1	Friday, 27 June 2008
2	[Open session]
3	[The accused entered court]
4	Upon commencing at 9.03 a.m.
5	JUDGE AGIUS: Yes, Madam Registrar, could you call the case,
6	please.
7	THE REGISTRAR: Yes, good morning, Your Honours. Good morning,
8	everyone. This is case number IT-05-88-T, the Prosecutor versus Vujadin
9	Popovic et al.
10	JUDGE AGIUS: I thank you, Madam, and good morning thank you.stojkovic
11	All the accused are present. From the Defence teams I notice the
12	absence of Mr. Bourgon, Mr. Lazarevic, Mr. Krgovic, and Mr. Haynes.
13	Prosecution we have Mr. McCloskey, Mr. Mitchell, and
14	Ms. Janisiewicz. Anyone else behind because I can't see behind these

15	columns?		
16	Good morning, everybody.		
17	I understand that Mr. Ostojic as a preliminary.		
18	Mr. Ostojic, please go ahead.		
19	MR. OSTOJIC: Thank you, Mr. President, Your Honours.		
20	Mr. President, yesterday when I asked the question it drew an		
21	objection in the court and I think all of us thought it would be wise to		
22	raise it outside the presence of the witness. Instead of breaking the		
23	flow I think I waited until today and also if I may and that goes		
24	to and I'm asking for permission to ask the witness whether the		
25	Prosecutor's involvement in finalisation of cause and manner of death as		
Page 22915			
1	well as editing of final autopsy reports, and if it's facilitated by an		
2	ICTY legal advisor whether that's permissible in his view or what impact		

- that has. There was a question or objection saying there's no evidence
- 4 to that fact, but I would like to draw the Court's attention to two
- 5 documents, specifically P611 and P616 which are both in evidence and on
- 6 page 11 of that document is that very statement I read out to the court.
- 7 I think it is in evidence. I think the objection is without
- 8 merit and I should be permitted to ask that question.
- 9 JUDGE AGIUS: Before I give you the floor, Mr. McCloskey, let's
- 10 see these two documents, please. To my recollection at no time is the
- 11 Prosecution specifically mentioned, but I stand to be corrected, of
- 12 course.
- 13 Yes, Mr. McCloskey.
- 14 MR. McCLOSKEY: Mr. President, the Prosecution is mentioned, but
- 15 just -- and I believe Mr. Ostojic knows this, and I think it should be
- 16 clear from the record. What is absolutely clear is that Dr. Kirchner
- 17 inappropriately changed some causes of death with some pathologists

without consulting them. This was brought to our attention very early on. The investigative team facilitated the contact with all those pathologists that were involved and provided them with their original materials so that they could, independently of Dr. Kirchner, provide their own cause of death. This was done by the investigative team with me as the legal advisor, and that's what those references are to. I'm not involved in cause of death or autopsies or anything else. There's some playing with words going on here and it's -- I think he knows that, Page 22916 1 and that's why I say there's no foundation to suggest that the investigative team or the Prosecutor is involved somehow in the cause of death or doing autopsies.

JUDGE AGIUS: Thank you, Mr. McCloskey.

Do you accept that as a fact?

4

5

- 6 MR. OSTOJIC: No, I admit there's playing of words. If they can
- 7 make allegations, Your Honour, that triage means something that other
- 8 words have total incomplete thoughts, they are the ones who are playing
- 9 with words. I am offended that they suggest I would. Yesterday they
- 10 raised an objection to this court and said there was no such evidence we
- 11 saw it in a report yesterday, I think it was 2D70. We see it in two
- reports that they brought in evidence, it's exactly what I state it says
- 13 verbatim, I'm not the one playing with words. Their the ones who have
- 14 manipulating words from the you outset of this case. So I am offended
- 15 they would suggest that. I'm not playing with words. It says that the
- 16 Prosecution facilitated and they edited, and they also were part of the
- 17 finalisation of those cause and effect -- cause and manner of death.
- 18 It's clear on both 01491641 of Exhibit P616, that would be page XI, which
- 19 Roman numeral XI of P611.
- 20 JUDGE AGIUS: Thank you, Mr. Ostojic.

21	Mr. McCloskey.
22	MR. McCLOSKEY: Just briefly, I have no problem with the Defence
23	putting the Prosecution on trial and putting ourself to our proof and our
24	documents as such, I have no problem with that. The proper witness to do
25	this through was Dr. Haglund as he wrote this, and I believe he was asked
Pag	ge 22917
1	questions on that point and this gentleman is not involved in that
2	process and knows nothing about it and asked him to speculate on these
3	words that Mr. Ostojic and I have a different meaning of I don't think is
4	appropriate. This was an issue, if it was an issue at all, for
5	Dr. Haglund. It's been dealt with, it should be over.
6	JUDGE AGIUS: Thank you.
7	[Trial Chamber confers]
8	JUDGE AGIUS: Our position is unanimous on this. We feel we are

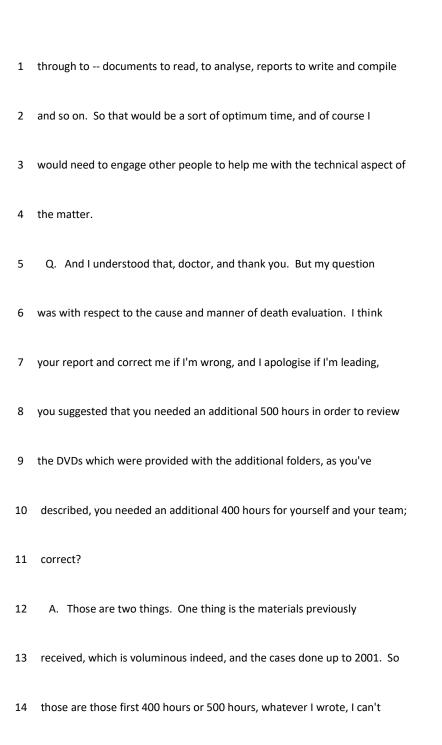
9	perfectly competent to draw conclusions, our own conclusions, from what
10	emanates from the relevant documents and from what you have stated and
11	don't need the advice or opinion of this witness on the matter.
12	So let's proceed with shall we bring the witness in now?
13	Let's bring the witness in, please.
14	[The witness entered court]
15	JUDGE AGIUS: Good morning to you, Mr. Dunjic, and let's hope
16	that this will be your last day for you in this courtroom. Mr. Ostojic
17	is going to proceed with and conclude his direct with you. Thank you.
18	MR. OSTOJIC: Thank you, Mr. President, Your Honours.
19	WITNESS: DUSAN DUNJIC [Resumed]
20	[Witness answered through interpreter]
21	Examination by Mr. Ostojic: [Continued]
22	Q. Good morning, Dr. Dunjic.
23	A. Good morning.

24 Q. Sir, I only have a couple questions for you here this morning, 25 and I would like for you -- again directing your attention to the last Page 22918 1 several pages of your report, specifically page 129, Roman numeral IX, 2 and there as you're trying to find it I think I should put the question, 3 there you suggest, sir, that you were not given enough hours to complete your analysis and that's why you chose to do what's commonly referred to 5 as a sample methodology in evaluating the autopsy reports and the documents that you evaluated. Can you just explain to us how you came to 7 the figure that you needed an additional 500 hours in order to fully evaluate and determine and to opine as to what the cause and manner of death were for each of the corpses were that were analysed and found by the OTP experts? 11 A. I -- well, the material that I received is vast, an enormous

with the best will in the world and all my efforts I was not able to systemize the material sufficiently. Now, since we're dealing with a large number of cases and with the exception of the ones that I have been through and quoted, that leaves at least 2 and a half thousand cases 16 which need to be reviewed, maybe more than 2 and a half thousand in comparison to the first samples and the first analyses. Now, this second part, and I said which ones I received, which 19 DVDs I received, and how many folders and files each one of them contains and roughly how many autopsies with the photographs and so on and so forth. So this is a figure which would require a reasonable amount of time to be investigated, analysed, reports written, and so on. So there's several stages in the work to be done, so that that is an

assessment based on the quantity of information that I have to get

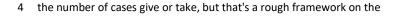
amount, and I've already said how much, which requires systemization and



15	remember now. Now, the other material I received in April. So in
16	addition to all the work that I am engaged to and have to do
17	professionally for my work post, this is extra time that I would need and
18	that I have to spend working on this. So that's how I calculated it,
19	based on the number of cases, 500 hours. Now, if I spend for every
20	corpse, I'm sorry to have to use the term, but for an autopsy report
21	itself what is stated there and look through it, they're about 20 pages
22	long each, this would require four to be got through in an hour, and I
23	think that would be very wrong. That would be much too fast. I don't
24	think I could keep that tempo up, so I would have to limit myself to a
25	very small sample or not to do any work at all.

Page 22920

- Now, as regards the other eight DVDs that I received, as far as I
- 2 can see they involve a large number of documents which once again require
- 3 detailed analysis and review. So this is time calculated on the basis of



- basis of my calculations done that way, 500 hours, four cases, 2.000
- 6 cases, and so on.
- 7 Q. I understand. Now, let me just change slightly, and I appreciate
- 8 that. Thank you for clarifying that. In using your sample
- 9 methodologies, just so that we're all clear, you've set out certain
- 10 standards and you've given us a certain criteria in how you analysed in
- how a reasonably [Realtime transcript read in error "reprehensible"]
- 12 prudent pathologist should evaluate and examine these autopsy reports,
- and although you've utilised, I think you said 57 in your report we would
- use that same analysis and criteria that you've set out for us these last
- 15 two days and that's reflected in your report in analysing any one or, in
- l6 fact, all of the autopsy reports that are under consideration in this
- 17 case. Isn't that true?

18	A. Yes.
19	Q. Dr. Dunjic, thank you very much. I have no further questions.
20	MR. OSTOJIC: Thank you, Mr. President.
21	JUDGE AGIUS: Thank you so much, Mr. Ostojic.
22	Now, according to my records the Nikolic Defence team doesn't
23	wish to put questions to this witness on direct.
24	Ms. Nikolic.
25	MS. NIKOLIC: [Interpretation] That's correct, Your Honour, yes,
Pag	e 22921
1	thank you.
2	JUDGE AGIUS: Thank you.
3	Mr. Gosnell, that applies too for the Borovcanin Defence team?
4	MR. GOSNELL: We also have no questions. Thank you,
5	Mr. President.
6	JUDGE AGIUS: Thank you.

7	Mr. Sarapa, this is also your witness, would you like to put
8	questions?
9	Yeah, he said he was, and he wasn't.
10	MR. SARAPA: [Interpretation] Regardless of that status, we're not
11	going to ask any questions. We didn't call him as a witness on our list,
12	we won't be asking any questions.
13	JUDGE AGIUS: I just wanted to be sure because then there is
14	another record somewhere that you did, but anyway.
15	That leaves me with Madam Faveau.
16	MS. FAVEAU: [Interpretation] No questions for this witness, Your
17	Honour.
18	JUDGE AGIUS: Thank you.
19	Mr. Josse.
20	MR. JOSSE: No cross-examination, Your Honour.

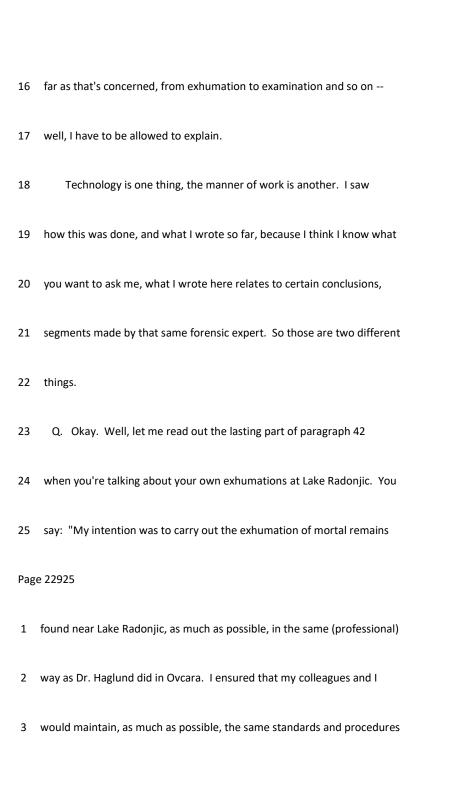
21	JUDGE AGIUS: And that brings us back to the Prosecution now.	
22	Yes, Mr. Ostojic.	
23	MR. OSTOJIC: Sorry to interrupt, Your Honour, just an page 7,	
24	line 9	
25	JUDGE AGIUS: One moment.	
Page 22922		
1	MR. OSTOJIC: Line 8, I think it says reprehensible. I think I	
2	said a reasonably prudent pathologist.	
3	JUDGE AGIUS: Yes. Thank you, Mr. Ostojic.	
4	Yes, Mr. Mitchell, he's all yours. How long do you think you	
5	will be cross-examining him?	
6	MR. MITCHELL: No more than two hours, Your Honour.	
7	JUDGE AGIUS: So the other witness must remain here today so that	
8	we start with him.	
9	Yes, Mr. Mitchell, please go ahead.	

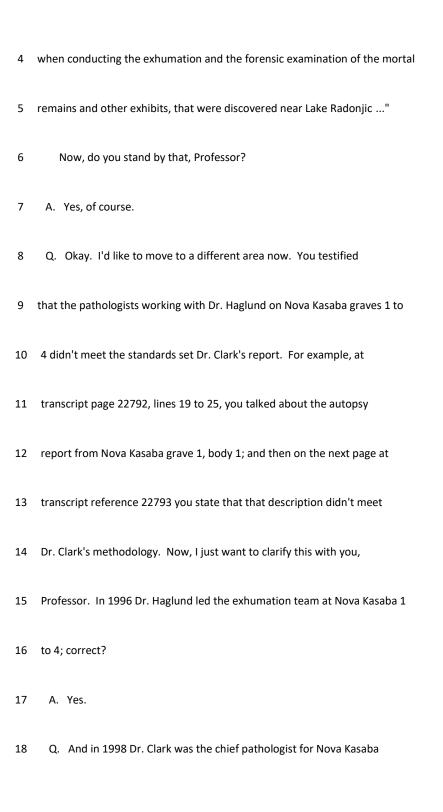
10	Cross-examination by Mr. Mitchell:
11	Q. Good morning, Professor Dunjic.
12	A. Good morning.
13	Q. My name is Christopher Mitchell. I'm going to ask you a few
14	questions on behalf of the Prosecution about your testimony and your
15	expert report.
16	Professor, I'd like to start off by briefly looking at the
17	San Antonio report that you were shown yesterday. Can I please have 65
18	ter number 2D70 in e-court, please. And if we can go to page 7.
19	Professor, I'd like to read you the first sentence under the
20	heading: "Findings" in this report. It says:
21	"The responses of the witnesses do not indicate any wrong-doing
22	on the part of Dr. Haglund nor anything regarding the exhumations that
23	jeopardize their scientific validity."

