Karadzic -- excuse me, Mr. Krajisnik, Mr. Djeric, and Ms. Plavsic; is
25 that right? And the October 9th session is listed as a Presidency

1 session, Mr. Krajisnik is explicitly indicated as a member, and
2 Mr. Krajisnik signed that document as presiding. That's correct, isn't
3 it?

4 A. No, it's not correct that it was a Presidency session, because
5 the two of us did not manage to arrive at the session. They were
6 expecting us, and while they were expecting us they had a discussion and
7 looked into various matters, made recommendations, but they could not
8 pass any decisions. They couldn't because the Presidency was not sitting
9 in a quorum. There was no quorum. So that's the essence of the matter.
10 Had we arrived at the Presidency session, it would have been a Presidency
11 session. Like this it wasn't, and those were notes about consultations
12 held compiled by one Presidency member with the invitees at the meeting,
13 at the session.

14 Q. Mr. Karadzic, your statement says that the --

15 JUDGE POCAR: [Microphone not activated]

16 JUDGE MERON: Mr. Karadzic, the Trial Chamber found that
17 Mr. Krajisnik was an active member of a five-member Presidency or a de
18 facto member of the expanded Presidency, a finding which you dispute in
19 your statement on page 6. You state that Mr. Krajisnik, and I quote you,
20 "never took part in the 'decision-making process' of the Presidency."
21 Once the decisions of the Presidency were typed up, they were signed by
22 you. That you say on page 4 of your statement. However, the
23 Trial Chamber supported its findings with evidence that on three
24 occasions Mr. Krajisnik himself signed Presidency documents over your
25 printed name. This is stated in paragraph 177 of the trial judgement.

1 How do you account for that, Mr. Karadzic?

2 THE WITNESS: [Interpretation] The documents that are referred to
3 in that paragraph are not documents appointing someone, nominating
4 someone. They're just confirmation that such-and-such has that capacity,
5 that status. My secretary could have signed it over my name. It's just
6 confirmation that the person appointed to a particular post has that
7 status, and when he received that status, that is a Presidency decision
8 that I -- was signed by me. It wasn't signed by Mr. Koljevic or Mr. --
9 or Mrs. Plavsic, it was I who signed it and sometimes Mr. Koljevic. So
10 what Mr. Krajisnik signed is not a decision and act of appointment but
11 just in my absence somebody signed and then that person can show it to
12 the municipality and show that he was an official person.

13 JUDGE MERON: But what does it suggest about his position as a
14 member of the Presidency, Mr. Karadzic?

15 THE WITNESS: [Interpretation] He wasn't a member of the
16 Presidency. My secretary could have signed over my name. Quite simply
17 it is confirmation that the person in question was nominated at some
18 previous point in time, that he was nominated or appointed to a post or
19 function, and it could have been signed by anybody whom people trusted
20 and was well known. Whether it was my secretary or anybody else, it's
21 just confirmation, a certificate, confirmation stating that that person
22 is an official person, has an official capacity.

23 JUDGE MERON: That's all.

24 JUDGE POCAR: Thank you. Mr. Tieger, please.

25 MR. TIEGER: Thank you, Your Honour.

1 Q. Mr. Karadzic, your statement says that the Presidency
2 contemplated on November 30th, 1992, the introduction of an expanded or
3 wartime Presidency but rejected that because the constitutional
4 prerequisites had not been fulfilled, that is, a state of war had not
5 been declared.

6 In fact, Mr. Karadzic, there was the -- the document -- the
7 Presidency session of November 30th makes reference to a parliamentary
8 inquiry, and that's a reference to the session of the 22nd session of the
9 Bosnian Serb Assembly held in Zvornik in late November 1992; correct?

10 A. The fact is that the deputies asked us for the Presidency to
11 exist, an expanded Presidency, that is, and the need for an expanded
12 Presidency appeared only when the Assembly cannot meet because of a state
13 of war. And so it wasn't an inquiry, it wasn't a parliamentary inquiry,
14 it was a question from the deputies, and we received this deputy question
15 at the Presidency and we had to answer what the substance of it was. And
16 we concluded at that meeting that there were no conditions and no need
17 for an expanded Presidency to be set up because there were no conditions
18 according to the law and under the constitution, so that was about 17
19 days before we abolished the Presidency and elected a president and two
20 vice-presidents. So that is foolproof that the Presidency did not exist.
21 It's at the end of the '92 mandate and it is proof and evidence, in fact,
22 that the Presidency did not exist whereas the Assembly could meet, and
23 that's why it doesn't exist, and the Presidency could meet because there
24 was no state of war. The Presidency should have had the function of
25 integration and executive power in the absence of the meeting of an

1 Assembly; whereas when the Assembly met, and as it met, there was no need
2 for a Presidency.

3 Q. Perhaps it will be of assistance to the Chamber to actually look
4 at the session that was held, the 22nd session and what was said there,
5 and that is P65, Treanor 14, tab 213, Your Honour, or P583, Trbojevic tab
6 106.

7 At that meeting Milan Trbojevic, the deputy Prime Minister, began
8 the discussion on the War Presidency by saying: "The third aspect I
9 would like to mention is the respect for the constitution and the law,
10 the value of law in our state. I find the situation truly tragic. First
11 of all, we have a parallel system of authority, the public and 'legal'
12 wartime Presidency is an organ of authority that isn't mentioned in the
13 constitution. Wartime commissioners working in the field are neither
14 recognised by the constitution nor the law. What this means is that from
15 the top of the state down to the level of the municipality, there is a
16 parallel system of authority."

17 That's what Mr. Trbojevic said, correct, because I want to move
18 on to some other excerpts from that, or don't you know?

19 A. I don't have the minutes before me, but I do know that that was
20 the culmination of a misunderstanding and conflict between Mr. Trbojevic
21 and Mr. Djeric and some other ministers, but the fact remains that the
22 government asked for commissioners, the commissioners did not have powers
23 and authorities. They had duties to give advice to bodies in the field.
24 We had no telephone connections, that was the reason, and because the
25 people in power and authority along the periphery were not people who

1 used --

2 Q. We'll be speaking about the commissioners in just a moment. Now,
3 after Mr. Trbojevic's intervention you responded, and you said at page 60
4 of that document: "I was always on the side of the Presidency, not the
5 president. There are only a few of us as it is. If Koljevic and I go
6 somewhere, Biljana remains. At least there's one of the three of us.
7 But if Biljana leaves, then Mr. Krajisnik."

8 And then in response to Mr. Trbojevic's intervention,
9 Mr. Krajisnik said the following at page 100, and remember Mr. Trbojevic
10 had said, "We have a parallel system of authority, the public and legal
11 wartime Presidency." And Mr. Krajisnik said at page 100: "Gentlemen, we
12 received a response to the deputy question on wartime Presidency and
13 commissioners. The question was raised by Mr. Trbojevic and it has been
14 clearly stated that this isn't compliant with the constitution. Wartime
15 Presidency," he went on to say, "consists of three members of the
16 Presidency, the president of the national assembly," that's
17 Mr. Krajisnik, "and the Prime Minister." That's what Mr. Krajisnik said
18 at that 22nd session, isn't it, Mr. Karadzic?

19 A. But that does not mean that the War Presidency was in force,
20 because there was no state of war, and if -- it says that Koljevic and I
21 were absent, then Mrs. Plavsic is there to inform him or he can be
22 informed by Mr. Krajisnik who knows what went on and what was decided at
23 the meeting. It doesn't mean that he could make decisions. He can just
24 inform him as to what was discussed. So take a look at the minutes of
25 the government and you'll see that the government was completely

1 independent. It had meetings every other day and nobody interfered or
2 meddled. So these talks about parallel power are unfounded.

3 Q. Let -- why don't we look at what the commissioners said at that
4 session, and those are the commissioners appointed by the Presidency.
5 Now first of all, Mr. Karadzic, let me ask you. The commissioners came
6 into being as a result of the same document that created the Presidency.
7 Isn't that right? The document of -- or excuse me, according to the same
8 law that created the president, based on a decision filed on June 10th,
9 1992. Or don't you -- don't you remember?

10 A. No. The need for commissioners arose because the people in the
11 government, in the field, were not skilled in the exercise of power,
12 because during the previous political regime they were dissidents, they
13 were not in power. So this idea to introduce commissioners was brought
14 up by Mr. Djukanovic, a president from another party, the Democratic
15 Party of Federalists, and we took that idea on board. He explained this
16 idea and those people were supposed to be there to support the
17 authorities in the field, in the municipalities and to explain to them
18 what needed to be done. So the government itself saw need for people
19 like that who would explain the documents and the regulations and the
20 laws of the government right there at grassroots level. And those
21 commissioners didn't last long. It was just a very brief period of time.

22 Q. But they did exist and on June 10th they existed because you
23 signed a decision, decision on the establishment of War Commissions in
24 municipalities in time of imminent threat of war or during a state of
25 war, and it indicated that War Commissions shall be established. In

1 Article 3: "War Commissions shall maintain the closest possible
2 cooperation with the legal authorities. They shall convey directives
3 issued by the War Presidency of the republic." That's a document you
4 signed, Mr. Karadzic. In Article 4: "State commissioners shall appoint
5 the War Presidencies in consultation with the War Presidency of the
6 republic." Further on in Article 4: "State commissioners shall dissolve
7 the municipal War Presidencies and appoint new members in consultation
8 with the War Presidency of the republic."

9 That's how the commissioners came into being on June 10th, isn't
10 that right, Mr. Karadzic?

11 A. That was creating conditions for the eventuality of a state of
12 war in which the municipal authorities would not be able to function, the
13 municipal Assemblies would not be able to meet. So we had to create the
14 prerequisites. The legislation had to be in place, decision had been to
15 be in place for the eventuality of the state of war so that the
16 peripheral authorities could function, but this did not eventuate.

17 Q. So let me address what these commissioners, apparently
18 fictitious, said at the Zvornik Assembly session in late November 1992.
19 And the first one to speak was Vojo Maksimovic who said at page 103 to
20 104 of that session: "Sometime at the end of May or beginning of June
21 following a decision issued by our wartime Presidency, wartime
22 commissioners were established for certain regions and deputies were
23 tasked with that duty."

24 Then Mr. Djukanovic spoke at page 105. "I am one of those who
25 participated in the creation of the concept of commissioners and their

1 work and in the establishment of Commissioner's office, and I think I was
2 one of the first commissioners of the wartime Presidency of Republika
3 Srpska."

4 Mr. Karadzic, those commissioners existed notwithstanding the --
5 the legal technicality to which you continually refer, and they spoke
6 about their existence, their activities and the War Presidency to which
7 they reported on -- at the 22nd session in late November 1992; correct?

8 A. Mentioning the wartime Presidency is an imprecision on their
9 part, and had the wartime Presidency been established, they would have
10 continued to exist until the end of the state of war. That is a fact.
11 It is also a fact that for a time some of them went to some of the
12 municipalities and established those contacts, but in essence this
13 function was never implemented, and they did not act to any special
14 extent in any of the municipalities because this was just a preparation
15 for the eventuality of a state of war in which the municipal authorities
16 would not be able to function. So this is the substance of it. So if
17 they refer to the wartime Presidency it is an imprecision on their part,
18 but the wartime Presidency was envisaged as were the commissioners in
19 case state of war was declare.

20 Q. Mr. Krajisnik spoke at some length at that session about the work
21 of the commissioners in a very salutary fashion. He knew they existed.
22 They talked about what they were doing. Isn't that correct?

23 A. Everybody knew that. Everybody knew that. Why wouldn't they
24 know? The commissioners were not a secret organisation. Commissioners
25 were there as liaison between the Pale government and the periphery,

1 because we did not have telephone communications. And in the
2 municipalities we had people who were not skilled in the exercise of
3 power.

4 Q. Now, you told the Appellate Chamber that the debate was about
5 whether or not to introduce the War Presidencies, but in fact as we've
6 seen the debate was about whether the existence of the War Presidencies
7 was justified. And if -- it's true, is it not, at P -- well, let me say
8 this, Dr. Karadzic. The Trial Chamber has received evidence, that's
9 P1257, that the minutes of the 22nd session signed by Mr. Krajisnik
10 discussed -- or identified the debate on the question posed at the last
11 session of the Assembly concerning the War Presidency, and those minutes
12 say: "After the discussion it was concluded that the republican
13 Presidency should thoroughly investigate the justification for the
14 existence of the War Presidency."

15 Do you acknowledge that, deny it, or you don't know about those
16 minutes?

17 A. I think that this was not the case and that there must be a
18 problem with the language, and if I could look at the original document
19 I'll tell you if that is the case.