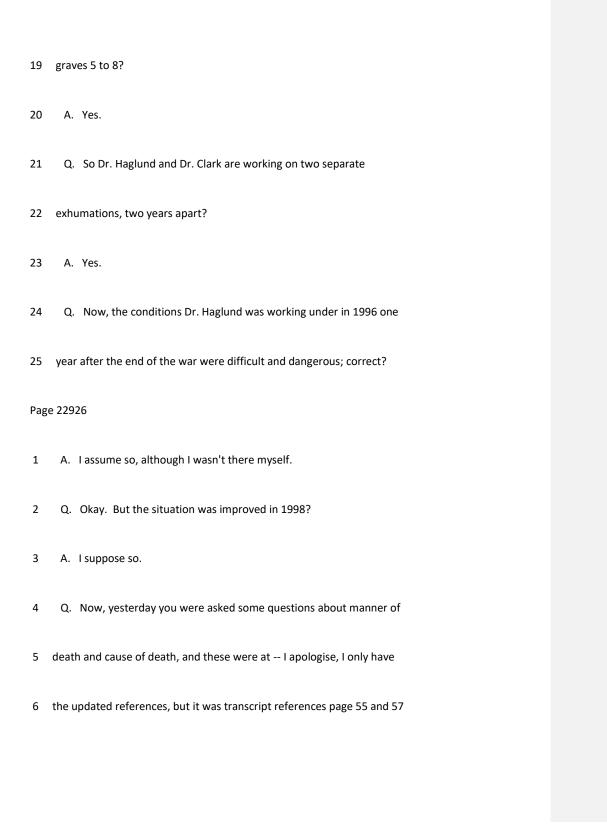
24	Now, Professor, the San Antonio report cleared Dr. Haglund of any
25	wrong-doing, didn't it?
Pag	e 22923
1	A. Yes.
2	MR. MITCHELL: Can we please go to page 8.
3	Q. I'd also like to read to you the first recommendation of the
4	oversight committee. It says:
5	"The evidence of war crimes is overwhelming at each site. A few
6	problems of administration or temporary lapses from a scientific ideal
7	could not jeopardize the overall quality of the evidence and its
8	interpretation of autopsy. Any prosecution of war crimes in Yugoslavia
9	will be on firm, scientific grounds. There are literally hundreds of war
10	crime remains that were removed and interpreted by very scientifically
11	sound methods."
12	Now, that's correct, isn't it, Professor?

A. You read it out correctly. That's what it says there, and some 13 14 qualifications were made here as far as I can see. As a forensic expert I don't want to go into any of that. Q. Okay. Now, Professor, you observed Dr. Haglund's work at Ovcara 16 farm in 1996, didn't you? 18 A. Yes. 19 Q. Okay. 20 MR. MITCHELL: Can I please have 65 ter number 3474 in e-court, and it's page 9 in the English and page 7 in the B/C/S. 22 Q. Now, Professor, this is your witness statement of June 2007, and 23 you start out by describing how you were in charge of the forensic team at Lake Radonjic in Kosovo. Then you state at paragraph 41: 25 "I wanted to conduct the above elaborated forensic exhumations

- and examinations in accordance with the same procedure that I was able to
- 2 experience when I attended, back in 1996, as a representative of the
- 3 then-Federal Republic of Yugoslavia, the exhumation of the bodies found
- 4 at Ovcara (Croatia).
- 5 "These exhumations were carried out by the American forensic
- 6 expert, Dr. William Haglund (who later on also participated until the
- 7 exhumation of the Srebrenica bodies)."
- 8 A. Yes, I wrote that in the report and I have nothing to add to
- 9 that. All I can do is to explain it, if you like, to make it more
- 10 understandable. I met Mr. Haglund for the first time at Ovcara where I
- 11 was an expert on behalf of the federal government and I observed his
- work, just like my colleague from Zagreb. And on that occasion I saw the
- techniques and technology used by him at Ovcara at the time, and I
- 14 considered that it was a forensic pathological technology, which in
- 15 forensic anthropology is used very modern equipment, state-of-the-art, as







Now, Professor, are you aware that in the United States forensic

pathologists provide their conclusions regarding manner of death, whereas

in the United Kingdom and many other countries manner of death is

determined either by the courts or the coroner?

A. I'm familiar with it to a certain extent; however, the European

school of thought of forensic medicine abides by the standard I

described. It is up to the court to ascertain the manner of death and

the forensic pathologist and all other people participating in the

process of exhumation and autopsy should provide adequate evidence for

the court. That is the standard. As for the United States, it's a

7 from yesterday.

20 death. These are: Homicide, suicide, accidental death, natural death,

Q. So in the United States there are five categories under manner of

standard of their own.

18

19

21 and underdetermined. Now, are these the same five categories that are

22	used	by the court nervous system Serbia?
23	A.	Yes.
24	Q.	So the fact
25	A.	Yes.
Pag	e 2292	27
1	Q.	The fact that Dr. Kirchner and the pathologists working under him
2	deter	mined the manner of death as they would have done in the United
3	State	s, does that suggest any problem or any impropriety on their part?
4	A.	Irrespective of whether Dr. Kirchner comes from the United States
5	or Eu	rope, I described what a forensic pathologist needs to do. He needs
6	to pro	ovide evidence for the court, out of which from the whole body of
7	evide	nce they are they have to conclude what the manner of death, they
8	have	to determine whether it was a natural death or a violent death
9	rangii	ng from homicide, suicide, to an accidental death. I can suppose

that's not up to me to determine. I can talk about any indications of a

homicide or suicide, but from the point of forensic medicine the manner

of death, that is not something we can determine. We can only determine

whether there are any injuries which can indicate that there was an

accidental death, homicide, or suicide. When somebody says that it was a

that some violence may have been involved in the causing of injuries, but

17 in the shoes of a judge or a lawyer, and this is what I've been trying to

homicide, well that -- in that case the forensic pathologist is getting

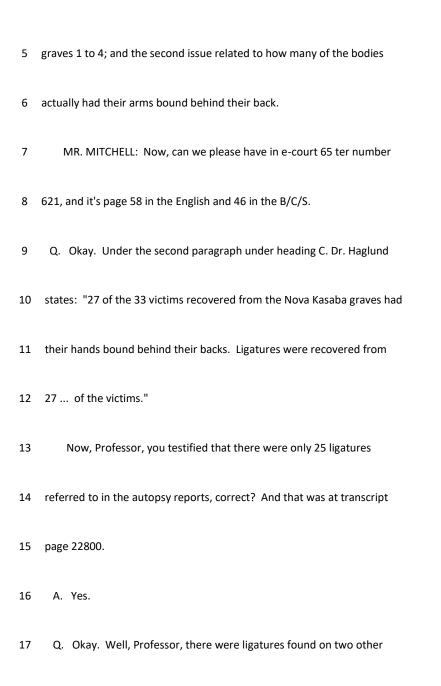
- 18 explain, that one cannot state that something was a homicide in such a
- 19 way.
- 20 Q. Okay. My point, Professor, is in the United States this is the
- 21 job of the pathologist, to make this determination; correct?
- 22 A. I don't know that.
- 23 Q. Okay. Well, it is the job of the pathologist in the United
- 24 States to make that determination. So knowing that, does the fact that

25	Dr. Kirchner and the pathologists working under him determined that?		
Pag	Page 22928		
1	JUDGE AGIUS: Yes.		
2	MR. OSTOJIC: I apologise to object, but I object to the form of		
3	the doctor's answer. He didn't know that and I think it may be		
4	appropriate if Mr. Mitchell believes that's accurate to show him the		
5	document that he's referencing as a matter of fact, stating that in		
6	America or in the United States that's what they do.		
7	JUDGE AGIUS: But do you contest that, Mr. Ostojic?		
8	MR. OSTOJIC: I do		
9	JUDGE AGIUS: Coming from the States yourself?		
10	MR. OSTOJIC: I do, Your Honour, and I think the reason why is		
11	yesterday we said there's certainly different rules and classifications		
12	when we're talking about theatre of war and it is well-known in America		

13	what classifications they use.	
14	JUDGE AGIUS: Okay. Fair enough.	
15	Let's show the witness the document if you have it available,	
16	Mr. Mitchell. Do you have it available?	
17	MR. MITCHELL: I do have it available, Your Honour.	
18	JUDGE AGIUS: Put it on the ELMO; I think that's the best way to	
19	go about it, although I see the ELMO is full of papers.	
20	MR. MITCHELL: It's an extract from the web site of the American	
21	Academy of Forensic Sciences. And it simply says:	
22	"Forensic pathologists perform autopsies to determine what caused	
23	a person's death. They are also involved in the investigation of the	
24	circumstances surrounding the death. Knowing about these circumstances	
25	allows them to determine the cause of death. Natural, accident, suicide,	
Page 22929		
1	homicide, or undetermined."	

2 JUDGE AGIUS: Yes, Ms. Faveau. 3 MS. FAVEAU: [Interpretation] Your Honour, I believe that we have a linguistic problem, because in Serbo-Croatian the term does not cover 5 only homicide but also murder as a murder in a criminal -- under the criminal code and this is why I believe that's why the witness has 7 problems understanding what the Prosecutor is asking. This is why the witness answered that he's talking about a legal category. MR. MITCHELL: Your Honour --9 JUDGE AGIUS: Yes. 10 11 MR. MITCHELL: -- I can move on. 12 JUDGE AGIUS: Okay. Then let's move on. Let's move on. MR. OSTOJIC: If I can just have the 65 ter number for this 13 document as well. 15 JUDGE AGIUS: I can't help you there.

16 Madam Usher, if you could hand the document back to Mr. Mitchell,		
17 please.		
MR. MITCHELL: Your Honour, it doesn't have a 65 ter number here,		
19 I wasn't planning on using it here.		
20 JUDGE AGIUS: Let's proceed.		
21 Thank you for raising that, Madam Faveau. I think I know exactly		
what you mean because we have the same problem in my country with the		
23 linguistic use of the word.		
24 Let's proceed.		
25 MR. MITCHELL: Okay.		
Page 22930		
1 Q. Professor, I'd like to clear up two other issues that you raised		
2 with regard to Nova Kasaba graves 1 to 4, and these concerned the		
3 ligatures that were found at those graves. Now, you raised two issues,		
4 the first related to the total number of ligatures found at Nova Kasaba		



18 bodies, Nova Kasaba case 1-5 and Nova Kasaba 2-13, which weren't listed

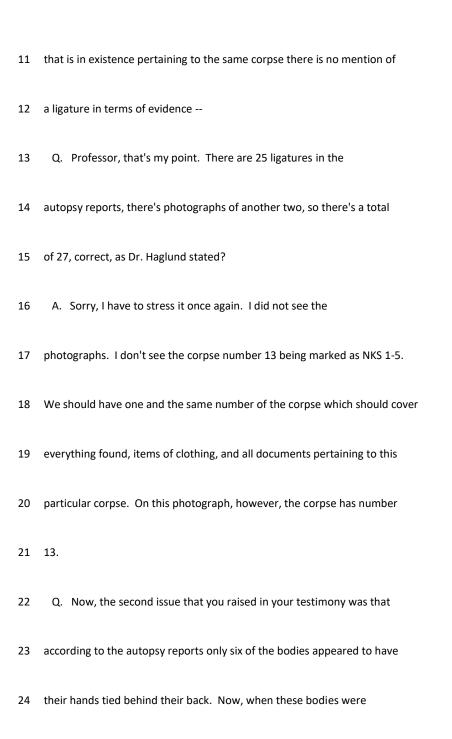
19	in the autopsy reports.
20	MR. MITCHELL: Can we please look at 65 ter number 2066. This is
21	a report from Dean Manning, summary of forensic evidence, execution
22	points, and mass graves 2000. And if we can look at page 81 in the
23	English.
24	Q. Now, Professor, you reviewed Dean Manning's 2000 report when
25	preparing your report; correct?
Page 22931	
1	A. Yes.
2	Q. Okay. Professor, this is a photograph of the ligature associated
3	with the body Nova Kasaba 1-5.
4	MR. MITCHELL: If we can have a look at page 92, please. I have
5	a better-quality copy of this photo, if I could show the witness, and
6	also a close-up if you if you can can we put that on the ELMO,
7	please.

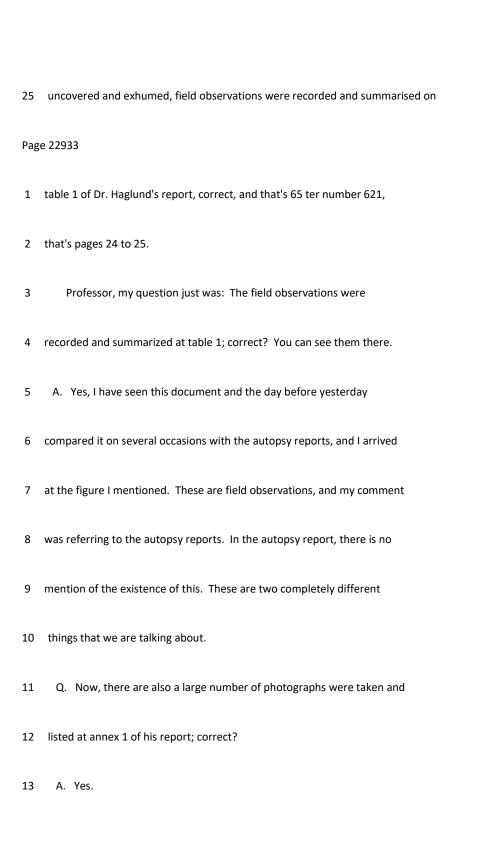
Q. Professor, what we're looking at here is a picture of Nova Kasaba case 2-13 with his hands tied behind his back with wire. I also have, if you'd like to see them, photos of all 27 of the ligatures for you to look 11 at. A. If I may, I would like to comment right away. I have not seen or 12 13 reviewed these photographs, as I have said already. I didn't see most of them. As for this photograph, I can describe it so as to say that this indeed is a human corpse with an advanced degree of putrefaction and a degree of saponification. Here we have a detail which --17 Q. Professor --18 A. -- shows that this is some sort of ligature or binding --Q. Professor, can I interrupt for one moment. If we look at your --19 the list of documents and reports that you reviewed which is on page 4 of

21 your report, you were provided with a copy of Dean Manning's 2000 report;

22 correct? My question is simple. You've seen these extra two photographs 23 now. Can we agree that there are, in fact, 27 bodies from Nova Kasaba that had ligatures, as Dr. Haglund stated in his report? 25 A. Dr. Haglund and Dean Manning stated that in their reports, and I Page 22932 1 saw it. What I was looking at were the autopsy reports in which that is 2 not mentioned as evidence. 3 Therefore, my report that I've been going through yesterday and the day before concerning the number of ligatures has to do with the number of ligatures noted in the autopsy reports, and I stated that very precisely for each of the cases. For example, this case, number 5, Nova Kasaba 1-5 that you are referring to, and I see that this is corpse 13; therefore, I don't know how they arrived at 1-5. However, the fact is ... I don't know whether, first of all, this is the corpse that we

10 are discussing, that's number one. Number two, in the autopsy reports





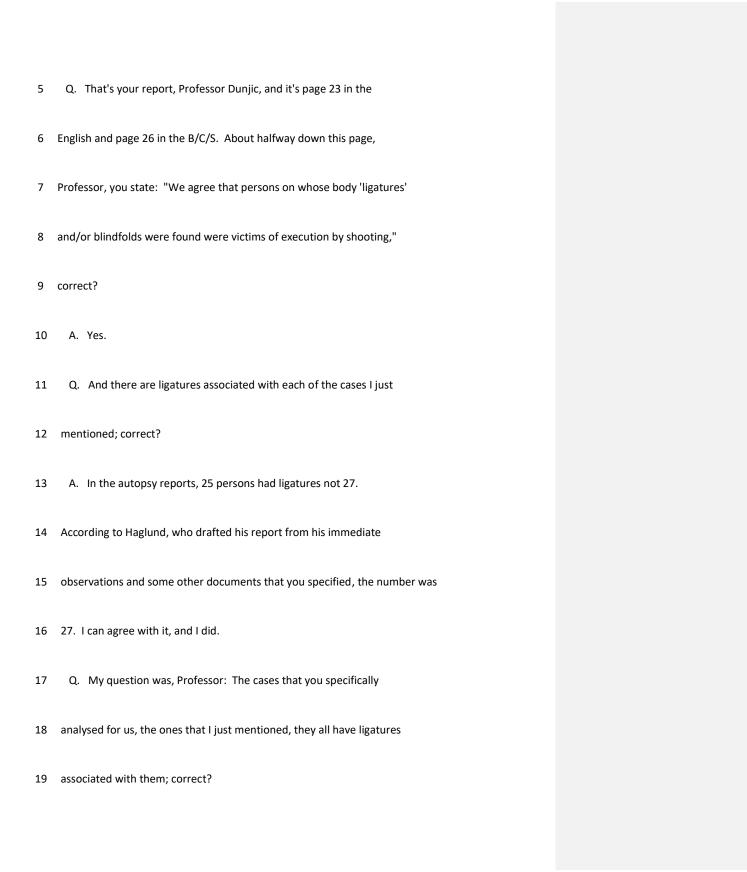
14	Q. And these photographs show the position of the bodies that were	
15	in the grave?	
16	A. I suppose so. I suppose one can see that, but I didn't.	
17	Q. Okay. You didn't see them?	
18	A. I didn't.	
19	Q. Okay. Well, I can tell you there are also photographs of all 27	
20	of the ligatures. And Dr. Haglund had all of this information when he	
21	reached his conclusion that 27 individuals had their hands bound behind	
22	their back; correct?	
23	A. Your Honour, we keep going round and round about these things. I	
24	am talking about the written document. Mr. Haglund's document is one	
25	thing, and I wasn't trying to be subjective. I did refer to what	
Page 22934		
1	Mr. Haglund had written in the report. He specifies what elements he	

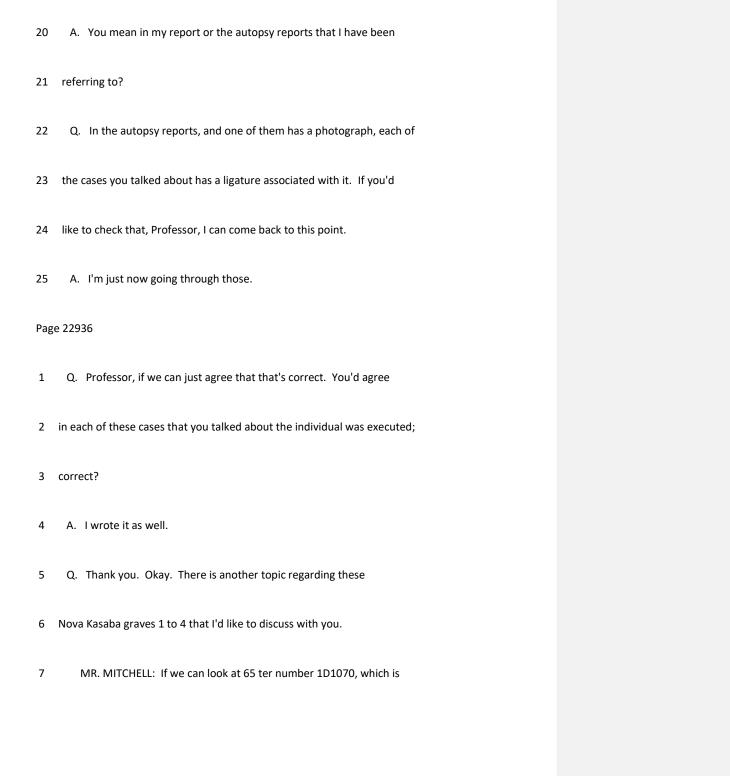
- 2 used. On the other hand, we have other documents, and I insisted upon
- 3 the individual autopsy reports which I received later, and that had to
- 4 have been noted in the autopsy reports. I'm talking from the point of
- 5 view of our work, of course. If a person doing the autopsy takes off the
- 6 ligatures, the wires, from the corpse, that needs to be noted in any
- 7 form, whether the ligature was on the hands or on the body, and they
- 8 should simply write it was next to the body in the body-bag and it can
- 9 mean several things. You showed me the photograph of the wire ligature
- 10 and with a certain number, but that needs to be related to a certain body
- 11 and it has to be in the record. Otherwise, it's just a photograph as if
- 12 a pen from my pocket were -- was photographed, but one needs to specify
- 13 that indeed that was in my pocket.
- 14 Q. Okay.
- 15 A. I am not denying the existence of the 27 ligatures referred to in
- 16 the report. I am disputing the number mentioned compared to the number

- of the ligatures mentioned in the autopsy reports, and the autopsy
- 18 reports are the documents that provide us with a possibility to compare
- 19 everything with the final report, otherwise we would have ten single --
- 20 different documents pertaining to one case alone.
- 21 Q. Professor, my point was very simple. Dr. Haglund was relying on
- 22 the autopsy reports, the photographs, the field observations when he was
- 23 drawing his conclusions; correct?
- 24 A. Yes. But probably not reports such as these.
- 25 Q. Now, Professor, on Wednesday you analysed a number of reports,

Page 22935

- 1 autopsy reports, from Nova Kasaba graves 1 to 4. You looked at cases
- 2 Nova Kasaba 1-1, 1-2, 1-6, 2-9, 2-12, 2-13, and 2-14.
- 3 MR. MITCHELL: Now, if I can or if we can have 65 ter number
- 4 1D1070 in e-court, please.





Professor Dunjic's report, and it's page 38 in the English and page 45 in the B/C/S. Q. Okay. Now, Professor, one of your criticisms of Dr. Haglund's 10 Nova Kasaba reports is his -- relates to his -- to the following conclusion. You say: "Two graves in particular contain evidence that 13 suggests many or all of the victims were shot while positioned in the 14 grave," and then we can see in your report that your conclusion is that 15 Dr. Haglund's conclusion was absolutely arbitrary; correct? A. Yes. I wrote that because in the autopsy reports such elements 16 were not recorded, hence my comment. Allow me to finish, please. I 18 commented that for the individual reports, the individual reports did not provide me with sufficient information to be able to agree with that 20 assertion. For me, that is arbitrary, and I can only interpret what is written in the autopsy reports. 22 Q. Okay.

23 MR. MITCHELL: Can we please look at 65 ter 621.
And it's page 9 in the English and page 4 in the B/C/S. Okay.
Q. Now, if we look at the third paragraph under subsection C. You
Page 22937
1 can see the passage that I just read out that was quoted in your report;
2 correct?
3 A. Yes.
4 Q. Now, directly underneath this Dr. Haglund explains why he reached
5 this conclusion.
6 MR. MITCHELL: If we can just move to page 5 in the B/C/S.
7 Q. Dr. Haglund says his conclusion was based on the " kneeling
8 and semi-sitting positions of some of the victims. It was not determined
9 if individuals in graves Nova Kasaba 3 and Nova Kasaba 4 were deceased
10 when placed into the grave or whether they were killed within the grave."

11	Now, Professor, my question is very simple. When you quoted
12	Dr. Haglund in your report, you didn't include his explanation, did you?
13	A. No, I didn't quote the entire report, just the sections that I
14	thought need to be commented on within the context of the autopsy reports
15	provided. Now, in this explanation of his it says as follows. In the
16	last sentence it says that:
17	"It was not determined if individuals in graves NKS3 and 4 were
18	deceased when placed into the grave or whether they were killed within
19	the grave."
20	So he's not sure either in the observation that he makes that
21	they were killed in the grave. Do you understand that? Read it to the
22	end.
23	Q. I understand that
24	A. Yes, and it was precisely because of that that I found the
25	need felt the need to comment on this, that there is evidence which

Page 22938

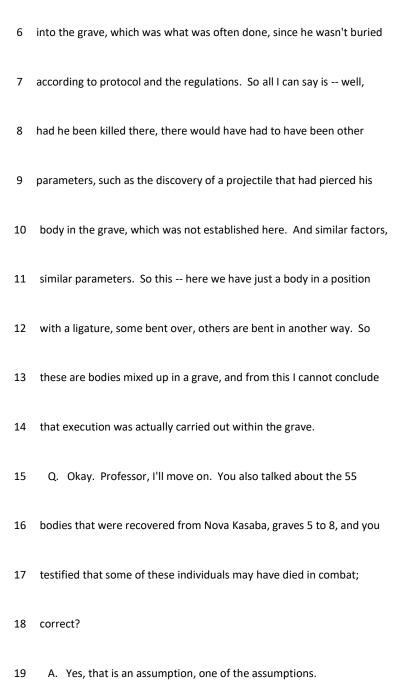


- 2 fire-arms while they were in the grave. So that is actually an assertion
- 3 that they were killed in the grave, and he himself says that this was
- 4 never determined whether these individuals from those graves were already
- 5 dead, already deceased when they were placed in the grave, or whether
- 6 they were killed while they were in the grave. So there is an
- 7 alternative, he gives an alternative, and in the previous sentence there
- 8 was a claim, an observation. So I'm not going into that part. I'm just
- 9 referring to the autopsy reports or report which is relevant as far as
- 10 I'm concerned so that I can comment on certain aspects of it. I did not
- 11 deny -- let me explain that, I did not deny the existence of ligatures in
- 12 this number of victims who were uncovered.
- 13 I didn't want to deny that, not for a moment. I even agree that

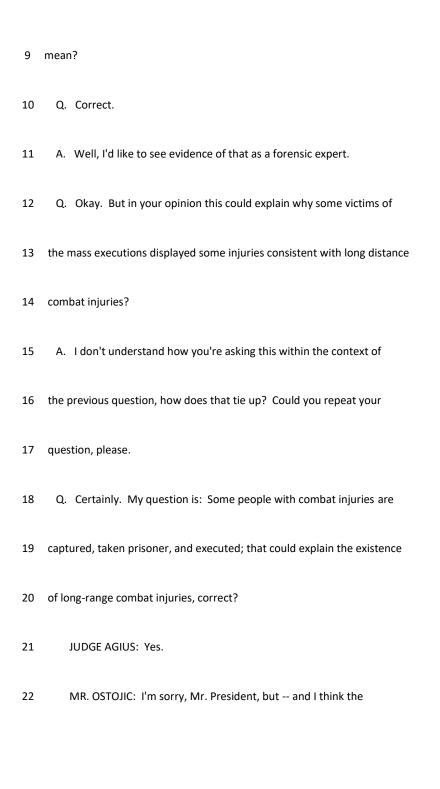
14	it represents evidence of execution, but just from the forensic aspects I
15	denied the pathological elements that are unacceptable, or rather, what
16	was written in the autopsy reports. So I was very clear on that, what
17	the professional was and what the information was, and that's why I made
18	that comment.
19	Q. It was a simple question, Professor. You didn't include that
20	part of his quote in your report, did you? You didn't include
21	Dr. Haglund's explanation of his conclusion in your report?
22	A. Well, I didn't incorporate that whole explanation of his, I put
23	three dots. But from his own explanation we can see that he a
24	contradictory, he contradicts himself in actual fact. But it was far
25	more important for me the sentence where it says that many victims
Pag	e 22939
1	were killed by fire-arms while they were in the grave, that's the
2	substance of it. I comment that, and later on in his explanations he