20 Q. We'll find -- we'll get you the document during the break, but
21 this document is in evidence. It's been translated. If there is any
22 problem with the translation, we can -- we can raise that later. Let
23 me -- let me actually mention a --

24 A. The interpretation that you've given me, well, that is not
25 correct.

1 Q. Well, perhaps we can resolve this by looking at the -- by looking
2 at the session you've referred to in your statement, and that's the 30th
3 November session of the Presidency, P65, Treanor 14, tab 214, you said in
4 your statement that the issue was whether or not to introduce the
5 War Presidency, and in fact the minutes of that session say: "In
6 response to a parliamentary question, the Presidency discussed whether it
7 was justified to introduce a war commission and an extended Presidency
8 under the current circumstances. In both cases," meaning both the war
9 commissioners and the War Presidency, "if these institutions are retained
10 or if we stick with these institutions these regulations must be
11 amended."

12 So -- correct?

13 A. I would have to look at the original. I'm not sure if this
14 interpretation is correct.

15 Q. Well, actually, Mr. Karadzic, Mr. Krajisnik raised that same
16 issue during trial. We -- there was an inquiry made to the interpreters
17 about the word "retained," and the interpretation, and the interpreter
18 staff said the word -- the language in -- in B/C/S meant, "If we stick
19 with," but it definitely did not mean "introduce."

20 Now, if you want to see these documents and do your own review,
21 that's fine, but that's what happened, and that's what the evidence in
22 this case is. It's about sticking with the existing institution, not
23 introducing it for the first time.

24 A. Well, I claim here that the War Presidency did not exist because
25 there was not a state of war, and I claim that at that session the debate

1 was about the need to have a wartime Presidency, whether it was necessary
2 or not. If you show me the original document I'll show you where it says
3 so. On the 30th of November, we decided that the conditions were not in
4 place for the wartime Presidency to be introduced. And on the 18th of
5 December, we amended the constitution and elected one president and two
6 vice-presidents. So 17 days before the Presidency ceased to function, we
7 concluded that there was no need, there were no conditions for the
8 wartime Presidency to be established. If I could be given the original
9 minutes I could explain to you the substance, the actual meaning.

10 MR. TIEGER: Your Honour, I'm looking for the most expeditious
11 way to do this. As I say, this matter was raised during the course of
12 the trial. If the Trial Chamber deems it appropriate, I'm perfectly
13 prepared to do that, but I'm aware of my limited time and I'm about to
14 move on to another subject. I don't want to deprive the Appeals Chamber
15 of a full opportunity that it might wish, but I can direct the Chamber to
16 the portion of the trial transcript at which this same issue was raised.

17 JUDGE POCAR: Well, it's up to you to decide whether you want to
18 go on with this or take up other issues and then direct the Chamber to
19 the transcript.

20 MR. TIEGER:

21 Q. Mr. Karadzic, I want to move on to some comments you made about
22 the strategic goals which you said in your statement were not military
23 but simply political.

24 First of all, those strategic goals were as published in the
25 Official Gazette on 26 November 1993. That's P29, tab 436. That's

1 decision on strategic objectives for the Serbian people in Bosnia and
2 Herzegovina. The strategic objectives and priorities of the Serbian
3 people in Bosnia and Herzegovina shall be:

4 One, demarcation of the state as separate from the other two
5 national communities.

6 Two, a corridor between Semberija and Krajina.

7 Three, establishment of a corridor in the Drina River valley and
8 the eradication of the Drina River as a border between the Serbian
9 states.

10 Four referred to borders along the rivers Una and Neretva.

11 Five was partition of the city of Sarajevo.

12 And six was access to the sea. And that document is dated 12 May
13 1992, which is a reference to the 16th Assembly session in Banja Luka on
14 that date. Correct, Mr. Karadzic?

15 A. The six strategic goals must be looked at within the context of
16 the conference to find a solution for Bosnia and Herzegovina. These
17 objectives were in line with Cutileiro's plan --

18 Q. I'm not asking you yet to expound on your statement,
19 Mr. Karadzic. I want to pose some questions to you in connection with
20 your assertion that the strategic goals were purely political and had no
21 military implications.

22 A. First of all, they were not interpreted to me. I wasn't
23 listening to the English but the way they were interpreted back to me
24 does not correspond to the way they were.

25 The first strategic goal was to delineate, demarcate the areas

1 with the other two entities that were envisaged in the Lisbon Agreement.
2 The second strategic goal was to establish a territorial link between the
3 Krajina area and Semberija because the war broke out, although we had
4 tried the units to be compact, the entities to be compact. The third is
5 not the border between the Serb states but the worlds. So we're not
6 talking about the non-existence of the border but the quality of the
7 border. This is what I spoke about on TV in 1993. You have this
8 document where I said this should be a soft border of the kind that we
9 see in Europe.

10 Everything that we presented there was presented during the talks
11 with Ambassador Cutileiro within the talks or, rather, the framework of
12 the Lisbon Agreement. This was not a military document. This was not a
13 secret document. We decided to go public with this document in the media
14 not in the Official Gazette and to send it to the European Community.
15 You have minutes where we -- where we decided that. This was to be our
16 platform in the talks because the conference and the Lisbon Agreement was
17 tabled up until the 26th of August, 1992, although --

18 Q. You are repeating what you've already said in your statement.
19 This is my opportunity to ask you questions relating to that.

20 P529, tab 264, Mr. Karadzic, is a document that details a meeting
21 that was held with presidents of the municipalities in Western Bosnia,
22 and a review of the military and political situation in those
23 municipalities on the 14th of May, 1992, two days after you enunciated
24 the strategic objectives to the Assembly in Banja Luka. There were a
25 number of presidents of the municipal Assemblies and presidents of

1 Serbian municipalities present as well as quite a number of commanders of
2 various brigades and divisions, including Colonel Stanislav Galic, who
3 was then commander of the 30th Partisan Brigade and later became,
4 actually not so long later, became commander of the forces in Sarajevo
5 and ultimately convicted in this institution for his activities there.

6 At that meeting, there was lengthy discussion about activities of
7 the military and what they were doing. Colonel Galic informed those
8 present about the zone of responsibility, the situation and security
9 conditions, and then the president of one of the municipalities presented
10 the conclusions from the meeting held in Banja Luka, listed the strategic
11 objectives, and at the end of the meeting there was a decision among all
12 present that the decisions from the meeting in Banja Luka would be
13 implemented and would be submitted to the commands of the units and to
14 the municipalities.

15 You don't deny that that meeting took place and that discussion
16 took place, do you?

17 MR. ROBINSON: Excuse me, Mr. President. I'm going to at this
18 time invoke first, again, Rule 90(H) because we're once again far afield
19 from Mr. Krajisnik's role, and I think we're essentially in the same
20 position we were with Variant A and B, where the Prosecution is seeking
21 to go into matters that are beyond what is directly relevant to the
22 decision of the Appeals Chamber. So I would ask that you exempt
23 Mr. Karadzic from answering that question and, if not, we would invoke
24 our right under Article 21(4)(g) and Rule 90(E) not to answer that
25 question. And again, I invite the Prosecution if it's important to them

1 and they don't truly intend to use this as an opportunity to build their
2 case against Mr. Karadzic, that they apply to you for an order in which
3 the testimony would not be used against him and then he can answer.
4 Thank you.

5 MR. TIEGER: Your Honour, if I could just respond to the
6 relevancy issue and I would simply say this. Thank you for -- no one who
7 participated in this trial could possibly make the assertion that we're
8 far afield from Mr. Krajisnik's role. Number one, there was testimony in
9 the case that Mr. Krajisnik participated in the formulation of the goals;
10 and number two, this is a matter raised by Mr. Karadzic himself and goes
11 directly to his credibility; and number three, it goes to the objectives
12 and the implementation of those objectives by the Bosnian Serb leadership
13 generally. So I think that's far from an accurate assertion.

14 JUDGE POCAR: I accept your point, Mr. Tieger, as far as the
15 relevance is concerned, but as to the point -- the other point made by
16 Mr. Robinson that the answer may incriminate the witness, I have to
17 accept that.

18 MR. TIEGER: I believe I can get one more question in before the
19 break, Your Honours.

20 Q. Same issue, whether the -- the strategic objectives were purely
21 political or military. At P65, tab 182, that's the 17th session of the
22 Bosnian Serb Assembly held in July 1992, that's the first Assembly
23 session after the -- after you enunciated the strategic goals at the 16th
24 session in May, Mr. Kupresanin said this: "This is the Serb Assembly
25 here. It makes decisions. And when I return to Krajina, I want to tell

1 the soldiers, gentlemen, these are our ultimate goals. At the last
2 session in Banja Luka we said that the northern border of the Serb
3 Republic of Bosnia-Herzegovina was the right bank of the Sava River. We
4 have come to the realisation that there is a part of Brod left. Bijelo
5 Brdo and Orasje are left. We order the army to realise that goal."

6 You were present at that session. Do you recall that's what
7 Mr. Kupresanin said?

8 MR. ROBINSON: Mr. President, I'm once again going to ask that we
9 invoke Article 4 -- excuse me, Article 21(4)(g) and Rule 90(E), and again
10 invite the Prosecutor, if he feels this is truly important regarding
11 Mr. Krajisnik, that he ask you to make an order such that it would not be
12 used against Mr. Karadzic at his own trial, and then Mr. Karadzic would
13 be happy to answer that question. Thank you.

14 MR. TIEGER: Well, I -- yes, Your Honour. I reject the
15 characterisation of any decision made by the Prosecution to invoke a
16 provision that Defence counsel has asserted as a determination of the
17 importance of the testimony. I think the importance of this testimony
18 and the -- was apparent during the course of the trial, is apparent here,
19 and whether or not the Prosecution seeks to permit the witness to -- or
20 ask the Appellate Chamber to go further with this is an entirely
21 different matter. So I don't want this to be accepted in any way, shape,
22 or form in the manner characterised by the -- by the Defence counsel. In
23 any event, Your Honours, I note the time. I indicated I would have one
24 question before the break, and I'm at the Appellate Chamber's disposal.

25 [Trial Chamber confers]

1 JUDGE POCAR: Well, it's probably appropriate now to make the
2 break, and we reconvene in 20 minutes. The hearing is adjourned.

3 --- Recess taken at 10.33 a.m.

4 --- On resuming at 10.59 a.m.

5 JUDGE POCAR: We resume the hearing, and I give the floor to the
6 Prosecution --

7 MR. TIEGER: Thank you, Mr. President.

8 JUDGE POCAR: -- to continue his questioning. Please.

9 MR. TIEGER:

10 Q. Mr. Karadzic, before we adjourned for the recess we were looking
11 at that portion of your statement where you asserted that the strategic
12 goals were political and not military. I have turned your attention to a
13 couple of comments. Let me turn you next to the army's view, and I want
14 to direct your attention to P529, tab 255, which is the analysis of the
15 combat readiness and activities of the army of Republika Srpska in 1992,
16 a document labelled military secret, strictly confidential, and produced
17 in April of 1993, a retrospect.

18 Page 159 in English of that document, and the Trial Chamber heard
19 evidence of this, said that: "The strategic objectives of our war which
20 were promptly defined and set before the Main Staff of the army of
21 Republika Srpska, the commands and units served as a general guideline
22 upon which we planned the actual operations and concerted battles." And
23 it goes on on the next page to note that priorities and discharging set
24 or approved tasks were selected depending on the actual stages of the
25 war. It indicates that thus the primary focus for the army of

1 Republika Srpska for quite some time had been to open and maintain a
2 corridor linking the Republic of Serbian Krajina through the
3 Bosnian Krajina with Serbia. And then it continues: "In the last month
4 and a half, our operations have concentrated on the liberation of
5 Podrinje as, thereby, the strategic objective of war would be realised,
6 one that could be defined as establishing -- as establishing contact with
7 Serbia on the River Drina or the Drina ceasing to be a frontier."

8 Mr. Karadzic that's strategic objective number 3, isn't it, the
9 Drina ceasing to be a border?

10 A. First of all, that's not the case, and I'd like to tell you to
11 look at the transcript of the 12th of May session where I said that the
12 Drina was not to be the border between two worlds, the Catholic world and
13 the Islamic Orthodox world. And in a television interview in 1993, and
14 you have that interview here, I explain what I mean by that, that it will
15 be a soft European border without any restrictions at the border. And I
16 go on to say that Europe will go on softening its borders, and I say that
17 Mr. Izetbegovic said that the Serbs would not need a passport at the
18 Drina River.

19 So if we want to look at the whole truth you have to look at the
20 context. It is the context of the conference of Bosnia-Herzegovina. The
21 European Union offered up a state unit to us, an entity, a republic in
22 Bosnia-Herzegovina, and everything that was going on and going to happen
23 should be looked at within that context. We never gave up on the Lisbon
24 paper, and at the end of August 1992, the Lisbon document was replaced by
25 Vance-Owen, then Stoltenberg and the Contact Group and finally Dayton.