- allows for the alternative and the other possibilities because there's no
- 4 proof in evidence.
- 5 So if I may, Mr. Prosecutor, we come back to the substance, the
- 6 crux, of the issue, how important it is whether the victims were brought
- 7 dead there from some other localities, already deceased from some other
- 8 place where they were killed, executed, or whatever, in a conflict or
- 9 whatever, and then the level of decomposition, and through the autopsy
- report we can follow this, the observation made on the spot, the position
- of the body and everything else. So all these changes are recorded and
- 12 we know what they mean.
- 13 MR. MITCHELL: If we can move to page 32 in the English, please.
- This is a photograph so it's not contained in the B/C/S version.
- 15 Q. But, Professor, this is one -- this is a photograph of one of the
- 16 individuals executed and buried at Nova Kasaba grave 2, and it's body

number 14. Now, in the field observation summary which is at page 25 in the English and page 21 in the B/C/S, it states that: "When the body was found it was doubled over in kneeling position with its hands tied behind 19 the back." 20 21 Now, Professor, you can see these pictures here. Having seen 22 these pictures, do you still believe that Dr. Haglund's conclusion is arbitrary? 23 24 A. Yes, and here's why. This position, the body's position, in a mass grave, it indicates that -- well, the possibility is this. Since Page 22940 1 the hands are tied behind the back, in the autopsy report it says that the hands were tied with shoelace. The position of the body, unfortunately I have had an opportunity of seeing many such bodies, the position of a body in a grave does not indicate that execution had taken place in the grave. This man could have been killed anywhere and thrown



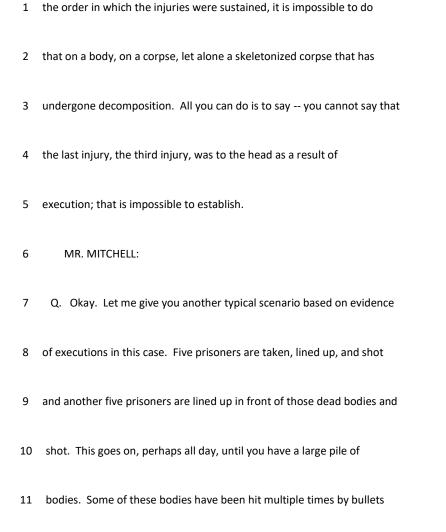
20	JUDGE AGIUS: Yes, please go ahead, and sorry for that	
21	interruption but we needed to discuss something.	
22	MR. MITCHELL:	
23	Q. Now, in the example you referred to which was yesterday at	
24	transcript page 3, lines 7 to 22, there was a projectile present in the	
25	body and you said that this indicates that the projectile arrived from a	
Pag	ge 22941	
1	distance or with reduced energy; correct?	
2	A. From a distance.	
3	Q. Or with reduced energy?	
4	A. Yes.	
5	Q. Okay. Professor, are you aware of the evidence in this case that	
6	people with existing combat injuries were subsequently executed?	
7	A. I'm not sure I understood you correctly. They had injuries from	
8	combat you mean and they were subsequently executed; is that what you	



23	witness answered that and asked to see the evidence and my learned friend
24	suggests on page 27, line 19 through 20, that there's that evidence that
25	exists. The good doctor asked to see that evidence, and I think it's
Pag	e 22942
1	required for the Prosecution to show him that evidence.
2	JUDGE AGIUS: No, no, I think it's a perfectly unless I'm
3	stopped by my colleagues, it's a perfectly legitimate question.
4	Independently of what the witness would like to see, it's a fair question
5	based on expected forensic expertise which he can answer without any
6	difficulty.
7	Yes, please go ahead, Professor. Even I could answer it for you.
8	THE WITNESS: [Interpretation] Go ahead, please.
9	JUDGE AGIUS: Professor, I was an examiner in forensic medicine
10	for something like 20 years, so that's why I can answer the question.
11	So please proceed.

- 12 THE WITNESS: [Interpretation] I apologise for that digression,
- 13 but one can see that, one can feel it, but that is the case. Now, with
- 4 respect to the question, I highlighted this yesterday, if you take a look
- 15 at your question, so the observation that somebody was injured in combat
- 16 and then taken prisoner and then tied or not tied, doesn't matter, and
- that that person was executed afterwards, those are the three stages.
- Now, as to the first two stages, I cannot comment on them because
- 19 that is beyond my profession, but what I can comment is the third stage,
- 20 that the injuries were sustained and that they were executed afterwards,
- 21 that means and this is common knowledge that one assumes that you as
- a forensic have established the order of the injuries, the order in which
- 23 the injuries were sustained. For example, a man is injured in the arm,
- 24 leg, and head, sustains injuries to the arm, leg, and head, what was the
- 25 order of the injuries sustained, which came first? In order to establish

Page 22943

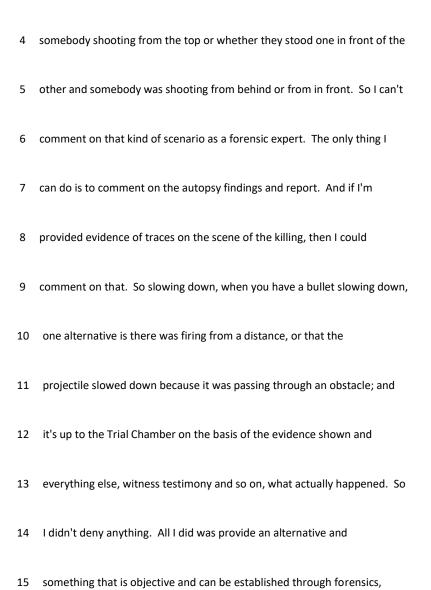


12 that have sometimes passed through other bodies. Now, yesterday you told

13 us that a projectile could be slowed down when encountering an obstacle

14 along the way, it can be slowed down by any means and then it remains in

15	the body, and that was at transcript page 3, lines 18 to 22.
16	Now, Professor, isn't this another possible explanation for why
17	there are bullet fragments in these bodies other than long-distance
18	combat injuries?
19	A. Mr. Prosecutor, I don't wish to comment what you said in the
20	sense of some scenario going on, but I said clearly yesterday from the
21	forensic aspect, slowing down of the projectile can be because of
22	distance, due to distance, due to the fact that it is passing through an
23	obstacle, and an obstacle can be anything you like including another
24	body. That's why I said I agreed and that I agreed with the assumptions
25	made by Mr. Clark, because he said that too. So that's how matters stand
Page 22944	
1	from the forensic aspect.
2	Now, the other aspect that you highlighted in your example of

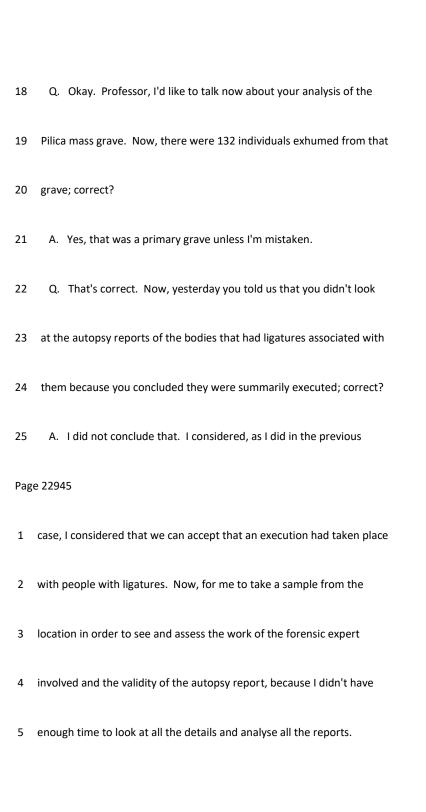


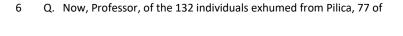
nothing more than that. So I remain within my field of expertise,

17

forensics.

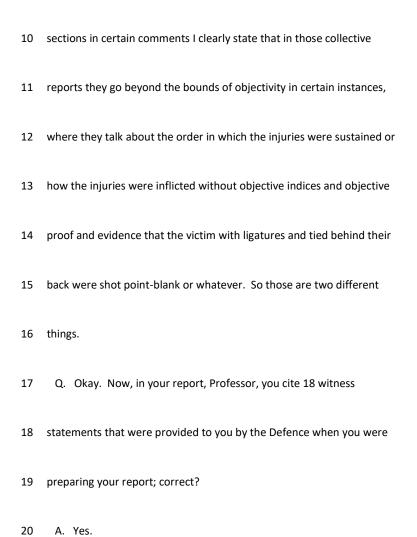
3 five bodies, it depends whether they fell on top of each other with





- 7 those individuals had their wrists bound or there were ligatures or
- 8 blindfolds associated with a further five victims. So 82 of the 132 had
- 9 ligatures or blindfolds associated with them; correct?
- 10 A. Yes, I did read those reports.
- 11 Q. Wouldn't it be helpful for you to compare the injuries on the
- 12 bodies which had ligatures associated with them with the group of bodies
- 13 without ligatures to see if they were killed in the same way?
- 14 A. Yes, that would be helpful if you had a comfortable time interval
- 15 for analysis, but since I analysed the previous pits in which
- 16 witnesses -- victims with ligatures were found, I don't deny the
- 17 existence of ligatures but I do deny the -- or rather, challenge the
- 18 autopsy report and findings in support of that, which is not adequate and
- 19 not commensurate to that, even in these cases. Now, why do I make that
- 20 conclusion? Because in the cases where there were no ligatures, for

21	example, the autopsy findings only posed diagnoses and a pathologist	
22	cannot allow himself to do that. And we see that in the autopsy reports	
23	in Nova Kasaba where ligatures listed, we know how they were described in	
24	the reports because it's one thing what you see in the field and this is	
25	another.	
Pag	e 22946	
1	Q. Thank you, Professor. Now, it's been very clear from your	
2	testimony that it's your job to primarily look at what's on the autopsy	
3	table in front of you; correct?	
4	A. Yes, and then how this is described in some reports and	
5	interpreted in the reports for those locations.	
6	Q. Okay.	
7	A. And whether those reports which follow and which were compiled as	
8	a collection of reports for one locality, how far they have objective	



Q. Okay. Now, you also testified - this is at transcript page

22815, line 20, to 22816, line 1, you testified about how witness

statements may be useful for the context of the findings that you

21

indices, which in most cases I found they did have; but in certain

24	obtained. Now, I'll read what you said to us:
25	"Somebody might tell me that somebody was killed by fire-arms or
Pag	ge 22947
1	that a burst of fire was directed at a person or that someone stood on a
2	mine or that some other explosive device was used to kill a person. This
3	information is very important for me in the context of the findings that
4	I will obtain in the course of the autopsy."
5	Now, I want to have a look at a photo with you and see if that
6	helps you determine what happened to those people in the Pilica mass
7	grave.
8	MR. MITCHELL: Can we please look at P3009.
9	Q. Professor, this is an aerial of the Branjevo Farm taken on the
10	17th of July, 1995, the day after the executions happened. It was taken
11	while the burials were occurring, you can see the bodies, you can see the

testimony from Cvijetin Ristanovic, who was the excavator who dug the
grave. Now, Professor, does this look like combat to you?

A. Well, quite frankly, I'm not an expert in analysing satellite
photographs, I really am not. All I can see here -- all I can do is
describe what I see that in a large segment on a large area there is
something that marks bodies, then we have the excavator digging, probable
bodies, and so on. That is all I say -- describe what I see on the
photograph.

Q. Now, Professor, Drazen Erdemovic is a former 4th Sabotage

Detachment soldier who is convicted for participating in the execution of

over 1.000 men at the Branjevo Military Farm on the 16th of July, 1995.

He testified in this trial on the 4th and the 7th of May, 2007, and he

described those executions. Now, I'd like to read to you a couple of

grave that was later exhumed by Dr. Haglund, and we've also heard

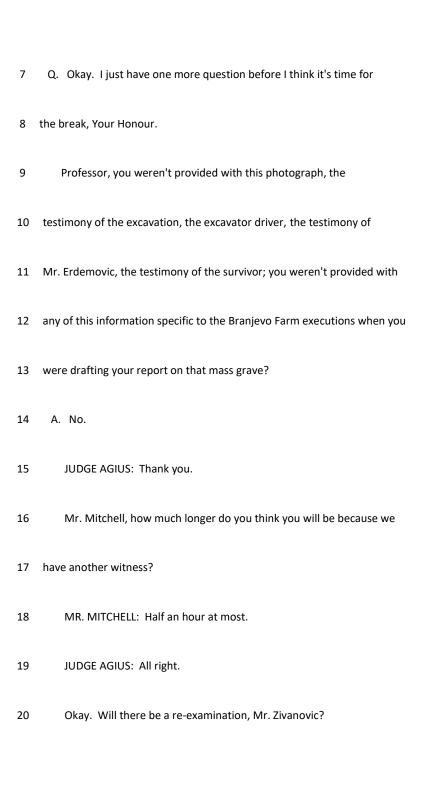


- 2 testified that the men in his execution squad were using automatic
- 3 rifles. He also testified that an M-84 machine-gun was used and that
- 4 this machine-gun caused extremely traumatic injuries to the victims.
- 5 We've also heard testimony from Ahmo Hasic, who was there, who saw what
- 6 happened, and who survived the Branjevo Farm execution.
- 7 Professor, would this information assist you in forming an
- 8 opinion on how these individuals died?
- A. From what you've just read out, I'd like to set aside segments
- 10 which for me as a forensic pathologist are important as pieces of
- 11 information, and they are the following. I have information that says
- 12 they were executed. The second important piece of information is that
- 13 fire-arms were used, specific fire-arms. The third piece of information
- 14 is that they were buried there. So those are the only three pieces of

information that I have to retain in my head. 16 Now, for you to be able to confirm something or refute something, you have to have on the other side the objective information, which means that projectiles were in fact found on the body, or rather, injuries caused by projectiles; then you have to see the distribution of the 19 injuries although there's very little difference in whether injuries were sustained from a distance, whether it was an execution or war conflict and combat. There aren't any distinctions if you receive a bullet to the head from 5 or 50 metres, there's not much difference, but let's leave that apart. And what's important for me as a forensic pathologist is I should be able to see what types of weapons were used. And in that Page 22949 context I quoted the statements of these witnesses, witnesses who tell us 2 of a large number of people killed during combat, because you find a 3 large number of bodies, and people killed in numerous locations around

- 4 Srebrenica.
- 5 So the information that we obtain from witnesses has this meaning
- for me, that in the autopsy findings and through the autopsy report, not
- 7 from the police report or investigator's report, but that through autopsy
- 8 findings and reports I can see whether we're dealing with -- whether we
- 9 have decomposition in the bodies. One body might be saponified, others
- skeletonized; or if we find injuries inflicted by animals, for example.
- 11 And then from all this different information in fact indirectly you
- receive confirmation that the bodies were lying in different localities,
- 13 although they were found in one pit, one grave, but it doesn't mean that
- 14 they were all killed there. Most of the men -- well, various artillery
- 15 pieces were used, and as we know the different artillery pieces, we look
- 16 for large shells, small shells, parts of shells, projectiles, large and
- 17 small -- bigger and smaller calibres and so on. But the information that

18 was interesting was that certain dead bodies had already been skeletonized. So bodies were found in the woods and forest and this takes place between the 11th and 17th of July that were already 21 skeletonized. 22 Now, what does that mean? Me as a forensic pathologist, that tells me that the individual before, a long time before, the interval was killed, that is the piece of information that is important for me. And that in the bodies that were found, whether more such skeletonized Page 22950 1 examples exist. So looking at the witness statements, I'm able to use 2 them or parts of these statements to either confirm my autopsy findings 3 or not or provide the Court with proof and evidence that they're going to accept or not. So that was the substance of my work, and that is why I quoted from some of the witness testimonies and statements, just as you did in reading this out.



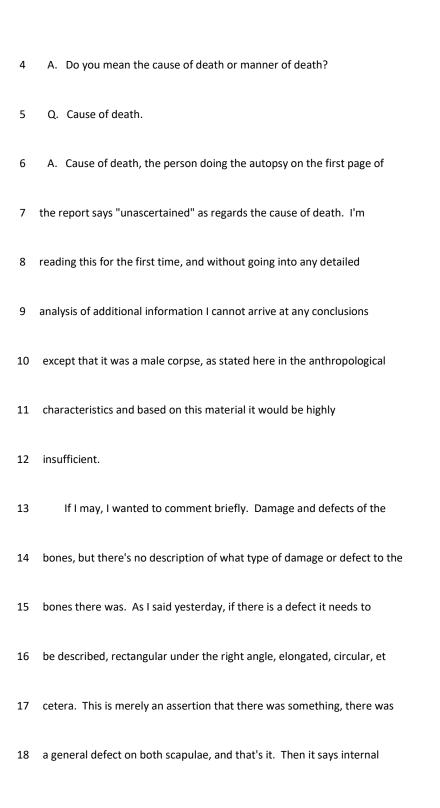
21	MR. ZIVANOVIC: Yes, Your Honours.
22	JUDGE AGIUS: And you, Mr. Ostojic?
23	MR. OSTOJIC: Not at this time, Mr. President.
24	JUDGE AGIUS: Thank you.
25	So we'll have a 25-minute break starting from now.
Page	e 22951
1	Recess taken at 10.31 a.m.
2	On resuming at 11.01 a.m.
3	JUDGE AGIUS: All right.
4	Mr. Mitchell.
5	MR. MITCHELL: Your Honours, during the break I was able to cut
6	down my cross-examination a little bit, and I only have one more topic to
7	cover with the witness.
8	JUDGE AGIUS: I thank you, Mr. Mitchell.
9	MR. MITCHELL:

- 10 Q. Professor, on Wednesday you were asked about some material that
- 11 you received in April 2008 and transcript reference 22777 you talked
- 12 about the material that you've received. And you said:
- "I had a look at those eight DVDs, and at the end of my analysis
- 14 I was very precise. One of the DVDs -- there were eight of them, one of
- the DVDs, the first one, for example, has ten folders and each folder
- .6 contains a number of files and a huge quantity of photographs. When I
- 17 was preparing for this testimony I printed out one case or rather one
- 18 file and it consists of 22 pages. It's the smallest file. And here you
- can see that this file concerns autopsies that were performed in, let's
- 20 say, Potocari exhumation on the 25th of April, 2006; and it was not
- 21 possible for me to analyse any of these documents, I could only prepare
- 22 it physically or rather bring it here so I can show it to you and tell
- 23 you how many autopsies are concerned. This was done under the

13	e-court.
14	Now, Professor, you've had a chance to briefly look over this
15	document, and this document contains ten ten autopsy reports of
16	remains exhumed from Potocari; correct?
17	A. Yes, I was just going through the numbers.
18	Q. Okay. I'd like to take a look at one of these autopsy reports
19	with you for case number POT 01 SRE 006 and it's on page 12 in that
20	document and page 1 in the English. Now, I'd just like to run through
21	this report with you and ask you a couple of questions. Now, on page 12,
22	Professor, can you tell us describe what's under the heading document
23	"Dokumenti"?
24	A. This is not the document. This one has to do with SRE 001. I
25	believe you said 006.

1	Q. That's correct.
2	MR. MITCHELL: Page 12 in the B/C/S. Just down the bottom of the
3	page.
4	Q. Just under this heading here, Professor, "Dokumenti." It's page
5	2 in the English. If you can just describe what the information under
6	this heading tells you.
7	A. It says documents, description, and place of finding. Then it
8	says parts of documents, "Kundenkarte"
9	THE INTERPRETER: Interpreter's correction.
10	THE WITNESS: [Interpretation] Part of a document, customer card
11	with a name of Hasib Cavkusic in a grey wallet. Other items: A men's
12	ring with a square plate and C. Hasib engraved on it.
13	Q. Okay.
14	MR. MITCHELL: If we can go to page 14 in the B/C/S now, page 3
15	in English.

16 Q. Now, Professor, what can you tell us about the information that's 17 on heading D., the other observations? A. "Evidence of injuries: None." Then I have a subheading: 18 "Other observations: Damage and defect of the supraspinatus and infraspinatus fossa of both scapulae, post mortem damage to the ribs on 21 both sides and a thoracic vertebrae, damage of a large part of a pubic symphysis on the right pubic bone and a pelvis, damage to the left side of a median of ala of the ilium of the pelvis, remains of a secondary mummified tissue. Deformities and old fractures: None. Internal findings: Unknown. Material evidence: Projectile." Page 22954 1 And then there is a mention of a right femur, et cetera. Q. What does this report tell you about the manner of death, can you 3 include anything from this, Professor?



findings: Unknown. It cannot be unknown. It means that there were no 20 organs because they had all decayed I suppose, then that internally/externally there was skeletonization and it should have been 22 recorded as such. Therefore, it cannot be unknown, it is unknown globally viewed only because there were no organs, but that needs to be 24 recorded then, one needs to say there were no organs left. And it says that a projectile was found, but what does it actually mean? Where from? Page 22955 1 I'm not talking about ballistics, I'm talking about whether it was taken 2 out of a bone, of the body, was it found next to the body? And when you have all that written down the way it was, there was nothing else for the person to conclude than to say that the cause of death was unascertained. It was a very superficial description, and I'll stick with that term.

Q. Okay. Now, I'd like to take a look at a couple of other

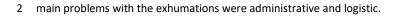
7	documents with you, which as you've said may help to illuminate or	
8	illustrate what happened to these individuals.	
9	MR. MITCHELL: Your Honour, can we go into private session,	
10	please?	
11	JUDGE AGIUS: Certainly, Mr. Mitchell.	
12	Let's go into private session for a short while, please.	
13	[Private session]	
14	(redacted)	
15	(redacted)	
16	(redacted)	
17	(redacted)	
18	(redacted)	
19	(redacted)	
20	(redacted)	
21	(redacted)	

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11 Pages 22956-22958 redacted. Private session.	
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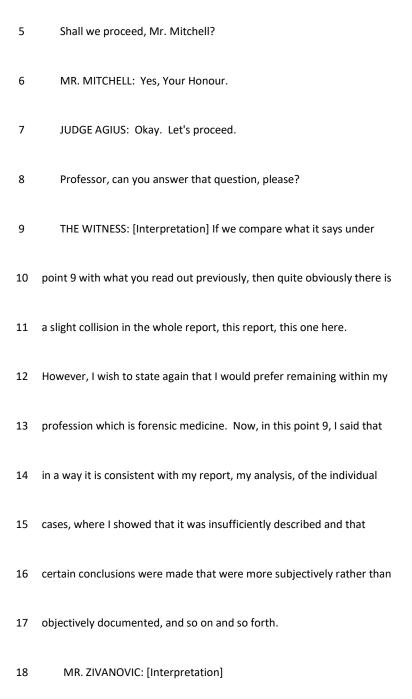
13	report that you were asked about by my learned friend the Prosecutor. He	
14	quoted part of that report at page 7, where it is stated that	
15	Professor Haglund was exonerated and that the work was conducted	
16	adequately and properly. I wanted to read a few things from that report	
17	and ask for your professional interpretation. I will start with the	
18	San Antonio report [In English] Page just a moment. Yes, it is	
19	2D70, page 7, findings.	
20	[Interpretation] I will read out two or three initial sentences.	
21	[In English] "The responses of the witnesses did not indicate any	
22	wrong-doing on the part of Dr. Haglund or anything regarding the	
23	excavations that jeopardized based on scientific validity. The	
24	pathologists who were working in the morgue made no complaints about the	
25	exhumation of the bodies or the conduct of pathologists who were working	
Page 22960		

1 in the morgue or at the grave-sites; rather, it became apparent that the



- 3 Whether real or imagined, there were concerns regarding international
- 4 politics imposing a great deal of pressure on the teams to complete the
- 5 exhumations quite rapidly."
- 6 [Interpretation] From your professional point of view, tell me
- 7 what is your understanding first of all of the pressure, whether real or
- 8 imaginary by international politics, as stated here, to complete the
- 9 exhumations quite rapidly?
- 10 A. If you're asking me to comment on that, I will have to go beyond
- 11 the scope of my profession. I'd rather not comment on it. It would be
- better for the person who drafted this report to comment on it to say
- 13 something further about such pressures if there were any, indeed.
- 14 Q. Thank you. You saw the part of it referring to Dr. Haglund, and
- 15 let us now move to page 11 of the report, item 9.

16	[In English] "There was too much subjectivity and not enough	
17	objectivity in the performance of the exhumations and post mortem	
18	examinations."	
19	[Interpretation] In the paragraph we read a moment ago and in	
20	this item, do you see certain inconsistencies between the two?	
21	JUDGE AGIUS: Yes, Mr. Mitchell.	
22	MR. MITCHELL: Your Honour, this was asked and answered and	
23	covered in some detail in the direct.	
24	JUDGE AGIUS: Yes, Mr. Zivanovic.	
25	MR. ZIVANOVIC: No, these inconsistencies were not subject of my	
Page 22961		
1	direct.	
2	JUDGE AGIUS: Where was it asked and answered, Mr. Mitchell?	
3	Could you pin-point the part of the transcript where you believe that	
4	happened?	



19	Q. My learned friend Mr. Mitchell also asked you whether Dr. Haglund	
20	in his collective reports relied on photographs and his observations in	
21	the field, and that's to be found on page 21, line 15, of today's	
22	transcript. Now, what I'd like to ask you is this or rather, I'd like	
23	to show you an excerpt from the report, so may we go back to page 7 now,	
24	please, it was on our screens. And I'd like to focus on item 3 which	
25	reads as follows:	
Page 22962		
1	[In English] "Having two sites open at the same time caused	
2	severe logistic problems in transportation and equipment. Dr. Haglund	
3	often spent hours driving between the sites. That impeded his ability to	
4	routinely supervise the work being done."	
5	[Interpretation] My question to you is this, Professor Dunjic:	
6	Could that have affected the fact that Dr. Haglund noticed certain things	
7	which later on were not noticed or recorded in the findings at autopsy?	

- 8 A. Very possible.
- Q. Now let's move on to the next page, please, page 5 -- or rather,
- item 5 on the next page, page 8, item 5 on our screens, please. It reads
- 11 as follows:
- 12 [In English] "There had been some pressure to standardize the
- cause and manner of death statements on autopsy reports. We believe this
- 14 has been corrected and at this point does not remain a problem for ICTY
- 15 in the prosecution of war criminals in the former Yugoslavia."
- 16 [Interpretation] Can you now tell me whether you consider -- or
- 17 rather, whether what it says here, this standardization of the cause and
- 8 manner of death, whether you can see in that any similarity with your
- 19 conclusion to the effect that in certain conclusions based on the autopsy
- 20 reports that you mentioned here killings were mentioned as the cause of
- 21 death, although there were no grounds to make that conclusion in the

22	analysis itself?
23	A. Well, I've already addressed that issue, that due to
24	inconsistency in the findings with respect to the cause of death that
25	there is there are observations made about the manner of death, which
Pag	e 22963
1	does not emanate from the objective findings, and I illustrated that on
2	the basis of examples yesterday. So I don't want to go back to what we
3	mean by cause of death and manner of death. We discussed that
4	previously. Now, in this report it says that that was put right,
5	corrected, and that that would no longer be done in future as far as I
6	understand this paragraph. That is to say that something was previously
7	done and Haglund in his report testified to that, and I quoted from the
8	report, not have to repeat that, but that this something was corrected.
9	So that would be my comment.
10	Q. Thank you. Now, it also referred to the difficult situation in

- which Dr. Haglund and the others on the team worked in 1996, and that's
- 12 on page 12, line 20, of today's transcript. I'd like to ask you now if
- 13 you can remember where, physically speaking, these autopsies were
- 14 conducted that were the subject of your analyses?
- 15 A. They were conducted in Visoko, unless I'm very much mistaken,
- 16 which is a site, a locality I think this occurs near Tuzla,
- 17 geographically I'm not quite certain but in that general area and there
- 18 was a site there where the bodies were brought in from different sites,
- 19 different locations, where conditions existed. I think there was a
- 20 hangar that was there where the autopsies were conducted and all the
- 21 other procedure attending autopsies.
- 22 Q. Tell me, please, at that time and at the places where the
- 23 autopsies were conducted, was there a war going on? Were there any
- 24 conflicts, fighting, that was -- the year was 1996, wasn't it, after the

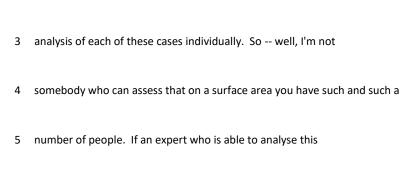
25 Dayton Accords?