1 So you can't view this isolated, and as I say, look at what I said on the
2 12th of May, 1992. Take a look at that. I said that there should not be
3 a border between two worlds because the Drina River was conceived as a
4 border between two worlds, the eastern and western Christianity and
5 Islam. And I wanted to advocate that it should not be a border between
6 two worlds and not a border between Serbia and Bosnia, and that's what I
7 said at the session.

8 And in 1993, in the interview, I said it should be a soft border,
9 not that there should be no border but that it should be a border without
10 restrictions, and I quoted the EU and that it would make borders, its own
11 borders soft and permeable. I don't know when Schengen existed at that
12 time, but anyway, I envisaged that that's what Europe was going to tend
13 towards and that we wanted to do the same because we wanted Bosnia to be
14 the Switzerland of the Balkans, that it should be cantonised so that we
15 could live in peace. And if you take individual parts out of context
16 then you get a different meaning, but in order to view the whole we have
17 to see the context in which that was said.

18 Q. We'll leave it then to the Chamber to decide whether or not
19 that's the -- that is an articulation of strategic goal number 3 since I
20 didn't hear a direct answer to that question. But let me note page 159
21 of the combat readiness report in talking about the strategic objectives
22 of the war which were promptly set before the Main Staff. It continued:
23 "This means that objectives were set before us rather than specific tasks
24 spelled out, although the president of the republic as the supreme
25 commander of the armed forces of RS did orally assign a number of tasks

1 which were of general and vital significance to our struggle in
2 protecting the Serbian people and its territories."

3 The Main Staff of the army of RS translated the set objectives
4 and tasks into general and individual missions with the goals of each --
5 of every individual combat operation, it says, at some point being
6 defined.

7 Similarly, on page 153 of this document which appears right above
8 your name as Supreme Commander of the armed forces of Republika Srpska,
9 Dr. Karadzic, it says: "This relationship between the command structures
10 and the organs of government and the supreme command made it impossible
11 for the Main Staff to make decisions absolutely on its own, rather every
12 operational battle was politically endorsed on the basis of the interests
13 of the Serbian people and approved by the highest authorities of
14 Republika Srpska."

15 But you have said, Dr. Karadzic, some aspect of the ways in which
16 the political -- the strategic objectives were pursued politically, and
17 no one is asserting that there wasn't an effort, a simultaneous effort,
18 to pursue the strategic objectives politically as well as militarily, and
19 in that connection let's look at what General Mladic said at the 34th
20 session of the Bosnian Serb Assembly in 1993.

21 MR. ROBINSON: Excuse me. Excuse me, Mr. President. If I can
22 make an intervention. I'm not sure I understand what Mr. Tieger is
23 doing. He is reading from documents without putting a question to the
24 witness. He's making a long intervention about what some documents say
25 as if he's making his closing submissions to you but not putting any

1 question to the witness, so I think that's unfair to Dr. Karadzic to be
2 simply commenting, which is not Mr. Tieger's role in these proceedings.
3 So I would ask that either he refrain from commenting on the testimony
4 and ask a question or that he -- when he does ask a question he tie it to
5 the material that he's trying to introduce. Thank you.

6 MR. TIEGER: Well, Your Honour, it was my intention to wrap it up
7 into one question but I'll be happy to break it into two.

8 Q. Mr. Karadzic, I just read you from the combat readiness report
9 which indicated that the political leadership was aware of all the
10 operational battles, including those which sought to pursue the strategic
11 objectives of the war which were, as we noted earlier, the corridor
12 linking the Republic of Serbian Krajina through Bosnian Krajina and the
13 elimination of the Drina as a border. That's the case, isn't it,
14 Mr. Karadzic, that you were well aware of and that the Bosnian Serb
15 leadership was aware of the pursuit of the strategic goals through the
16 operations of the VRS?

17 A. That's not how it was, not Serbian Krajina. That's the right,
18 Mr. Tieger. This is how it was: If you look at Cutileiro's maps, the
19 ones we received in a package of proposals by the European Community for
20 resolving the problem in Bosnia-Herzegovina, you'll see that those
21 strategic goals are figured -- figure into that, and we know that many
22 people consider that our army should liberate the whole of Bosnia and
23 lead to a political solution that way. We said that cannot be. We said
24 it must be the solution accepted and put forward by the
25 European Community, not a solution that would hold the whole of Bosnia

1 and Herzegovina within the frameworks of Yugoslavia. And there were
2 opinions like that, you needn't think there weren't, that
3 Bosnia-Herzegovina should be held in Yugoslavia and that
4 Bosnia-Herzegovina step down from Yugoslavia unlawfully. So in that
5 sense those goals were important, for example, that the army could not
6 cross over onto the left bank the Una River and liberate Cazinska Krajina
7 over there, which was 90 per cent Muslim, and according to Cutileiro's
8 plan was envisaged to be a Muslim republic. So that was why it was
9 important for the army to be aware of what the negotiations were about
10 and what was happening at the conference to deal with the crisis in
11 Bosnia-Herzegovina. They're not goals that we thought up or imagined or
12 imposed on the army. It is information to the army as to what it should
13 not do.

14 And as far as communication is concerned, before the war broke
15 out it wasn't necessary, you know, for all three republics to have
16 territorial continuity. The Sasina Krajina was envisaged not to have
17 continuity with Central Bosnia, not to follow on from Central Bosnia
18 where there was a Muslim republic, but once you had a war in May in
19 Banja Luka, 12 babies died because we no oxygen to give them, for the
20 babies in the incubators to be saved.

21 So if you had a war on your hands and we said that to
22 Izetbegovic, if it is a war solution, then that's another matter
23 entirely. But we were always in favour of a political solution and the
24 proposal made by the European Commission was acceptable to us, although
25 we had to make a very painful compromise not to be in Yugoslavia any

1 more, and in essence, the army had to know what was envisaged by the
2 Lisbon Agreement and that's the crux of the matter.

3 Q. Well, in connection with the question of whether the political
4 goals were pursued militarily and whether the army was aware of the
5 political goals and acted upon them, I indicated we'd look at
6 General Mladic at 529, tab 436, at the 34th session, and he said:
7 "First, the people in the army with the help from the rest of us
8 according to our possibilities have carried out most of the tasks and
9 strategic goals set to them. We have created Republika Srpska."

10 And he continued on the next page after discussing negotiations
11 and said: "I have to say to our delegation, which I really appreciate
12 together with our president, Mr. President, you have started from the
13 most favourable starting position in Geneva. You had the military result
14 in your hands. You and the people and the army and the forces of MUP
15 have created it."

16 And that was General Mladic talking about the military
17 implementation of the strategic goals, wasn't it?

18 A. Well, you see, certainly the army wanted to have its merits
19 recognised just as the political leadership liked to have its merits
20 recognised for what was going on, but we were promised a republic by the
21 European Community, and within the frameworks of the Cutileiro Plan or,
22 rather, within the frameworks of the conference of Yugoslavia canton
23 Cutileiro, and what we achieved is what we were given and promised and
24 which we accepted as a replacement for stepping down from Yugoslavia. So
25 if the army defended what we received as a proposal from the European

1 Commission and accepted, on the 18th of March all three sides accepted
2 the Lisbon Agreement, and everything that happened from the new year
3 onwards and in February, March, April, and so on, all that was in --
4 within the context of the conference in Bosnia-Herzegovina, and I saw
5 enormous mistakes being made when you look at sentences isolated and when
6 you forget that an agreement was reached on the 18th of May, a solution
7 to avoid war and one which was very similar to the Dayton Agreement which
8 ended the war. So that is the substance.

9 Q. [Previous translation continues] ...

10 A. It's not that we came up with that solution.

11 Q. Let's look at, then, how the army pursued and achieved what you
12 felt the Bosnian Serbs had been promised, and in that connection I'd like
13 to look at P892, tab 12. That's directive number 4. This is dated
14 November 19, 1992, another strictly confidential document, directive for
15 further operations of the army of Republika Srpska. It notes on page 3
16 that some of the tasks from directive number 3 hadn't been carried out
17 and that although the Posavina corridor had been substantially widened,
18 the Hercegovina Corps had failed to reach the left bank of the Neretva
19 and secure access to the sea. But then on page 5 it gives this direction
20 to the Drina Corps: "From its present positions its main forces shall
21 persistently defend Visegrad, the dam, Zvornik and the corridor, while
22 the rest of its forces in the wider Podrinje region shall exhaust the
23 enemy, inflict the heaviest possible losses on him and force him to leave
24 the Birac, Zepa and Gorazde areas together with the Muslim population."

25 MR. ROBINSON: Excuse me, Mr. President. I'm going to object to

1 any questions with respect to this directive. First I ask you to exempt
2 Mr. Karadzic from answering the question on Rule 90(H). We're very far
3 afield from Mr. Krajisnik and the strategic goals. Secondly, if you
4 believe that there is some relevance to this question, we would ask under
5 Article 21(4)(g) and Rule 90(E) that he be exempted from answering unless
6 the Prosecution is willing to agree that the answer would not be used in
7 his own trial, which, frankly, seems to be the primary purpose for these
8 questions.

9 MR. TIEGER: Your Honour, let me ask one question -- I will
10 respond but let me ask one question first to see how far afield we are
11 from the strategic goals and Mr. Krajisnik.

12 Q. Mr. Karadzic, in 34th session that I mentioned where
13 General Mladic made the remarks that I referred to about how the army had
14 created Republika Srpska and achieved the goals and given the military
15 result, at that session you spoke early in the session and enumerated the
16 strategic goals at length, and then later on in the session
17 Mr. Karadzic -- excuse me, Mr. Krajisnik spoke and once again enumerated
18 and explained the strategic goals. Isn't correct?

19 MR. ROBINSON: Again, Mr. President, I'm going to make the same
20 objection that just -- particularly with respect to Article 21(4)(g) and
21 Rule 90(E) and ask that he be exempted from giving that answer.

22 JUDGE POCAR: As I see the question, the second part of it, could
23 be answered, when Mr. Tieger asked whether Mr. Krajisnik enumerated and
24 explained the strategic goals. From the first part certainly
25 Mr. Karadzic can be exempt but the second goes to the act of and the

1 conduct of Mr. Krajisnik. So please, Mr. Karadzic, you can answer the
2 second part of it. That is whether Mr. Krajisnik spoke on that meeting
3 and enumerated and explained the strategic goals.

4 THE WITNESS: [Interpretation] First of all, in order for the full
5 truth to come out I have to say that it is quite natural for the
6 political and the military aspect to compete as to who created the
7 Republika Srpska. The Republika Srpska was not created by the army,
8 because up until the end of 1992 there was not the structure. It was
9 created only on the 20th of May. The military did not have its
10 structure.

11 Republika Srpska was created at the time when it was offered to
12 us by the European Commission in political terms, and the military
13 defended what was offered to us. If Krajisnik -- well, I don't know if
14 Krajisnik commented on that, but those were legitimate political goals to
15 retain what we had achieved at the Lisbon conference. So it is quite
16 possible for him to have commented, but this was not a secret document.
17 It was the political goal that the army defended, and it is quite natural
18 for the officers to like to ascribe some credit to themselves, but this
19 was a political goal and Republika Srpska was created before we had the
20 army.

21 JUDGE POCAR: Mr. Karadzic, you were asked whether Krajisnik
22 spoke on that meeting and explained the strategic goals, and you answered
23 that it was possible that he did. That means that -- that you don't know
24 whether he did or not? Is that --

25 THE WITNESS: [Interpretation] I don't. I don't know whether he

1 did. Yes, that is my response. I can't see the document in front of me.
2 I don't know the minutes. But anybody could talk about the strategic
3 goals because those were not a secret document. That was a political
4 platform for our negotiations with the European Community.

5 JUDGE POCAR: I thank you. I wanted just to have a precise
6 answer.

7 Mr. Tieger.

8 MR. TIEGER:

9 Q. Mr. Krajisnik participated with you in the formulation of those
10 strategic goals, didn't he?

11 A. I don't recall that, but the whole Assembly participated in this
12 effort. I think that during the break there was a commission, about ten
13 people, who helped me formulate it, and when I went out to speak, to
14 address the Assembly, the original strategic goals can be found in the
15 transcript from that session of the Assembly.

16 Q. Mr. Karadzic, in the short amount of time I have remaining, I
17 just want to conclude this portion of the examination in which we're
18 addressing both the implementation of the strategic goals and your
19 assertion that there was no policy of ethnic separation, and in that
20 connection I want to turn to P865, an order of May 28th by
21 Major Svetozar Andric.

22 That document which the Trial Chamber saw, Mr. Karadzic,
23 indicates as following: "The moving out of the Muslim population must be
24 organised and coordinated with the municipalities through which the
25 moving is carried out. Only women and children can move out while men

1 fit for military service are to be placed in camps for exchange."

2 And before I ask my question let me also turn your attention to
3 P892, tab 90. That's a document from the 1st Krajina Corps command on
4 the 14th of June, 1992, and it indicates: "The most difficult situation
5 concerns the Muslim and Croat refugees in the area of Autonomous Region
6 Krajina. Their security and the provision of food. The attempt to expel
7 them to Central Bosnian failed because of transportation difficulties and
8 their resistance to leaving their places of residence."

9 Now, those are two reflections of how the military result and the
10 attainment of the strategic objectives through the efforts of the VRS and
11 the MUP were implemented. Isn't that correct, Dr. Karadzic?

12 MR. ROBINSON: Excuse me, Mr. President. I'm going to invoke
13 Rule 90(E) and Article 21(4)(g) as to this answer. That's a matter
14 that's properly for Mr. Karadzic's trial, not Mr. Krajisnik's
15 proceedings. But if they would like an answer to that question, they can
16 apply for an order guaranteeing that it not be used against him and he'll
17 be happy to and answer the question. Thank you.

18 MR. TIEGER: Your Honour, this witness has come forward before
19 this Trial Chamber, put a statement before the Trial Chamber which
20 Mr. Krajisnik asked it to rely upon which puts all of these matters at
21 issue. He's certainly within his right to refuse to answer, but our
22 position is that bears completely on the credibility of the statement.
23 Our position on the credibility of this witness is clear, and we leave it
24 to the Appeals Chamber to assess.

25 I just have two more questions.

1 JUDGE POCAR: You have exhausted your time, but I'm ready to give
2 you five or ten minutes to conclude your --

3 MR. TIEGER: Thank you, Your Honour.

4 JUDGE POCAR: -- questioning.

5 MR. TIEGER: I may -- I may -- I will do that and I'll try to do
6 that as quickly as possible.

7 Q. Mr. Karadzic, I want to turn your attention to two more
8 documents; the first is P447. That's a report on some aspects of the
9 work done to date and the tasks ahead on 17 July 1992 from the minister
10 of the interior, sent to the president of the Presidency, that was you,
11 and to the Prime Minister. And in that report the minister details some
12 of the issues which restrict the MUP members of some of the other tasks
13 within their purview, complains about some of the burdens that the MUP
14 members are -- are facing, and he writes: "The army Crisis Staffs and
15 War Presidencies have requested that the army round up or capture as many
16 Muslim civilians as possible, and they leave such undefined camps to
17 internal affairs organs. The conditions in some of these camps are poor.
18 There is no food. Individuals sometimes do not observe international
19 norms, et cetera." Then he goes on to say that there's a shortage --
20 shortage of personnel is also a limiting factor as he continues to detail
21 some of the burdens faced by the MUP including the detention of all these
22 Muslim civilians.

23 Now, that roundup of Muslim civilians by the army, the
24 Crisis Staffs, and the War Presidencies, Dr. Karadzic, is another
25 reflection of the manner in which the objectives of the Bosnian Serb

1 leadership as put to the army were implemented. Isn't that right?

2 MR. ROBINSON: Yes, Mr. President. Again I'm going to make the
3 same objection. Thank you.

4 JUDGE POCAR: Okay. I take note of that. Mr. Tieger, your last
5 question.

6 MR. TIEGER: Thank you, Your Honour.

7 Q. Last document, Mr. Karadzic. That's P1160. This is a combat
8 report, and it says: "During the day the village of Novoseoci was
9 ciscenje," that is cleansed or mopped up, "in Glasinacko Polje."

10 Now, the Trial Chamber heard evidence in the case, Mr. Karadzic,
11 that the ciscenje, the cleansing, of Novoseoci was accomplished by
12 separating the men from the women and executing the men. And the author
13 of this report is Lieutenant Colonel Radislav Krstic, in 1992.

14 Is it correct, Mr. Karadzic, that Mr. -- that Colonel Krstic
15 continued in the service of the VRS after his ciscenje activities in
16 Eastern Bosnia?

17 MR. ROBINSON: Really, Mr. President, I again think this is so
18 far afield from what you are supposed to be interested in in this
19 hearing. It is nothing more than a transparent attempt to use his
20 answers against him at his own trial, and I would ask that he be exempted
21 from answering that question or any questions like that under Rule 90(E)
22 and Article 21(4)(g). Thank you.

23 MR. TIEGER: Counsel can continue to persist in -- he's more than
24 welcome, of course, to invoke his client's rights but his assertion that
25 this is far afield from a statement in which this witness asks the

1 Appellate Chamber to believe his assertion that there was no policy of
2 ethnic separation is, in my submission, wholly unfounded. In light of
3 the invocation of -- this witness's invocation of his rights,
4 Your Honour, I will conclude my examination and thank the Appellate
5 Chamber for the time.

6 JUDGE POCAR: Thank you. The Chamber will consider how far it is
7 from the -- from the purpose of this examination, of this hearing, and
8 takes note of the -- of the invocation of the right of the -- of the
9 witness.

10 So this concludes the examination by the Prosecution, and now
11 we -- the Judges want to put some questions to the witness; they're
12 allowed to do so. Judge Shahabuddeen, Judge Guney, and then Judge Meron.

13 Questioned by the Appeals Chamber:

14 JUDGE SHAHABUDEEN: Dr. Karadzic --

15 THE INTERPRETER: Microphone, please, for the Judge.

16 JUDGE SHAHABUDEEN: I'm not in command of the technology.

17 Dr. Karadzic, I would value your help in resolving a small
18 question of credibility. It concerns the old question whether or not
19 Mr. Krajisnik was a member of the Presidency.

20 Now, you have said, so I gather, that the Presidency only came
21 into being after a declaration of war. Do you remember saying so?

22 A. I said that the Presidency would have existed had a state of war
23 been declared, but a state of war was not declared.

24 JUDGE SHAHABUDEEN: Now, do you mean by that reference a formal
25 declaration of a state of war?

1 A. Yes. In legal terms this means that a whole set of laws have to
2 be in place and there is a procedure for the state government when the
3 state of war is declared laws are no longer in application, and a
4 different set of regulations then apply for the state of war. That
5 doesn't mean that the low intensity conflict that existed, not in our
6 territory, but in areas adjacent to -- areas controlled by the other
7 ethnic communities, it doesn't mean that there wasn't combat, but a state
8 of war, which means that some stipulations in the constitutions are
9 suspended and that new laws have to be declared, well, this was not done.
10 The state of war was not declared.

11 JUDGE SHAHABUDEEN: You are aware, sir, that nations do, in
12 practice, go to war without there being a formal declaration of war.

13 A. We wanted to retain the civilian quality of life throughout the
14 conflict, because we were hoping that a political solution would be found
15 any time, because the conference was going on at all times. The talks,
16 the conference about the political solution were ongoing, and that's why
17 we did not want to introduce wartime laws and wartime lifestyle and
18 regime.

19 JUDGE SHAHABUDEEN: Now, the Presidency would have involved main
20 features of the constitution of your state. Now, would your secretaries
21 be expected to be familiar with the main features of the principle
22 elements of your state such as the Presidency?

23 A. Well, you're entirely right when it comes to the secretary of the
24 Presidency. It's a political function. But when we're talking about the
25 typists, the secretaries who just take notes or serve the Presidency,

1 they did not have to know those things, and they couldn't know that
2 because this was not an area of their expertise. But my chief of office,
3 the Secretary-General of the Presidency, they were lawyers and they would
4 have known that, but they did not attend those sessions, and they did not
5 keep notes or minutes.

6 JUDGE SHAHABUDEEN: Now, did you or any of your principal
7 officers, to your knowledge, ever speak with the secretaries about their
8 imprecision in treating Mr. Krajisnik as if he were a member of the
9 Presidency?

10 A. Well, we did not have any need to talk to them in this way
11 because we did not consider the minutes to be an important document.
12 Minutes could be as imprecise as they were. It was just an aide-memoire
13 about the things that were discussed, and then on the basis of the
14 minutes, my secretaries and my assistants made decisions that then I
15 signed. The minutes themselves were not important.

16 If you allow me to explain why Mr. -- why the Prime Minister and
17 president of the Assembly participated or attended. In normal
18 circumstances, I would write a memo to the government and to the
19 assembly, and I would give them 15 days to inform me how this initiative
20 or an initiative of the Presidency could be implemented, whether the
21 government was already doing something about that, whether there was
22 anything ongoing in the Assembly on the topic that I raised. And since I
23 did not have the 15 days, I didn't have the time to write to them and
24 then wait for their response, I invited them to attend the session of the
25 Presidency in order for them to be able to tell me whether there were any

1 such initiatives in the Assembly, whether the government was able to
2 actually implement it. That is why they attended. Some ministers also
3 attended and this did not make them members of the Presidency.

4 JUDGE SHAHABUDEEN: Thank you, sir.

5 JUDGE POCAR: Judge Vaz, please.

6 JUDGE VAZ: [Interpretation] Thank you, Mr. President.

7 Mr. Karadzic, you've just told us that you did not have time to
8 send documents 15 days in advance in order to get feedback, response from
9 the relevant authorities and that this was the reason why you were under
10 an obligation to invite them to the sessions. Do I have to understand
11 this in this manner, that you expected those persons to present their
12 opinions at the sessions and not just be there to follow the developments
13 since after that you were able to send to them the minutes which would
14 serve to inform them, since they did not play any role at the sessions?

15 A. In the decision-making process, since all three of us members of
16 the Presidency were professionals in other areas of expertise,
17 Mr. Koljevic was a Shakespearologist, I am a doctor myself, and
18 Mrs. Plavsic is a biologist, we tried not to make any mistakes in the
19 decision-making process, and we needed to know first of all whether any
20 decisions had already been made on this topic, whether it -- the
21 procedure was on-going in the government or in the Assembly, and we
22 wanted to hear from the government whether this decision could be
23 implemented, whether it was legal and reasonable.

24 So in this decision-making process we needed input from the two
25 bodies because we're talking about the three major institutions: The

1 Presidency, the Assembly, and the government. The president of the
2 Assembly is not an institution, as you know, it's the speaker of the
3 Assembly, but we needed to know what legislation -- he needed to know
4 what legislation he would receive in the Assembly. The president of the
5 government, the Prime Minister, would be able to tell us whether this was
6 all in accordance with the law and whether this could be implemented.
7 This is why they attended the sessions of the Presidency.

8 JUDGE VAZ: [Interpretation] Thank you very much. You also said
9 that these minutes that were sent after the sessions could be documents
10 that would be signed by your lady secretary. In view of the fact that
11 you primarily signed these minutes, should one believe that your
12 signature on these minutes did not really attach any value to them?

13 A. Well, no value was attached to them because we even have a
14 particular post, a note-taker, a note-taking clerk. Anybody could be
15 that. This is just an aide-memoire as to what was stated at a session so
16 that on the basis of that I could formulate a decision or an order and
17 send it further on to those who are to be the recipients. These minutes
18 have no importance whatsoever. Even Mr. Kupresanin was mentioned here,
19 he is a of a different party, not a member of the SDS, but he is head of
20 the patriotic front.

21 According to our system, a member of parliament can say whatever
22 he wishes and will not be held responsible. It's not the position of the
23 government. There is unlimited freedom of speech and freedom as such on
24 the part of MPs. It is the decisions that carry weight, proper documents
25 coming from the Presidency. But these minutes that come from Presidency

1 meetings when we would call a session within 15 minutes or so when the
2 government or somebody asked us for a decision, we would meet within 15
3 minutes, we'd ask Krajisnik and Djeric to come and to inform us as to
4 whether we can make such a decision. It's the decisions that are
5 important, that matter. A note is just a note.

6 JUDGE VAZ: [Interpretation] Thank you, Mr. Karadzic, and thank
7 you, Mr. President.

8 JUDGE POCAR: Judge Guney, please.

9 JUDGE GUNEY: Thank you, Mr. President.

10 Mr. Karadzic, in the summary of the written statement relating to
11 the finding in paragraph 1121 as to Krajisnik and Serbian Democratic
12 Party, you said then Krajisnik was not your candidate for the post of the
13 president of the parliament and his nomination was the result of bargain.
14 Could you tell us who were the participants to such bargain, and you
15 personally, did you took part in such bargain? Thank you.

16 A. Immediately after the elections, having seen that the political
17 scene was a heated one and in the social atmosphere as such, I came up
18 with a proposal to establish an expert government. The other two sides
19 did not admit that, but I did carry that through. That is to say, within
20 this joint government of Bosnia and Herzegovina, among all our ministers
21 and deputy ministers only one minister was a member of the SDS. All the
22 rest were experts.