Page 22964

1	A.	Well, I really don't know.	I don't know whether there was any

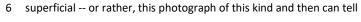
- 2 fighting or not, but in 1996 -- well, before that I was -- well, in 1996
- 3 I was with Mr. Haglund at Ovcara, and he told me that he would be going
- 4 to Srebrenica afterwards. So that's when I learned from him -- or
- 5 rather, not to Srebrenica but to Bosnia, that's what he said. So that's
- 6 when I learnt that they would be going, but if I were to make a
- 7 comparison I don't know what the conditions were like on site, but that
- 8 was when there was not a war going on.
- 9 Q. Thank you. I'd now like to ask you the following linked to an
- exhibit shown you by Mr. Mitchell on page 33, line 22, he showed you a
- 11 photograph and the number is 3009, it's a Prosecution exhibit, so may we
- 12 have a look at it again.
- 13 You told us that you saw the headings on the photograph that

14 we're dealing with, bodies, and I'd like to ask you as a forensic expert
15 whether a photograph like this could tell you anything about the number
16 of people killed there, for example?
17 A. No.
Q. And could it tell you, for example, the manner in which they were
19 killed or died?
A. No, no, you can't do that from this photograph, you can't make
21 those conclusions. All you can see is the general area where the bodies
were found, how many bodies and how they came to their death, you can't
23 say anything about that.
Q. As a professional forensic expert, is this photograph something
you would take into account in establishing the number of bodies, for
Page 22965
1 example, and establishing the cause of death and all the rest?



A. No. I'm guided as an expert exclusively by individual cases and

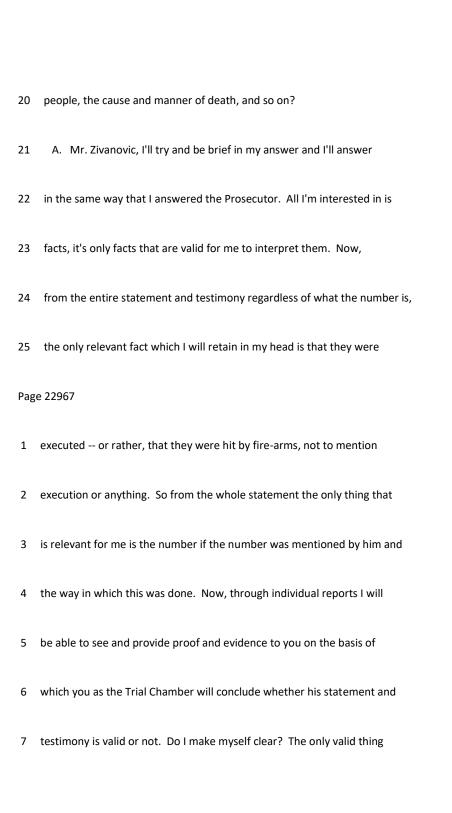
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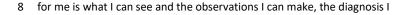


- 7 you that his estimation was that there are 500 bodies on the photograph,
- 8 where I have autopsy findings for 200 bodies, then I can only evaluate
- 9 that through the number of bodies ascertained. But as a forensic expert,
- 10 if you want me to discuss this, that's absolutely impossible.
- 11 Q. In this connection let me ask you this: As a forensic expert,
- 12 does it mean anything to you if, for example, a man would come and
- 13 acknowledge that he had taken part in executions and said that there were
- 14 more than a thousand people? Would that be a relevant piece of
- 15 information for you to take this number and then take that as being the
- 16 cause of death, the manner of death?

17	JUDGE AGIUS: One moment, because it's not a fair question.	
18	In respect to what?	
19	MR. ZIVANOVIC: Sorry?	
20	JUDGE AGIUS: In respect to what? Someone comes over to the	
21 with	ness and says or the witness comes to know that	
22	MR. ZIVANOVIC: Sorry	
23	JUDGE AGIUS: In respect to what, to a particular burial site?	
24	MR. ZIVANOVIC: Yes, yes.	
25	JUDGE AGIUS: But you need to be specific. I mean, you can't	
Page 22966		
1 be	-	
2	MR. ZIVANOVIC: Yes, Your Honour.	
3	JUDGE AGIUS: We are not talking of how many people were executed	
4 at aı	ny given time in any given place; we're talking about forensic	

5	examinations of recovered bodies. That's what we're talking about.
6	MR. ZIVANOVIC: It was subject of cross-examination. I'm
7	strictly stick to this
8	JUDGE AGIUS: Anyway
9	MR. ZIVANOVIC: subject.
10	JUDGE AGIUS: just be more specific. Of course you can ask
11	the question, but you need to be more specific.
12	MR. ZIVANOVIC: [Interpretation]
13	Q. The Prosecutor on page 34, line 10, mentioned Erdemovic,
14	Drazen Erdemovic, who testified here and who was convicted, as was
15	stated, for having taken part in the execution of over a thousand men and
16	who said how those people died. He asked you that within the same
17	context that I'm putting your question to you. So my question to you
18	within that context is should that have any bearing on your own work as a
19	forensic pathologist with regards to the establishment of the number of





- 9 can make and confirm that there were injuries caused by fire-arms.
- 10 Q. In response to a question from the Prosecutor on page 36 now,
- l1 line I think it was 25 onwards, going on to page 37, you said that when
- 12 you compiled your report, you did not have the statements and photographs
- that we discussed. Now, is that necessary to offer you to give your
- 14 forensic opinion, your medical opinion, about the value of the findings?
- 15 A. No, I don't need statements or testimony. They are relevant just
- 16 as a piece of information as to whether one type of weapon was used. So
- 17 just in that area is the statement important and significant. For
- 18 example, I mentioned that the witnesses saw skeletonized decomposed body,
- 19 that was interesting for the decomposition that took place, putrefaction,
- and that they said they were shot at by the PAM-type weapons, artillery
- 21 weapons, that there were explosions, that there was shooting from other
- 22 types of fire-arms. So these fire-arms leave their marks on a body, and

23 I try on the basis of my autopsy findings and observations looking at the 24 corpse to provide evidence to the Court whether that was what happened or not. So if the Court asked me were there injuries caused by explosions, Page 22968 1 my answer would be yes because on such and such a corpse we found 2 explosive injuries, shells, charring of the body, and so on and so forth, which would be evidence for the Court. But it's not up to me to assess the statement and testimony of individuals; that just serves as a piece of information which I can check out and establish. If I cannot do that, 6 then the witness can think up anything he likes, invent anything he likes, or he might be telling the truth. Everything will depend on the autopsy findings. Q. On page 22, line 10, the Prosecutor put to you a question about 10 ligatures which were associated with the bodies, that was how it read in

- the original, I don't know what interpretation you received. But could
- 12 you now tell me, please, how you understood this, the word "associated,"
- 13 did you understand it as the ligatures being tied to the bodies or that
- 14 the ligatures were in some way linked to the bodies and associated with
- 15 the bodies in that way?
- 16 A. Well, my interpretation would be that the ligatures were linked
- to the bodies or found near the bodies or by the bodies, because if you
- 18 say that somebody was tied then you know what was -- what can be tied,
- 19 arms, legs, heads, and so on; or they were exhibits attached to the body
- 20 because they were found next to the body in a given site, somebody might
- 21 have taken them off the body and sent the body without the ligature. I
- don't know that, I cannot know that. I understood it as the ligature
- 23 being connected to the body or linked to the body, just as other things
- could be linked to the body such as glasses, a cap, a comb, falling out
- 25 of the clothing the person was wearing, and then all of this is marked

Page 22969

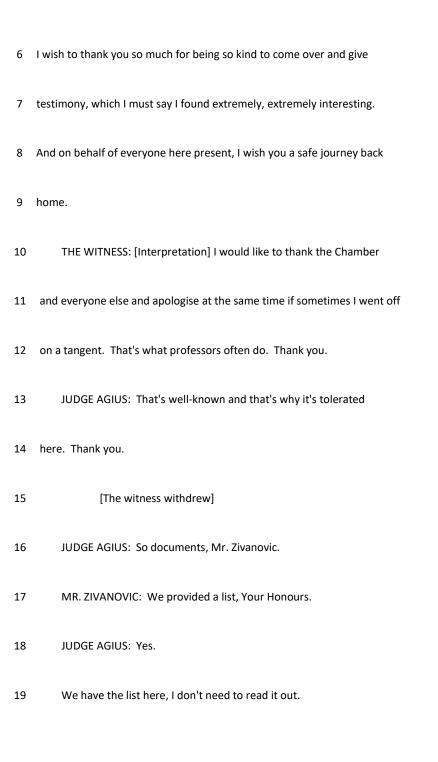
- 1 and then they say all these objects were found with body number so and
- 2 so, and this is recorded.
- Q. And just one more question linked to Dr. Haglund. Tell me,
- 4 please, when collective reports are compiled, is the right method from
- 5 the forensic point of view to include in those collective reports the
- 6 personal observations of the person compiling such reports, regardless of
- 7 whether something like that was not observed in the individual autopsy
- 8 findings? And I am specifically referring to -- well, you were asked a
- 9 question here on page 21, line 15, that Dr. Haglund in the compilation of
- 10 these reports relied on photographs and from his own weighing-up of the
- 11 situation in the field.
- 12 A. Let me tell you, reports can be objective and subjective, but
- 13 when you compile a collective report from one site, one locality, it has

14	to be highly objective without any subjective elements because then it is	
15	no longer conclusions that are made but a subjective opinion of the	
16	person compiling it or drafting it. But those opinions must also be	
17	based on precisely established facts. So in principle, the subjective	
18	point of view must be eliminated as far as possible and the report must	
19	be based in objectively established facts.	
20	Q. And just one more thing that I'd like to ask you and for us to	
21	clarify here. In response to my questions and questions from the	
22	Prosecutor, you said that you didn't have sufficient time to analyse all	
23	the autopsy findings, those up until 2001 as well as those that came in	
24	later on and that were conducted by the authorities of	
25	Bosnia-Herzegovina. Now, I'd just like to ask you to clarify this point.	
Page 22970		
1	When you said you didn't have enough time, does that mean that you didn't	
2	have enough time because you were too busy with other matters, engaged in	

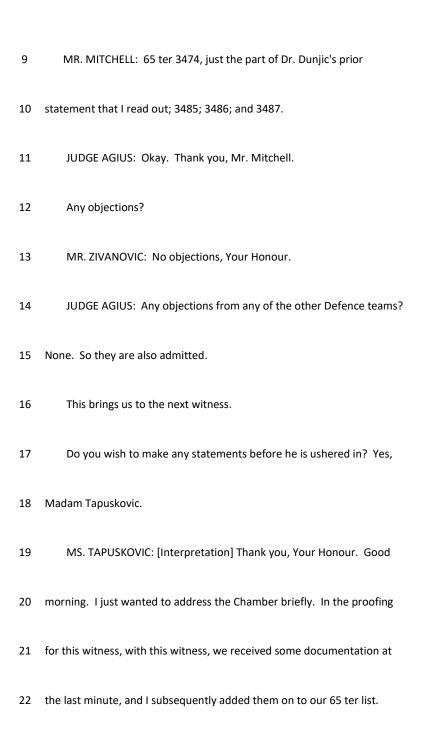
- 3 other work, or because you didn't have additional time given by us
- 4 Defence teams because we couldn't provide you with a larger number of
- 5 working hours?
- 6 A. Well, the latter. I wasn't given more hours, and of course I am
- 7 very busy doing my own work as a professor and forensic expert. So I was
- 8 given a certain number of hours, and it was within that number of hours
- 9 allotted to me that I did the work, although I did -- I put in many more
- 10 hours of work than the allotted time in order to compile a report that
- 11 could be useful to this Trial Chamber. So that what the Prosecutor put
- 12 to me and showed me, the report that I subsequently received and that's
- 13 why I printed out so that you could see it physically, I need a certain
- 14 amount of time because it concerns ten bodies. And I read case number 6,
- 15 for example, for the first time and ad hoc noticed certain points that I
- 16 would have to explain why I think they should be this way and not the

other way. And there are many such reports. I don't know the total 18 number of exhumations and records and photographs, I don't know what the number is up until April 2008. So I could do that within a reasonable space of time allotted to me, and depending on the time given me I will 20 21 do my best and can compile a report which will be useful to you in order 22 for you to be able to assess what was done later on, from 2002 to 2008. Q. Thank you, Professor, I have no further questions. 23 24 MR. ZIVANOVIC: No more questions. 25 JUDGE AGIUS: Thank you so much, Mr. Zivanovic. Page 22971 1 [Trial Chamber confers] 2 JUDGE AGIUS: You will be glad to know that we don't have any further questions for you, Professor, and that after three days of solid testimony you will now have the opportunity to return back to your home.