23 I wanted the president of the parliament to be someone who was
24 not within the party although he was on our list. That was
25 Mr. Trbojevic. And I asked a lady journalist, a Muslim with a European

1 orientation to sound this out, to see how that would be received if
2 Mr. Trbojevic were to be president the parliament. She checked that out.
3 She did the sounding and said that that would be received well among the
4 Muslims in Sarajevo. And I made that proposal.

5 However, there were two important objections that were made to me
6 by the personnel commission of the Executive Committee. First of all
7 that we handed over all the power we won in the elections to experts and
8 non-party persons; and secondly, that I even wanted to give the position
9 of president of parliament to someone who was not a member of the SDS.
10 And thirdly, from the Banja Luka Krajina there was a complaint that there
11 were no people from Krajina. The word "people from Krajina" is
12 "krajisnik" in Serbian literally. So then I had to either change the
13 list of ministers or I had to accept that the president of parliament had
14 to be a person from the party and from the Krajina, and then I said
15 something by way of a joke. Somebody had made a suggestion to me and I
16 knew Krajisnik very well and we were friends, too, and then I said, "Very
17 well, you will have krajisnik." And I asked Mr. Krajisnik to come and
18 Mr. Ostojic didn't even recognise him. He didn't even let him in. He
19 didn't even know why we were calling in a Krajisnik. Then I had to ask
20 for Mr. Krajisnik to be brought in again. When I nominated him, then the
21 MPs from Krajina laughed and said, "You turn out to be smarter than us,"
22 because I said you would have krajisnik. His last name means that he
23 comes from Krajina, and he feels that he does hail from Krajina because
24 that is where he hails from originally. So that is the essence of how
25 the choice was Mr. Krajisnik. He was the sixth person on the list.

1 0.25 per cent was the margin by which he got into parliament. Otherwise,
2 he would not have even gotten into parliament as such. One did not count
3 on him to be the president of the parliament.

4 JUDGE GUNEY: Thank you, Mr. Karadzic.

5 Thank you, Mr. President.

6 JUDGE POCAR: I turn to Judge Meron.

7 JUDGE MERON: Dr. Karadzic, I have two or three questions to ask
8 you. The first one pertains to the conclusion made by the Trial Chamber
9 that the record of the Presidency of 9 October 1992 was signed by
10 Mr. Krajisnik as chairman. Now, you claim in your statement that these
11 minutes are in error and that the minutes of the real Presidency session
12 were not signed by Mr. Krajisnik. So I have two questions to ask you
13 here.

14 First, how do you account for the existence of these minutes
15 which you describe as false? And secondly, have you ever tried to issue
16 a corrigendum, as we would expect any institution to issue, if the
17 original minutes were not correct? If there is no record of such a
18 corrigendum, why would you want us to believe that those records actually
19 signed by Mr. Krajisnik were not correct?

20 A. Well, this is the way it is: This could not have been a session
21 of the Presidency. They met -- I mean, out of us members of the
22 Presidency it was only Mrs. Plavsic that attended. Mr. Koljevic and I
23 were supposed to arrive. However, since we hadn't arrived, as they were
24 awaiting us they had a discussion. This was a free discussion. Not a
25 single decision was made, not a single conclusion was made, nothing that

1 would be a document pertaining to the remit of the Presidency. The
2 secretary composed a note on this, expecting us to come. Since we did
3 not show up then this was given to someone to sign so that we -- there
4 would be some kind of a record of what it was that they were discussing.

5 This was a conversation not a meeting of the Presidency, and I
6 could not draw any document out of that that they had discussed. These
7 were recommendations, thoughts, and so on. This was not a session of the
8 Presidency.

9 On the basis of that, I could not -- on the basis of these
10 minutes or whatever, the fact that they met up and talk, I could not base
11 any decision of the Presidency on that because there was no meeting with
12 the Presidency. This was an internal note. As I've said already, our
13 minutes were viewed in that sense, as internal notes about what was
14 discussed and also as an aide-memoire in order to be able to reach a
15 decision, I or some other member of the Presidency to draft a decision
16 and sign a decision on the basis of that. Just look at the minutes that
17 are being discussed and you will see that nothing was concluded there.
18 Nothing was adopted there. It's quite simple that two other members of
19 the Presidency were being awaited and people were discussing things in
20 the meantime.

21 JUDGE MERON: Dr. Karadzic, I did not ask you so much about the
22 content of that meeting and the significance of the decisions. My
23 question pertained to the fact that Mr. Krajisnik signed as a chairman,
24 and even that did not -- you did not sense that this was correct -- was
25 incorrect and it needed to be corrected by a corrigendum?

1 A. Well, you see, as I keep saying, I did not consider the minutes
2 to be a document, an enactment. Quite simply it's an aide-memoire, a
3 reminder. I didn't think it was necessary, because we had to discuss all
4 of this yet again when the full composition of the Presidency was there.
5 For me this was just a note, and it was of no relevance.

6 JUDGE MERON: Thank you. Then I would like to turn to this
7 question, Dr. Karadzic: The Trial Chamber found that in terms of power
8 and influence, and I'm quoting, you were number one, the numero uno and
9 that Mr. Krajisnik was the number two of the regime. Yet in your
10 statement which you -- which we are discussing today you assert that
11 Mr. Krajisnik exerted very little power in government. So my question to
12 you: Could you please describe for us, for the Appeals Chamber, what was
13 actually Mr. Krajisnik's role and authority in the government?

14 A. Mr. Krajisnik had had no powers whatsoever within the government.
15 Even if you look at the word "cabinet" as such, if you look at the
16 minutes you will see that he never attended the sessions, and his
17 proposals never got there, or some documents from him. The cabinet, the
18 government, was fully independent in its functioning and particularly it
19 was independent of the president of the parliament. The Presidency and
20 the parliament and the government were our institutions, not the
21 president of the parliament. He was no institution.

22 Mr. Krajisnik did enjoy a reputation. You cannot deny that. He
23 actually won this reputation in the parliament with the Muslims and the
24 Croats because he was very skilful, very conciliatory in manner, and this
25 was watched on TV as a drama and that's how he got this reputation, but

1 he didn't really have any powers or authority whatsoever. He had the
2 authority to prepare a session of parliament and if someone had something
3 to do, and primarily it was the ministries that were supposed to do that
4 although a group of MPs would have the right to propose a bill and the
5 Presidency would have the right to process a bill, then Mr. Krajisnik was
6 supposed to put that into parliamentary procedure and to carry this out
7 the way he did in the joint Assembly, skilfully, in a conciliatory manner
8 once -- until a decision was reached where there would be no out-voting.
9 We agreed that we should like to have unanimous decisions or nearly
10 unanimous decisions. That also happened in the joint Assembly with the
11 Croats and the Muslims except for some questions that had to do with our
12 absolute fate, the destiny of Yugoslavia. Thanks to the skill of
13 Mr. Krajisnik, agreement was reached to a large degree on many questions
14 and they did not contribute to decisions.

15 As for the government, please take a look at this. Somebody can
16 look at the minutes of government sessions. I or Mr. Krajisnik did not
17 meddle in the work of the government. I believe that I was not number
18 one. It was the Assembly that was number one, not Mr. Krajisnik. Number
19 two was probably the Presidency and number three was the government.
20 However, as an institution, as an institution not as individuals.

21 JUDGE MERON: Finally, Dr. Karadzic, I would like to ask you a
22 very specific question about the appointment of Ratko Mladic. In your
23 statement, you discuss that on page 10, you discuss your own involvement,
24 and the Trial Chamber dealt with this in paragraph 994 of its judgement,
25 concluding that Ratko Mladic was selected jointly by yourself and by

1 Mr. Krajisnik.

2 Could you describe to us Mr. Krajisnik's role in the appointment
3 of Ratko Mladic?

4 A. He had no role whatsoever. He could only put this to a vote.
5 According to the constitution when I was elected to the Presidency, the
6 Presidency had the authority to nominate the chief of the Main Staff. Up
7 until the 12th of May we had only two members of the Presidency that were
8 equal. Neither of the two chaired the Presidency. This was Mrs. Plavsic
9 and Mr. Kraljevic. You see, for example, in April when this two-person
10 Presidency consisting of the two of them makes a decision, say, on
11 stopping the shelling of Sarajevo, it's the Prime Minister who turns that
12 decision into an order because there is to Presidency yet. When I was
13 elected member of the Presidency and president of the Presidency, I could
14 nominate Mr. Mladic. However, I let parliament do that because I had
15 just acceded to this position.

16 Now, how was the proposal made? Mr. Krajisnik had nothing
17 whatsoever to do with that. Two high-ranking officers of the former
18 Yugoslav People's Army came to me and they said if at the conference in
19 Lisbon you got the right to a National Guard or to an army of your own
20 then our recommendation to you would be to take an officer from
21 Bosnia-Herzegovina. In particular, we would like to recommend one
22 officer and that is Ratko Mladic. And I asked around a bit about
23 Ratko Mladic and I heard that he was a decent officer, strict, of high
24 morale -- morality, resolute. I had never seen him before, and then I
25 formulated that proposal. No one else had anything to do with the

1 proposal.

2 As for the nomination, all the MPs accepted my proposal that it
3 would be Mladic.

4 JUDGE MERON: So you deny that Mr. -- you're denying that
5 Mr. Krajisnik had any role to play in the appointment of Mr. Mladic?

6 A. Absolutely. These two officers who made the proposal to me can
7 testify to the fact that there was no one else there but me when they
8 made that proposal to me. Although I don't consider that to be a crime,
9 but the truth is the truth.

10 JUDGE MERON: Thank you.

11 JUDGE POCAR: I thank you.

12 I believe we can now start the re-examination of Dr. Karadzic by
13 the Defence. I turn to the Defence, either Mr. Krajisnik or
14 Mr. Dershowitz, bearing in mind that this is a re-examination and not an
15 examination-in-chief. I want to warn as of now that the re-examination
16 has to go to what has been raised in cross-examination.

17 MR. N. DERSHOWITZ: May I have one moment to consult --

18 JUDGE POCAR: Yes.

19 MR. N. DERSHOWITZ: -- to see how we're going to divide the time?

20 JUDGE POCAR: Sure.

21 MR. N. DERSHOWITZ: Thank you.

22 [Defence counsel and appellant confer]

23 MR. N. DERSHOWITZ: If I may, Mr. Krajisnik has indicated he'd
24 like to take 10 minutes and then turn over the remaining time to me.

25 Thank you.

1 JUDGE POCAR: That's fine. So then, Mr. Krajisnik, you have the
2 floor.

3 Re-examination by Mr. Krajisnik:

4 Q. [Interpretation] Mr. Karadzic, the minutes were mentioned today
5 of the 9th of October, 1992. I signed it as the presiding person. Now,
6 I'm going to ask you, there's a decision here on the appointment of an
7 advisor to the Presidency, Mr. Djukanovic, and the evidentiary number is
8 02298631, the reference number, and this was passed on the 9th of
9 October, 1992. That means that if these minutes are true and correct,
10 this decision should be contained in those minutes.

11 MR. TIEGER: [Previous translation continues] ...

12 JUDGE POCAR: Sorry, Mr. Tieger?

13 MR. TIEGER: I think the Chamber will rarely hear a more leading
14 question. I would ask the questions to be -- of the witness called by
15 Mr. Krajisnik to be fairly open and not suggest the answer to the
16 witness.

17 JUDGE POCAR: Well, go on, Mr. Krajisnik.

18 MR. KRAJISNIK: [Interpretation] Mr. Tieger is an old acquaintance
19 of mine and he is trying to mislead the client as he did -- trip up the
20 client as he did earlier on. Here, gentlemen, you have the decision
21 passed at that session just for Mr. Karadzic to confirm whether it was
22 brought in at that session or not, that I signed or not. If it wasn't,
23 then there -- that means there was another session and that the minutes
24 are not in fact the minutes of the Presidency session. So that's my
25 whole philosophy. So could Mr. Karadzic either confirm or deny that? Is

1 the statement, this decision contained there or not?

2 A. May I go ahead and answer? This is a decision that we passed
3 when Mr. Koljevic and I arrived with Mrs. Plavsic. So it was a
4 Presidency meeting. That's when the two of us arrived. And it is the
5 decision signed in my name by Mr. Koljevic with full authority. He had
6 every right to do so, but the fact is that it was not incorporated into
7 the part where there was a free discussion held before the quorum, that
8 is to say, before the two of us arrived. I think that all of them had
9 left when we made the decision that needed to be made because they were
10 not able to make decisions because the three of us or, rather, the two of
11 us weren't there. The quorum was not sitting in full. So this is an
12 obvious example of that being the case and of Koljevic signing in my
13 name.

14 Q. Mr. Karadzic, can you be briefer? Shorter questions [as
15 interpreted], please, and try and respect my time as you did the
16 Prosecution's time?

17 The minutes of the 13th of November, 1992, is what I'd like to
18 look at next, which was quoted by the Prosecutor, which speaks quite
19 precisely about whether a Presidency was established or whether it was
20 suppose to be established in the future.

21 Now, I'd like Mr. Karadzic to read out exactly the challenged
22 portion which shows whether the Presidency existed at that time or
23 whether it was supposed to be established at some time in the future.

24 A. The Presidency considered the question of the justification of
25 introducing a wartime commission and an expanded Presidency under the

1 current conditions with respect to a parliamentary question. So it's
2 the -- whether it was justified to introduce an expanded Presidency,
3 that's the question. It was established that a state of war had not been
4 declared for well-known reasons and that an expanded Presidency,
5 including the president of the national assembly and the Prime Minister
6 of Republika Srpska could be introduced only under such circumstances.
7 The case is the same with the War Presidency which was introduced and
8 replaced by the commission, in the municipalities that is. And then we
9 have the law --

10 Q. May we have your comments?

11 A. Well, I think the language here -- the fact that we're trying
12 these cases in different languages gives rise to many problem. So
13 perhaps the -- it's not ill-intent on the part of the Prosecution, but
14 there is a confusion with respect to language. Now, as Mr. Tieger told
15 me earlier on, what he read out I didn't recognise, but now we see it
16 discussed the question of introducing a War Presidency, an expanded
17 Presidency, the introduction of it. That's what was discussed. So it
18 was not that it was introduced. The discussion was whether to introduce
19 it or not and our decision was not to introduce it because there were no
20 legal prerequisites for that.

21 Q. Mr. Karadzic, the Prosecutor also mentioned the Assembly at which
22 in Zvornik there was discussion about the same topic, that is to say, the
23 Presidency was discussed there too. Now, the problem here is in the
24 translation, gentlemen Judges. We can establish here that that is so,
25 whether there were five members or three members.

1 Now, I'm going to read it out, and would Mr. Karadzic like to
2 confirm it or not.

3 In the original text it says as follows, and Karadzic is
4 speaking. It is page 59, the evidentiary number is 02149691, and it is
5 the stenogram from the Assembly in Zvornik. And Karadzic says: "I
6 always advocated the Presidency and not the president, because there are
7 few of us as it is. If Koljevic and I go off somewhere, then Biljana
8 remains. And at least there's one of us three there then. And then if
9 Biljana has to leave, then Mr. Krajisnik."

10 Now, I'd like to hear Mr. Karadzic's answer. From this text are
11 we able to conclude who the Presidency members were?

12 A. It's quite clear that the members of the Presidency are myself,
13 Mrs. Plavsic, and Mr. Nikola Koljevic. And I -- I never want to be the
14 president of the republic but had to accept it in the end because the two
15 of us [as interpreted] wanted it to be so and the proposal came from
16 them. I was always reticent but I thought that it was difficult for one
17 man to make those decisions, so I always relied on more people. However,
18 here it is quite clear and it is stressed that the Presidency was us
19 three, the three of us. If anyone of us was absent, then Biljana would
20 be there. She can't make decisions but she can provide people with
21 information. Now if Biljana wasn't there, then the information could be
22 provided by Mr. Krajisnik too, but neither Ms. Plavsic or Mr. Krajisnik
23 or myself could make decisions, or Mr. Koljevic themselves could make
24 decisions on our own. So if Biljana was there and remained there, she
25 could just provide information, just as anybody else could who knew what

1 the discussions were about.

2 Q. Mr. Karadzic, is it possible, and could the Prosecution help me
3 out, could the combat report be provided to Mr. Karadzic that was
4 presented here today where it says exactly what the strategic goals of
5 the army were so that Mr. Karadzic could read that and then tell us
6 whether they are the same strategic goals which were given on the 12th of
7 May. So could the Prosecution help me out here, please.

8 Mr. Tieger can read it out again if that is in order. Perhaps
9 that would be best.

10 MR. TIEGER: Two sections, Your Honour, on page 160. "Thus the
11 primary focus for the army of Republika Srpska for quite some time had
12 been to open and maintain a corridor linking the Republic of
13 Serbian Krajina --"

14 MR. KRAJISNIK: [Interpretation] 159, page 159. Page 159 of the
15 combat report you raised. The strategic goals are as follows, and then
16 they were enumerated. That portion.

17 MR. TIEGER: "The strategic objectives of our war which were
18 promptly defined and set before the Main Staff of the army of Republika
19 Srpska. The commands and units served as a general guideline upon which
20 we plan the actual operations and concerted battles. This means that
21 objectives were set before --"

22 MR. KRAJISNIK: [Interpretation] Mr. Tieger, they were enumerated.
23 The text isn't important, just the points one by one. Mr. Sladojevic
24 will read it out if you can't find it, with the permission of the
25 Appeals Chamber. Could Mr. Sladojevic read it out, by the

1 Appeals Chamber's leave, because it's in English, and then I'll tell you
2 exactly which document I'd like to refer to.

3 MR. SLADOJEVIC: [Previous translation continues] ... read it in
4 English himself if Mr. Tieger gives him the document? That would be all
5 right. Just the page 159, please.

6 JUDGE POCAR: Can you provide the witness with the document?

7 THE WITNESS: [Interpretation] No. In no respect were those the
8 goals that were declared as being the political goals. For example, look
9 at the first one. The defence of the Serbian people against the genocide
10 by the Muslim Croat forces. We make no mention of that anywhere because
11 in the strategic goals of May we relied on the conference, that the
12 conference would speedily bring in a political solution. And there was
13 no discussion of any kind of defence at all at -- there. Furthermore, it
14 says --

15 MR. KRAJISNIK: [Interpretation]

16 Q. Mr. Karadzic, you can read it to yourself or read it out.

17 A. [In English] "Against genocide at the hand of the Muslim Croat
18 forces. The protection of the property and cultural heritage of the
19 Serbian people, the liberation of the territories which are ours and
20 which belong to us by historical birth rate -- birthright, the infliction
21 of the greatest possible losses of the Muslim Croat forces to which end
22 we have opted for neutralising and destroying their personnel and combat
23 ordnance. The neutralising of all facilities in enemy territory or their
24 destruction. The spreading of the enemy forces over a broad area on all
25 battlefields of former Bosnia and Herzegovina." The gradual

1 cross-erosion of the enemy's offensive power. Yes. That means the
2 shattering of his forces and the seizing -- seizing of the initiative and
3 creating conditions for resolute offensive operations in order to defeat
4 his forces and expel them from areas that have always belonged to us
5 while at the same time preventing massive losses in our own ranks.

6 [Interpretation] This has absolutely nothing to do --

7 Q. Mr. Karadzic, just a short question. Does this -- was there any
8 possibility of linking up those strategic goals with the six strategic
9 goals?

10 A. No. This has nothing to do with the six strategic goals.

11 Q. My last question. Today the Prosecutor said -- or, rather, he
12 showed you the minutes of the Presidency of the 2nd of August, and
13 gentlemen Judges, it says there that three members of the Presidency
14 informed the Presidency about the conference that was held on the
15 27th and 28th of July.

16 Now, I should like to ask the Appeals Chamber -- or, rather, to
17 draw attention to paragraph 306 of the Krajisnik appeal where a review
18 was given or, rather, I quote two pieces of information. They were two
19 pieces of information, two reports related to Mr. Karadzic's statement.
20 So could he just read that out and then it will be quite clear that
21 Mr. Karadzic addresses Mr. Krajisnik as president of the Assembly.
22 That's his attitude towards him. And it's to be found in paragraph 306
23 of my appeal brief.

24 One is a BBC piece of information and the other is from the
25 Tanjug news agency.

1 A. [In English] What would you like me -- [Interpretation] Would you
2 like me to read it out?

3 JUDGE POCAR: What is your question, Mr. Krajisnik?

4 MR. KRAJISNIK: [Interpretation]

5 Q. Yes. My question is this: Please read it out, and that is
6 linked to the conference and the minutes that were presented in court
7 today by Mr. Tieger.

8 A. [In English] Yeah. Yeah. "The evidence -- the evidence the
9 Chamber derived from Presidency minutes of August the 2nd, 1992, is
10 erroneous as well. Here all three members of the delegation of
11 negotiations in London are listed as member of the Presidency by mistake
12 on the part of the person who took the minutes. Mr. Karadzic gave a
13 statement to the BBC and Tanjug before his departure from the -- for the
14 conference in London, 27th of July, 1992, stating that he and Koljevic
15 were members of the Presidency and that Krajisnik was the president of
16 the Assembly." That -- he was member of delegation in this capacity, not
17 as a member of Presidency. That's what I say that the minutes -- minutes
18 from some meetings are not documents.

19 Q. Mr. Karadzic, thank you very much. I'll conclude my examination
20 there. May we just have the document back, please? Thank you.

21 MR. KRAJISNIK: [Interpretation] Your Honours, thank you for
22 giving me the opportunity to question Mr. Karadzic, and Mr. Dershowitz
23 will continue.

24 JUDGE POCAR: Yes, please, Mr. Dershowitz.

25 MR. N. DERSHOWITZ: Thank you very much, Your Honour.

1 Re-examination by Mr. N. Dershowitz:

2 Q. Mr. Karadzic, my name is Nathan Dershowitz, and I am what's
3 called JCE counsel, and that is counsel with respect to the
4 joint criminal enterprise, so I'd like to focus my questions to you with
5 respect to Mr. Krajisnik's involvement and whether he was a member of a
6 JCE, and because of the limited time, I would appreciate it if you could
7 try to keep your answers short but accurate. Thank you.

8 There have been a number of discussions of SDS, and I just want
9 to know when SDS was first established, were there other political
10 parties that had been established which were based largely on -- what
11 were they based upon?

12 MR. TIEGER: Sorry, Your Honour. I'm not clear how that arises
13 from the cross-examination.

14 MR. N. DERSHOWITZ: Your Honour, I can make a proffer and that is
15 I'm trying to establish -- there were questions with respect to SDS. I
16 wanted to establish what SDS was. It's just a couple of preliminary
17 questions in order to get to the specific questions which tie it in to
18 the JCE.

19 JUDGE POCAR: Yes, but keep it short and --

20 MR. N. DERSHOWITZ: Three questions.

21 JUDGE POCAR: -- bear in mind the warning I gave you at the
22 beginning.

23 MR. N. DERSHOWITZ: Yes.

24 THE WITNESS: [Interpretation] We, a large group of Serb
25 dissidents from the Communist days, refused to establish a political

1 party on an ethnic basis. However, the SDA had already been established
2 as the party of the Muslim people, and the HDZ spilled over from Croatia.
3 It was established somewhat later, but it spilled over from Croatia, and
4 it became clear that the Serb people had to have a party of their own or
5 to vote for the Communists. That's what happened in Croatia. The Serbs
6 voted for Racan's Communists and they did not fare well in the elections.

7 MR. N. DERSHOWITZ:

8 Q. In the period 1990, 1991, did the SDS have an agenda, and what
9 was the agenda?

10 A. Our plan and programme was highly complementary with the SDA
11 programme. In their document of establishment, they said that they would
12 not cooperate with parties that would work on the break-up of Yugoslavia.
13 I had very good relations with Mr. Izetbegovic. We also saw each other
14 privately, and he and I were both in favour of maintaining the
15 federation, introducing democracy, replacing the Communist regime. So
16 our plan was practically identical to that of the SDA. The HDZ had a
17 somewhat different plan because they wanted Croatia and the Croat people,
18 wherever they were, to leave Yugoslavia. The Muslims at that point, no.
19 Mr. Izetbegovic, for as long as he was in favour of the Yugoslav option,
20 the federal option, he enjoyed great support among the Serbs and Muslims
21 in and out of parliament.

22 Q. Was it ever the agenda of SDA [sic] to "permanently remove by
23 force or other means Bosnian Muslims and Bosnian Croats from large
24 portions of Bosnia-Herzegovina through the commission of war crimes
25 including murder, deportation, forced movement and inhumane acts"?

1 A. Now, I believe that you meant the SDS.

2 Q. Yes. I thought I said that. I think it's improperly
3 transcribed.

4 A. That was never the plan. There is an abundance of evidence
5 showing that we wanted to -- for Bosnia to remain united. As a matter of
6 fact, although we made plans that were supposed to save us from being
7 out-voted but in the summer of 1991 when Mr. Zulfikarpasic and Filipovic
8 came with a proposal of a historical agreement between the Muslims and
9 the Serbs, we expressed our readiness to give up on all these
10 pre-cautionary measures, to give up on regionalisation and to go back to
11 the initial points of departure that the Serbs and Muslims had before the
12 elections, that is to say, preserving Yugoslavia and preserving a single
13 Bosnia-Herzegovina. When we had the conference not a single party had
14 envisaged ethnically pure territories. Again I have to bring up the
15 question of language. When somebody says purely Serbian, purely Muslim,
16 purely Croat, it means undeniably Croat, Muslim or Serb. That created a
17 great deal of confusion here in this Tribunal.