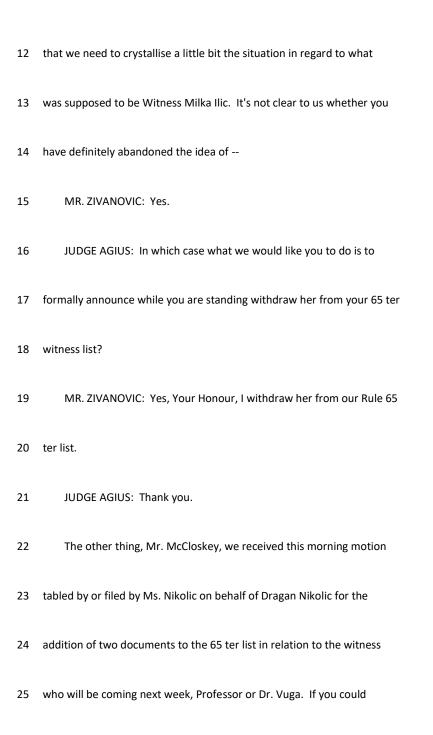
5 However, before you leave this courtroom, on behalf of the Trial Chamber

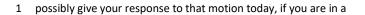


20	Mr. Mitchell, do you have any objections?
21	MR. MITCHELL: No objections, Your Honour.
22	JUDGE AGIUS: Okay. Thank you.
23	Any objections from any of the other Defence teams? They are
24	all admitted.
25	Mr. Ostojic, I suppose you don't have any documents, do you?
Pag	re 22972
1	MR. OSTOJIC: That's correct, Your Honour, we do not.
2	JUDGE AGIUS: Thank you.
3	Mr. Mitchell.
4	MR. MITCHELL: We have five documents, Your Honour, 65 ter number
5	3002D.
6	[Prosecution counsel confer]
7	MR. MITCHELL: That's the extract that was placed on the ELMO.
8	JUDGE AGIUS: Mm-hmm.



23	However, due to the pace of work, we did not formally request that the 65				
24	ter list be expanded. In agreement with the Prosecution colleague who				
25	will be examining the witness, she said that she would not object to				
Pag	Page 22973				
1	that. That is why I'm making our request formally in this way, I'm				
2	requesting that the list be expanded initially for the documents to be				
3	used with the witness and later on tendered.				
4	JUDGE AGIUS: Okay. Thank you.				
5	Ms. Janisiewicz to you confirm that?				
6	MS. JANISIEWICZ: Good morning, Your Honour, yes, I do confirm				
7	that.				
8	JUDGE AGIUS: I don't think we need to waste time identifying				
9	these documents and we can proceed since there is no problem.				
10	Meantime, while the witness is being ushered in, Mr. Zivanovic,				
11	going through our records we discovered again not discovered, realized				



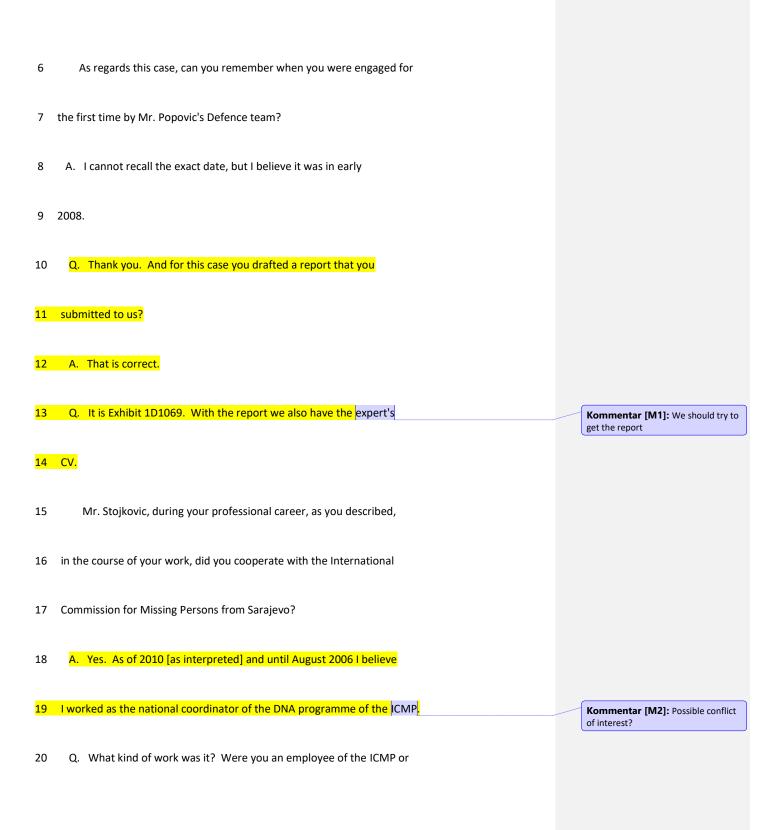


- 2 position to do so; filing which, on Monday which would be the latest, as
- 3 we need to know what the position is before he starts giving evidence.
- 4 MR. McCLOSKEY: Yes, Mr. President, I've seen those, spoken
- 5 briefly to Ms. Nikolic, and I have no objection.
- 6 JUDGE AGIUS: Okay. So we are deciding the motion here and now
- 7 orally. The motion is granted, amongst other reasons for the fact that
- 8 it's not being opposed by the Prosecution.
- 9 [The witness entered court]
- 10 JUDGE AGIUS: Dobar dan, Gospodine Stojkovic.
- 11 THE WITNESS: [Interpretation] Good afternoon.
- 12 JUDGE AGIUS: And you are most welcome as an expert witness
- 13 produced by or brought forward by Mr. Zivanovic, that being the Defence
- 14 team for accused Vujadin Popovic in this case. Before you start giving

15	evidence our rules require that you make a solemn declaration that you		
16	will be testifying the truth. It's going to be handed to you now by		
17	Madam Usher, please read it out aloud and that will be your solemn		
18	undertaking with us.		
19	THE WITNESS: [Interpretation] I solemnly declare that I will		
20	speak the truth, the whole truth, and nothing but the truth.		
21	JUDGE AGIUS: Okay. I thank you, Professor. Please make		
22	yourself comfortable.		
23	You will first be asked some questions by Mr. Zivanovic who will		
24	introduce himself further and he will then be followed by my apologies		
25	to you, Madam Tapuskovic, also counsel in the Defence team mentioned to		
Page 22975			
1	you. She will then be followed by others on cross-examination.		
	you. The will then be followed by others on cross examination.		

3	MS. TAPUSKOVIC: [Interpretation] Thank you, Your Honour.	
4	WITNESS: OLIVER STOJKOVIC	
5	[Witness answered through interpreter]	
6	Examination by Ms. Tapuskovic:	
7	Q. [Interpretation] Good afternoon, Mr. Stojkovic. I have to	
8	introduce myself. My name is Mira Tapuskovic, and I am on the Defence	
9	team of Mr. Vujadin Popovic. During your testimony I would like to ask	
10	you to speak slowly so that everything you say due to the specific	
11	terminology that you will be using can be entered in the transcript	
12	accurately.	
13	First of all, tell us your first and last name.	
14	A. My name is Oliver Stojkovic.	
15	Q. Tell us something about your educational background, please.	
16	A. I completed molecular biology, that was my BS; and after that, I	
17	had my master thesis and doctoral thesis at the medical school of	

18	Belgrade University in the field of molecular genetics.	
19	Q. What was your professional clear from the moment you completed	
20	your education?	
21	A. First I worked at the biological research institute as the	
22	research assistants. After that, I worked at the school of biology,	
23	Belgrade University, and I was an assistant teacher of molecular	
24	genetics. I taught for five years at the school of biology, after which	
25	I got employment with the medical school of Belgrade first as a senior	
Pag	e 22976	
1	research assistant and as of 2006 I am a professor of human genetics at a	
2	human genetics chair of the school; and I'm also quite active in the	
3	various associations of the Belgrade University.	
4	Q. I would have to ask you to speak a bit more slowly since	
5	everything needs to be recorded in the transcript.	



21	did that cooperation take part in somewhat different conditions?
22	A. I was never an ICMP employee
23	JUDGE AGIUS: Yes, Ms. Janisiewicz.
24	MS. JANISIEWICZ: Yes, if we could just clarify the dates,
25	they're a bit unclear from the transcript.
Pag	ge 22977
1	JUDGE AGIUS: Yes, thank you.
2	Ms. Tapuskovic, which period of time are you referring the
3	witness to?
4	MS. TAPUSKOVIC: [Interpretation] I will repeat my question.
5	Q. Can you remember when you started working when you started
6	your cooperation with the ICMP from Sarajevo?
7	A. I might not be able to remember the exact date, but I do believe
8	that it was in 2002 in June I began cooperating with the ICMP. That

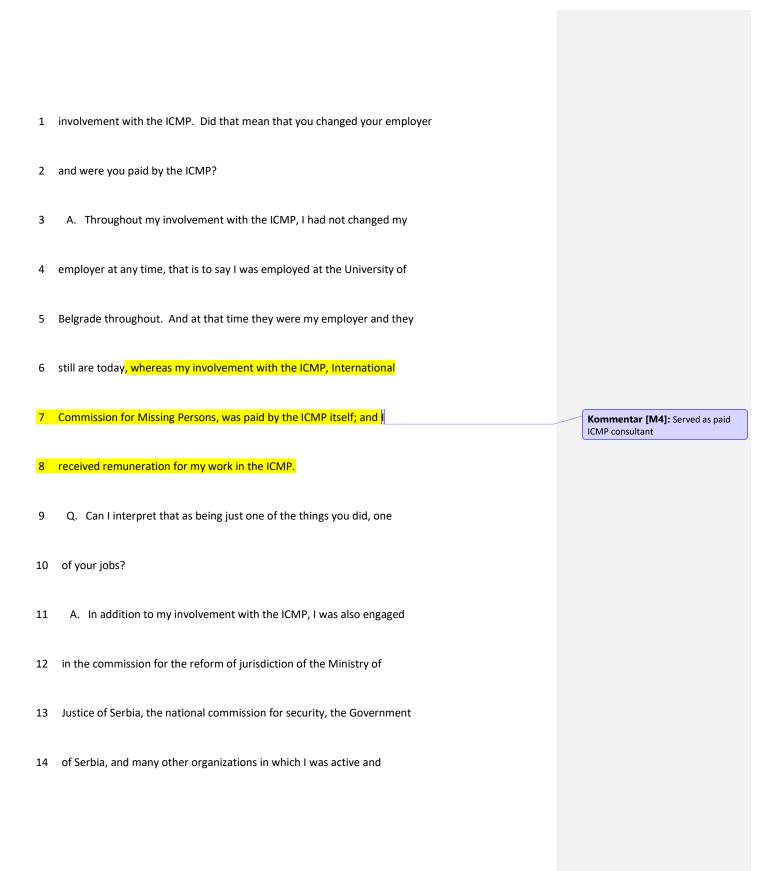
9	cooperation was concluded in August 2006. I have to stress again that I
10	cannot recall the exact months. It may have been one or two months
11	before or after that date, but the years are as I stated.
12	Q. At the moment when you began working with the ICMP, where were
13	you employed and what was your position at the time?
14	A. As I've just tried to explain, I was an employee of the
15	University of Belgrade throughout. First I taught at the school of
16	biology and then at the medical school. In that regard my academic
17	career and my full employment was with the University of Belgrade, and
18	that was never interrupted due to my cooperation with the ICMP.
19	Q. Can you give us more information about the contents and the
20	framework of your cooperation with the ICMP?
21	A. The ICMP offered to me to sign a letter of appointment.
<mark>22</mark>	THE INTERPRETER: Interpreter's note: The witness used the

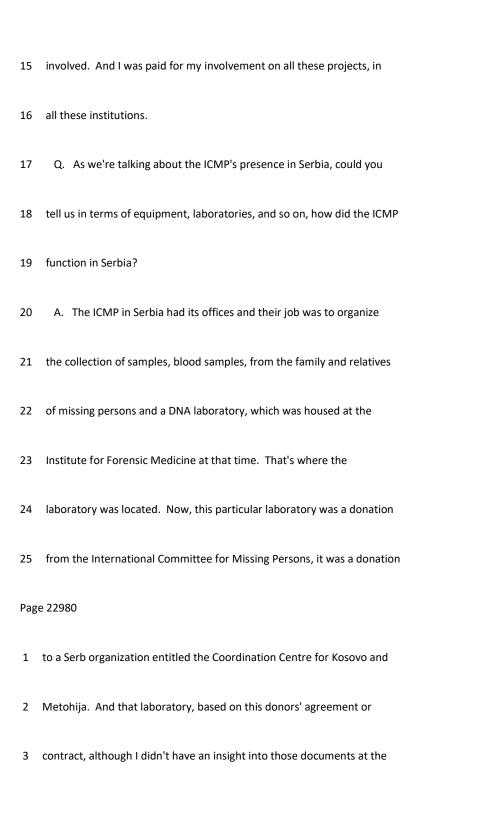
23 English term.

24	THE WITNESS: [Interpretation] I don't know what the exact
<mark>25</mark>	translation is in B/C/S, as opposed to their regular employees which
Pag	<mark>e 22978</mark>
1	signed letter of employment. My task with the ICMP had to do with
2	coordinating the DNA programme which was formally the title of my
3	position with the ICMP. The tasks I was assigned had to do with
4	occasional visits to the Sarajevo headquarters. Once a month we held
5	meetings on the topics of DNA programme development as well as
6	development of other ICMP programmes in the region covered by their
7	mandate.
8	Q. What is the region involved?
9	A. The ICMP was mandated to operate in the territory of the former
10	Yugoslavia. In that regard they covered the territory of Croatia,
11	Bosnia, Serbia, Kosovo, and Macedonia or rather, the territory of the

Kommentar [M3]: As admitted below, no DNA work was performed. What was the purpose of the Belgrade lab? To create the appearance of other activities besides Srebrenica?