18 Q. Was Mr. Krajisnik involved in efforts prior to the outbreak of
19 war to come up with a political solution?

20 A. Absolutely. Absolutely. He was highly conciliatory and he
21 insisted until the very end on seeking a political solution.

22 Q. And prior to the outbreak of war, did you ever hear Mr. Krajisnik
23 during the -- that period of time articulate his political views?

24 MR. TIEGER: I object, Your Honour.

25 JUDGE POCAR: Mr. Dershowitz, you should you not proceed to an

1 examination-in-chief.

2 MR. N. DERSHOWITZ: It's not an examination-in-chief --

3 JUDGE POCAR: It is.

4 MR. N. DERSHOWITZ: Okay. I'm sorry, Your Honour. I think there
5 were some questions, with all due respect, about SDS and the SDS
6 position. So what I am seeking to ask questions about, and there were
7 numerous questions about SDS prior to the establishment, Your Honour, of
8 the Presidency and the efforts were made to say that Mr. Krajisnik joined
9 in those, so what I'm asking is his views as expressed at that time and
10 whether he personally ever made any statements which would show that
11 there was this guilt by association. We've heard a lot about the Serbian
12 government or the Serbian representatives, and I'm asking questions
13 following up as to whether Mr. Krajisnik ever made any of these comments
14 prior to the establishment of the government. So with all due respect,
15 they're followups to the specific questions that were asked.

16 JUDGE POCAR: Mr. Tieger.

17 MR. TIEGER: They might be followups if the underlying premise
18 was correct. The only question that touched upon the SDS, there were
19 questions directed at Variant A and B and that was it. There was no
20 question about SDS activity prior to the war.

21 MR. N. DERSHOWITZ: I'm sorry, some of the Judges did ask some
22 questions with respect to SDS, and there were questions about the --
23 everything prior to the war which was -- were documents sent out by SDS?
24 Was he an executive of SDS? Was the -- was there a distribution made by
25 SDS? So what I'm looking for is a narrow question, a number of very

1 narrow questions. I just want to know --

2 JUDGE POCAR: I want to avoid a long debate on this --

3 MR. N. DERSHOWITZ: I'm sorry.

4 JUDGE POCAR: -- but try to stick to the questions that were
5 raised in cross-examination, please.

6 MR. N. DERSHOWITZ:

7 Q. And my question to you is: Did you ever personally hear during
8 any of the debates that took place prior to the establishment of the
9 Presidency Mr. Krajisnik ever make any comments encouraging, advocating,
10 suggesting ethnic cleansing, the movement of civilian populations, the
11 murder of Muslims or Croats or any of these other war crimes that he's
12 been charged with?

13 A. Absolutely not. It's not only that he was well known as a
14 conciliatory person. He was also well known as a person who understood
15 the Muslims. The Muslims themselves, Izetbegovic himself asked that
16 Mr. Krajisnik always be on the negotiating team because they had a good
17 understanding. So that was certainly not the case that anyone ever said
18 any such thing. You're asking me about Mr. Krajisnik now. No one -- it
19 never crossed anybody's mind, let alone did somebody ever say something
20 like that.

21 Q. And prior to the outbreak of war, was Mr. Krajisnik in a position
22 to issue orders as a member of SDS?

23 MR. TIEGER: Excuse me. I am sorry, Mr. Karadzic. This is not
24 remotely raised by cross-examination. I certainly can't think of any
25 questions by the Bench that would allow counsel to go into the direct

1 examination that was covered by the 92 ter.

2 MR. N. DERSHOWITZ: Your Honour, if I may respond, because I
3 think that's just factually incorrect. There were a number of questions
4 that were asked about distributions that were made by the Executive Board
5 of SDS, that were made by the main office of SDS, and so the inference
6 from the questions, which is what I am responding to, is that he as a
7 member of Serbian leadership or SDS did certain things, and I want to ask
8 the specific questions as to whether he personally would have issued any
9 of these orders, why -- I'm only concerned about his personal
10 responsibility, not as -- not the Serbian leadership. So my question is
11 specifically responsive to the inference from those questions and the
12 guilt by association. And so my narrow question is: Was he ever in a
13 position to issue orders, directives, mandates in his capacity as a
14 member of SDS? I see it's relevance.

15 JUDGE POCAR: Answer this question, Mr. Karadzic.

16 THE WITNESS: [Interpretation] Absolutely not. He was not able to
17 do that, nor did he do so. For a whole year of the existence of the SDS
18 Mr. Krajisnik was not a member of the Main Board, and one year later at
19 the annual Assembly when he was elected, he was already president of the
20 joint Assembly and he was not in any other organ except in the Main Board
21 where there were, I don't know how many, about a hundred or more people.
22 I don't know how many members it had, but at any rate, he did not have a
23 single function except one year later as a member of the Main Board, and
24 as a member of the Main Board he could not issue any instructions,
25 directives, or anything like that.

1 MR. N. DERSHOWITZ:

2 Q. But was he actively involved in efforts to secure a peaceful
3 resolution of the looming conflict?

4 A. Yes, but by virtue of his office of the president of the joint
5 Assembly and also a member of the negotiating team first in the
6 negotiations between Serbia, Croatia, Slovenia, and Bosnia and Macedonia,
7 et cetera. Then when it turned out that the Bosnian delegation itself
8 did not have a united position, then we turned within Bosnia-Herzegovina
9 itself to see what the position of Bosnia would be. Again he held the
10 office of this president of the joint Assembly, which he never left.
11 Formally he was president of that Assembly until the end of 1992. It's
12 only then that they replaced him, so no way was he anywhere on behalf of
13 the SDS.

14 Q. I'd like to focus on the Presidency, and I must tell you that I
15 am confused and I -- from some of the questions, I think there is
16 confusion among the Bench so I'll try to clarify. I'd like to create
17 three categories. Category number one is the Presidency, the formal
18 Presidency. Category number two is the "expanded Presidency," a word
19 frequently use, and category number three is the War Presidency. Okay?
20 And my first question is with --

21 MR. TIEGER: I'm sorry to interrupt. I'm having difficulty
22 understanding how that -- where that distinction is based in fact and how
23 it clarifies rather than further confuses.

24 MR. N. DERSHOWITZ: If you would allow the witness to answer the
25 questions maybe he can clarify it, but it is certainly confusing to me

1 within the judgement and the questions.

2 MR. TIEGER: If the witness could be asked questions in an open
3 manner rather than led to particular categories artificially created in
4 advance that might help.

5 JUDGE POCAR: But there was a lot of discussion on the -- on how
6 the Presidency was shaped, so I would -- I will be inclined to allow the
7 Defence to clarify this issue, if it can be clarified. And since I have
8 the floor, we're speaking of War Presidencies or War Commissioners?

9 MR. N. DERSHOWITZ: Well, that's another one and --

10 JUDGE POCAR: Because I wanted to try to clarify that too.

11 MR. N. DERSHOWITZ: And let me go one step further, Your Honour.

12 JUDGE POCAR: Okay.

13 MR. N. DERSHOWITZ: And that's War Presidency or War
14 Presidencies.

15 JUDGE POCAR: Okay.

16 MR. N. DERSHOWITZ: All of which I think are in a state of
17 confusion.

18 JUDGE POCAR: Go on.

19 MR. N. DERSHOWITZ:

20 Q. With respect to the War Presidency -- I am sorry. Strike that.
21 With respect to the Presidency, what are you referring to?

22 A. The Presidency of the Serb Republic of Bosnia-Herzegovina up
23 until the 12th of May was Biljana Plavsic and Nikola Koljevic, because
24 they ran in the election and they were members of the joint
25 Bosnia-Herzegovinian Presidency. I was elected on the 12th of May into

1 the Presidency of -- this Presidency and I was elected president. So
2 that was the collective head of state. Again we have a linguistic
3 problem. Look at the first minutes from the session of the Presidency
4 where it says "expanded session of the Presidency." Take a look at that.
5 Often the SDS had expanded sessions. They were not sessions of the
6 expanded board or committee. If I need to explain this further, the
7 expanded --

8 Q. [Previous translation continues] ... some questions and maybe we
9 can focus on this. Are you using the expression "Presidency" as the
10 people who made decisions?

11 A. Yes, yes. That is the way the constitution defines it. It is
12 subject matter from the constitution.

13 Q. So when you have meetings of the Presidency, you're talking
14 about, when you were involved, the three people who were members of the
15 Presidency who had the power to make decisions; is that correct?

16 A. Yes.

17 Q. And when you're talking about the expanded Presidency or the
18 expanded meetings of the Presidency, are you discussing sessions where
19 you invited people in to provide you with information or to hear what was
20 going on? Is that -- is that what you mean?

21 A. That's an expanded session. That's the case in the SDS and in
22 the Presidency and anywhere when somebody else is in attendance too, but
23 that is just an expanded session, not a body that's expanded and that is
24 in session.

25 Q. So when these people -- you would get advice from them, they

1 would listen, but the expanded Presidency session was not a
2 decision-making body. Is that what I understand you to be saying?

3 MR. TIEGER: Your Honour, I'm sorry. And I really -- I don't
4 like to get up but these are a series of leading questions and I would
5 ask them to be asked in a more open fashion.

6 JUDGE POCAR: Try to be less leading but I note in the question
7 you put you spoke at the same time of expanded Presidency and expanded
8 session. Maybe you made some confusion in that yourself.

9 MR. N. DERSHOWITZ:

10 Q. Can you explain the difference in your mind between an expanded
11 session of the Presidency and the phrase "expanded Presidency" as it has
12 been used?

13 A. An expanded session either of the Presidency or of the Main Board
14 or of any body means that that session is attended by someone who is not
15 a member of that body, too, for different reasons. Ministers were often
16 in attendance, that would be an expanded session of the Presidency.
17 However, that would not make them members of the Presidency. Also when
18 there is a delegation of the Presidency or some body for negotiating with
19 the Croats or the Muslims, the three of us would include a few ministers
20 too. That would not turn them into members of the Presidency. This
21 would mean that they are providing a service or assistance to the
22 Presidency because the three of us cannot be the only delegation talking
23 to the Croats or the Muslims. We have this expansion. So expanded
24 session is attended by someone who is not a member.

25 Expanded Presidency would have to be in the constitution which

1 would include the Prime Minister and the president of parliament, that is
2 to say, to have the executive and to have the legislative if the
3 Presidency cannot function, the executive, rather.

4 Q. And are you then saying that the words "expanded Presidency" --

5 MR. TIEGER: It's --

6 MR. N. DERSHOWITZ: I --

7 MR. TIEGER: I understand that, and again I don't want to get up,
8 but it's hard to imagine how a question that begins with "are you saying
9 that" cannot be a leading question.

10 MR. N. DERSHOWITZ: I'll phrase it differently and we'll get to
11 the same place. I think we're just wasting some time, but I abide by the
12 objection that was made.

13 Q. Can you explain the relationship, if any, between -- in your
14 mind, between War Presidency and expanded Presidency? Are they
15 different?

16 A. Well, in essence an expanded Presidency should be introduced in
17 the war. However, we avoided this term "War Presidency." That would be
18 the expanded Presidency if a state of war were to be declared, not in a
19 different situation.

20 JUDGE POCAR: I'm sorry. On a technical matter, I'm advised that
21 there is the need to change the tape and we have to break now,
22 necessarily, for 20 minutes to allow the change of tape.

23 MR. N. DERSHOWITZ: For 20 minutes?

24 JUDGE POCAR: Yes.

25 MR. N. DERSHOWITZ: Thank you.

1 --- Recess taken at 12.39 p.m.

2 --- On resuming at 1.03 p.m.

3 JUDGE POCAR: The hearing is resumed. I will give the floor back
4 to Mr. Dershowitz.

5 MR. N. DERSHOWITZ: Thank you again, Your Honour.

6 Q. Mr. Karadzic, just to clarify, how many members were there of the
7 Presidency?

8 A. Up until the 12th of May there were two, and from the 12th of May
9 until the 17th of December there were three. And from then on, we
10 transferred that into one president and two vice-presidents, and again,
11 all three were elected by secret vote.

12 Q. And if there were a War Presidency or an expanded Presidency, how
13 many members would there be of the War Presidency or expanded Presidency?

14 A. It would be expanded by the membership of president of the
15 Assembly and Prime Minister and it had powers to adopt legislation
16 because during the state of war the Assembly would not meet.

17 Q. And during the year 1992, were there ever any decisions,
18 opinions, directives, orders issued by a five-person expanded or
19 War Presidency?

20 A. No, not a single one. Even three of us did not vote. Rather, I
21 asked for consent from Mrs. Plavsic and Mr. Koljevic, and if I agreed
22 then most of our decisions were unanimous. We wouldn't adopt decisions
23 if the decision was 2 to 1. No. I would ask for consent from each
24 member of the Presidency.

25 Q. But again I'm -- what I was asking is with respect to a

1 five-member either expanded or War Presidency. Was there ever an order,
2 directive issued by a five-body expanded Presidency or War Presidency at
3 any time in 1992?

4 A. No.

5 Q. You were asked a question by Mr. Tieger, and he quoted from page
6 100 of November, I believe he said 23rd, 1992, page 1, and I see on my
7 screen that the quote as it's there is a little bit inaccurate, so let me
8 try to read it slowly. I think it's the way it was taken down, not the
9 way it was read.

10 This is -- you were asked about this. It's a quote from
11 Mr. Krajisnik on the 22nd of November, 1992, and it says: "Gentlemen, we
12 have received the answer to the question by the deputy, Mr. Trbojevic,
13 that War Presidency and the commissioner, it has been established to be
14 unconstitutional. So if we decide that there is a need for the
15 War Presidency and the commissioner, we should further the initiation to
16 the constitutional committee. If we decide there is no need, then it
17 does not have to go to the constitutional committee."

18 And you were asked whether you knew whether Mr. Krajisnik had
19 expressed that view, and my question to you is: Was that also your view?

20 A. I would like to see the original in the Serbian language.
21 However, the essence -- I think that the essence is this: We did not
22 have an expanded Presidency because we did not have the state of war. If
23 that question was put forward in the parliament, then it was up to the
24 Presidency to formulate its position, whether it needed to be expanded or
25 whether it would continue functioning in its regular composition. If

1 they needed it to be in the expanded form, then that question would have
2 been sent to the constitutional commission to give its interpretation.

3 And I think that a week later we did have a session of the
4 Presidency and it was put forward on the agenda.

5 Q. Well, on the following page, page 101, the following quotation
6 appears again from, I believe, Mr. Krajisnik. It says: "We move on to
7 the Assembly opinion whether we need the War Presidency. The
8 War Presidency consists of three members of the Presidency, the president
9 of the Assembly, and the Prime Minister. Since no state of war has been
10 declared, there is an opinion that this decision would not be
11 constitutional. The same thing applies to the commissioner. I open the
12 discussions."

13 Does that confirm your recollection that there was a discussion
14 as to whether there was a need for -- of a War Presidency or an expansion
15 Presidency discussed in November of 1992?

16 A. Yes.

17 Q. And do you know whether it was ever voted upon and approved in
18 1992 to have a War Presidency or an expanded Presidency?

19 A. I don't know whether in that session a vote was taken in the
20 parliament. I guess it wasn't because the question was sent back to us
21 at the Presidency to declare whether we would continue functioning as the
22 Presidency within its normal composition or whether we would ask for
23 expansion. And then a week later, I think on 30th of November, we did
24 have a Presidency session and concluded that there was no need for the
25 expanded Presidency.

1 Q. And if there had been an expanded Presidency, under the same
2 provisions of the constitution would there be a number of other things
3 that would occur once there had been a declaration of a state of war?

4 A. Absolutely. That body would function as an integrated both
5 legislative and executive power. It would pass legislation and issue
6 directives and regulations aimed at the government, but at the time when
7 the Assembly met, it would have to put on the agenda everything that had
8 been passed in the meantime by the Presidency so that the Assembly could
9 adopt it. And since we did have a regular parliamentary life, there was
10 absolutely no reason for this. We had many parliamentary sessions.

11 Q. But would there have been a requirement for war commissioners or
12 anything else, assuming there had been a state of war and a declaration
13 of a war or expanded Presidency?

14 A. The state of war could not have been passed as a secret measure.
15 It had to be clear to everybody, because new legislation would need to be
16 passed, and everybody had to be aware of the consequences of their
17 conduct. So this would be war legislation, not peacetime legislation.
18 And this state of war would have been absolutely declared, and the
19 parliament would not meet under those circumstances, and this body would
20 function both as legislative and executive power.

21 Q. And was the legislative branch continuing to function during
22 1992?

23 A. Absolutely. We held many sessions, both in 1992 and throughout
24 that period of conflict which we do not call a war. We call it a tragic
25 conflict. So you can see minutes from the 1992. You can see that there

1 were many, many parliamentary sessions.

2 Q. During the period from when the Presidency was expanded to three
3 members and you became the president, through, I guess, December 30,
4 1992, which is the end of the indictment period, did Mr. Krajisnik
5 continue in his efforts to negotiate?

6 MR. TIEGER: Sorry, Your Honour. That's within the scope of the
7 92 ter and not within the scope of the cross or questions.

8 JUDGE POCAR: I believe you should not put that question,
9 Mr. Dershowitz.

10 MR. N. DERSHOWITZ: Your Honour, if I may respond to the
11 objection.

12 JUDGE POCAR: Sure.

13 MR. N. DERSHOWITZ: The question that had been asked is whether
14 these military objectives also included -- or whether the political
15 objectives also constituted the military objectives. I'm trying to
16 expand upon what the political objectives were during that period of time
17 and whether Mr. Krajisnik was involved in the efforts on the political
18 end, to distinguish it from the military end because that was his
19 function. So with all due respect, I think it is clearly responsive to
20 the questions that were asked and that's why I had it down.

21 MR. TIEGER: Your Honour, the 92 ter raises that point. These
22 were political objectives. Presumably with political objectives would be
23 political negotiations. That's part of the 92 ter. In cross-examination
24 the point was raised that they were also military objectives. That was
25 addressed exclusively, not the political aspect.

1 MR. N. DERSHOWITZ: Again, Your Honour, he was involved in the
2 political. The inference was that he was also, because he was a member
3 of the of leadership, involved in the military and I want to demonstrate
4 that his function was the political function. So it's clearly responsive
5 to the inquiries that had been made.

6 JUDGE POCAR: Please proceed. Bear in mind you have little time
7 now.

8 MR. N. DERSHOWITZ: Can you give me a rough estimate as to how
9 much?

10 JUDGE POCAR: Ten to 15 minutes.

11 MR. N. DERSHOWITZ: Okay. I'll take less than that. Thank you.

12 Q. Can you answer the question? The question was whether he was
13 involved in the political -- the negotiations during the period of May
14 1992 through December 30, 1992.

15 A. The negotiations never stopped. They were continuing under the
16 mediation of international representatives. Mr. Krajisnik, throughout
17 the time, was a member of the negotiating team together with
18 Minister Buha, Koljevic, and so on. So he -- there was a political
19 process throughout that whole time. We had never lost hope that a
20 political solution would be found, and we were prepared to return
21 territories and to find a fair territorial solution. This has nothing to
22 do with military goals.

23 Q. And to what extent was -- who else was actively involved with him
24 in that negotiating obligations?

25 A. On behalf of the Presidency there were Mr. Koljevic and myself;

1 and then on behalf of the parliament, it was Mr. Krajisnik; and then on
2 behalf of the cabinet, it was Minister of Foreign Affairs, Mr. Buha.
3 That means that all of us were represented, the parliament, the cabinet,
4 and the Presidency.

5 Q. And were there discussions before entering into the negotiations
6 as to what the position was of the negotiators for the Serbian side?

7 A. Yes, absolutely. We had to abide by the rules that the
8 parliament set up for us, and we also had to coordinate our tactics so
9 that we could appear as a unified delegation, and we did that before all
10 negotiations. I couldn't change the members of the negotiating team
11 because that would mean disrespect to the mediators, and that would also
12 mean an obstruction of -- on our part, of the negotiations.

13 Q. Now, in response to the questions that you were asked about the
14 military part, was Mr. Krajisnik in any way involved in taking the goals
15 and objectives that you were seeking to pursue politically and turning
16 them into a military objective?

17 A. There could not have been a military objective, because we knew
18 that in the end everything had to end up with negotiations. We did not
19 want all of the Bosnia under our control. We wanted what was offered to
20 us by the conference. So the military goals are pointless, nor did the
21 political leadership get involved in them, especially not the parliament.

22 Q. All right. But putting aside the leadership, I'm only focusing
23 now on Mr. Krajisnik. He was involved in the political efforts at
24 negotiating a political settlement. Was he also in any way involved in
25 the military operations either by being in a command position, an

1 authority position, or right to issue any orders as it applied to the
2 military part of what was going on at that time?

3 A. Absolutely not.

4 MR. N. DERSHOWITZ: May I have one moment to consult?

5 [Defence counsel and appellant confer]

6 MR. N. DERSHOWITZ: Your Honour, I have no further questions, and
7 Mr. Krajisnik tells me he does not have any further questions. Thank you
8 very much.

9 JUDGE POCAR: I thank you, Mr. Dershowitz.

10 Any questions from the Bench? Judge Shahabuddeen.

11 JUDGE SHAHABUDEEN: Only an observation, Mr. Dershowitz. I
12 gained the impression that you -- your questions were directed to
13 achieving this result: That you assumed that JCE was a valid concept but
14 that you were seeking to demonstrate that on the facts there was no
15 liability, but I thought that your -- the province of your jurisdiction
16 was confined to attacking the concept of JCE itself.

17 MR. N. DERSHOWITZ: Your Honour, that is a very good question.
18 What I had in mind is the question of JCE itself. There were three
19 questions. One is the -- the concept, the legal parameters, the
20 descriptions of JCE. That's one province. A matter of law whether the
21 words and phrases that have been used to describe it leave it as an
22 open-ended concept, a concept that has problems, the lack of description,
23 the lack of notice, lack of a predicate. All of those questions,
24 that's "A."

25 The second is whether or not there was a JCE at all.

1 The third is whether or not Mr. Krajisnik, even if there was a
2 JCE, was a member of the JCE or could be held liable for a JCE if he
3 articulated --

4 JUDGE SHAHABUDEEN: Would you say that that third question was
5 transacted by you in the written brief which you submitted?

6 MR. N. DERSHOWITZ: Without a doubt. And what I was trying to
7 do, candidly, is use the witness in order to buttress the claims that we
8 had made that Mr. Krajisnik's function was to articulate, to be involved
9 in negotiations, to articulate, to seek to resolve the question
10 politically and that his views were to protect the interest of the Serbs.
11 To the extent that he had those views and maybe others had those views
12 and others engaged in illegality, it is inappropriate to take an
13 individual who is expressing legitimate, justifiable, protected,
14 encouraged statements and to make him liable for the actions of others
15 who he doesn't control, has no power over, who engage in illegality. So
16 I thought I can secure certain information from this witness. I believe
17 I did secure information narrowly focused, because I didn't think this
18 witness would be the one for JCE purposes to address the first question
19 that I raised, nor the second question that I raised.

20 JUDGE SHAHABUDEEN: I must read over your brief more carefully
21 to see whether it deals with these aspects. Thank you.

22 MR. N. DERSHOWITZ: May I make a suggestion, Your Honour, with
23 all due respect? I read over the argument the other day in anticipation
24 of this proceeding, and I suggest that if you read over the argument that
25 had been made and some of the questions that the Chamber had asked, I

1 think this issue became much more focused, that it may have -- it was
2 there, but much more focused, both in my presentation and in my brother's
3 presentation, and I think my brother was expanding on it in terms of
4 every other conflict that exists around the world where people take a
5 political position and others engage in crimes in illegality. So if
6 you're going to read it over, I request, not because I said it and not
7 because my brother did, but I request you look at the oral argument which
8 I think is even more focused.

9 JUDGE SHAHABUDEEN: Thank you, Mr. Dershowitz.

10 MR. N. DERSHOWITZ: Thank you very much, Your Honour. Any
11 other ...

12 JUDGE POCAR: If there are no other questions, this concludes the
13 questioning of the witness. So I will -- the witness -- Mr. Karadzic, we
14 thank you for your testimony, and you can be excused now and leave the
15 courtroom accompanied by the usher --

16 MR. ROBINSON: Mr. President, also I would like to express my
17 thanks to you for allowing me to appear today and for respecting the
18 rights of my client. I think we are both very satisfied with these
19 proceedings. Thank you very much.

20 JUDGE POCAR: Thank you.

21 [The witness withdrew]

22 JUDGE POCAR: It remains now to admit into evidence the statement
23 of Mr. Karadzic. So can I ask the registrar to proceed to that.

24 THE REGISTRAR: The 92 ter statement of Mr. Karadzic will be
25 Exhibit AD3, Your Honours.

1 JUDGE POCAR: I thank you. So this concludes this evidentiary
2 hearing. The Chamber will now rise.

3 --- Whereupon the hearing adjourned at 1.29 p.m.

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