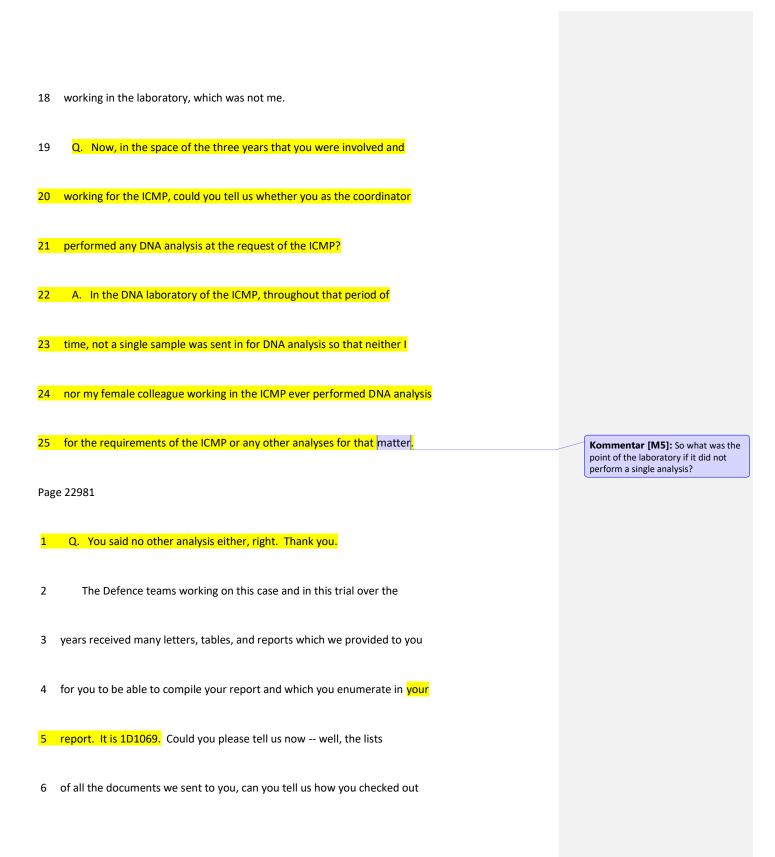
- 12 former Yugoslavia where there were armed conflicts.
- 13 JUDGE AGIUS: One moment, one moment, Ms. Tapuskovic, because I
- 14 think we need to clear this up.
- 15 There is a bit of confusion here because one -- the witness
- started off by indicating that he was the national coordinator for this
- 17 DNA project with ICMP, and then he stated that he was never -- I was
- 18 never an ICMP employee. Then he mentioned this letter of appointment and
- 19 it seems that, from what I could see from the transcript, that he used
- 20 the English term, the same words that I have used. Perhaps he could
- 21 explain to us whether what was exactly his role and whether he was on the
- 22 payroll of ICMP while he was conducting this role.
- 23 MS. TAPUSKOVIC: [Interpretation] Your Honour, yes, I was -- had
- 24 just asked that question which wasn't recorded in the transcript.
- 25 Q. Can you tell us the form that your involvement took, your

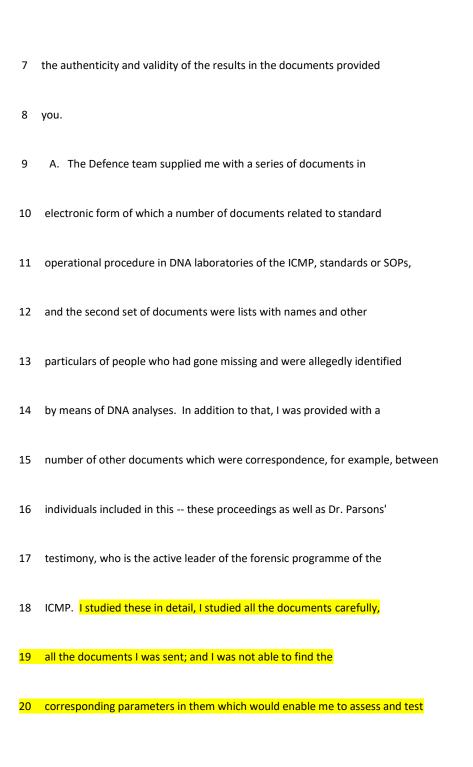


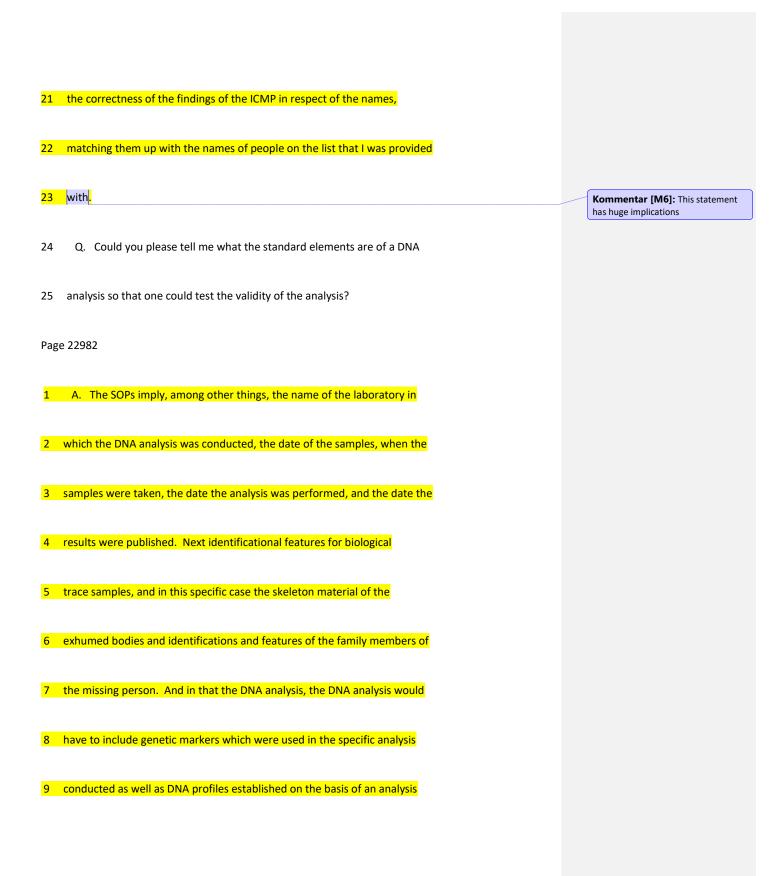




- Medicines for the coordination centre for Kosovo and Metohija so that
- they could use it all the time.
- 7 Q. When you say laboratory, what does this laboratory incorporate?
- 8 Does it mean the people working there, the premises, and so on. Tell us
- 9 what you mean when you say laboratory. What did it comprise of?
- 10 A. The DNA laboratory of the ICMP which was located at the Institute
- 11 for Forensic Medicine for the Faculty of Medicine of the University of
- 12 Belgrade incorporated a number of rooms and premises equipped with all
- the necessary material and equipment for DNA analyses and forensic
- 14 procedure, and in addition to the premises which were suitable for that
- 15 type of work, it also had parameters for DNA analysis, it included
- 16 equipment, state-of-the-art equipment, the most modern equipment in
- 17 genetics and DNA analysis. And there was one employee working there,





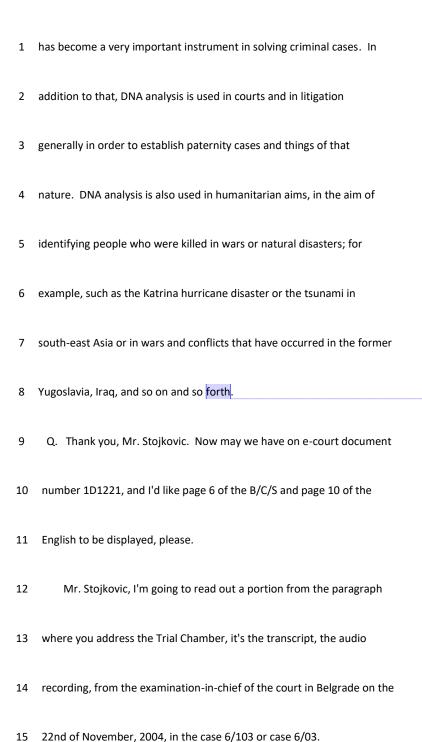


10	of the genetic markers from the DNA samples that were analysed.
11	Following that, and finally, in the DNA report you would have to
12	find a verbal description of the conclusion and an opinion stated which
13	must contain biostatistical calculations of the correctness of the
13	must contain biostatistical calculations of the correctness of the
4.4	
14	assertions made about identity and a conclusion of possibly established
15	identities on the basis of the biostatistical calculations made in that
16	way. You must also have the names of the people that carried out the
17	analysis, and I have to say those are all the elements that are
18	stipulated in the standard operating procedure, the SOP, for considering
19	report on whether DNA matches, DNA matching or not.
20	Q. You used the term genetic markers and biostatistical procedure,
21	those two terms. Can you explain them to us more fully. What do you
22	mean by genetic markers?
-	, 5
23	A. Genetic markers used in forensic genetics, as that branch of
23	A. Genetic markers used in foreitsic genetics, as that branch of

Kommentar [M7]: Presumably these requirements were not satisfied by samples furnished by ICMP? Or which were and which were not?

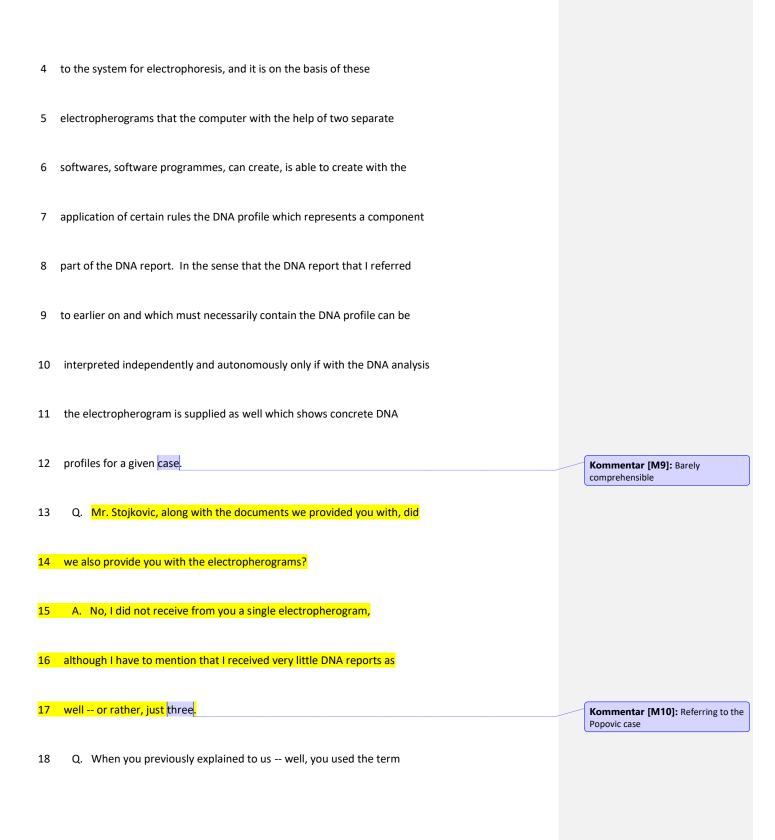
24	science is called, are defined or were defined as early on as 1994 in the
25	United States of America. After a body that was set up and was called a
Pag	e 22983
1	technical working group for methods of DNA analysis considered which
2	genetic markers of the hundreds of thousands of genetic markers that each
3	person has in his genetic make-up are necessary and should be analysed
4	for each person to be described individually through those genetic
5	markers.
6	Now, this technical working group arrived at a certain number and
7	it was 13 standard genetic markers that they pin-pointed and which are
8	used in the United States of America, and many other countries in the
9	world today, as standard forensic genetic markers for DNA analysis in
10	legal proceedings.
11	Now, as far as biostatistical calculations are concerned, they
12	are calculations based on populational and genetical analysis, the

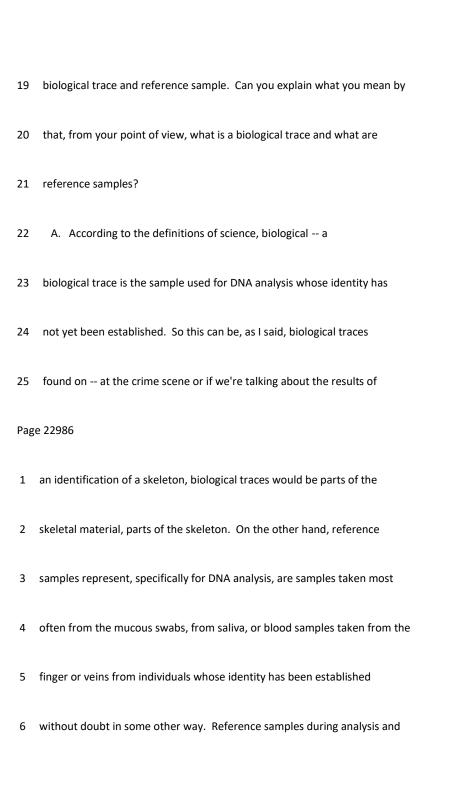
- 13 frequency of certain combinations of states with respect to the analysis
- 14 of genetic markers for a given population for which it is believed that
- 15 the individual to be identified comes from.
- 16 Q. Tell us, please, DNA analyses and to what extent, are they used
- in order to establish the identity of people in legal cases on the basis
- 18 of what you were able to see so far?
- 19 A. Well, yes, that's absolutely correct. DNA analyses have for a
- 20 number of years, for about 15 years, are the most important instruments
- 21 in the hands of the judiciary in order to identify persons who have left
- 22 biological traces on the site of the crime and that can be linked to a
- crime committed and are found on the body or in the body of a witness, on
- the body of the perpetrator of a crime, and so on and so forth. So DNA
- 25 analysis helps us -- has been helping us over the past two decades and



Kommentar [M8]: Scope of DNA analysis: identifying crime perpetrators, establishing paternity, and victim ID

16 [In English] "I have here results of this electrophoresis in this
17 particular case, and I can give them to the court if need be. So those
18 are the results that are interpreted and cannot be forced later on in the
19 sense that I cannot nor can anyone else make these device to place this
20 pointed parts, spade, on this exact spot.
21 A. Forgeries, falsifications.
Q. [Interpretation] Mr. Stojkovic, you said here that you had some
23 electrophoretic analysis that you provided to the Chamber. Can you tell
24 us what that is?
25 A. Electropherograms represent the results of specific genetic
Page 22985
1 analysis from a specific biological sample analysed at each specific
2 case. It is on the basis of these electropherograms that are collected
3 together and stored in electronic form by the computer which is attached





- 7 professional studies are compared to samples -- or rather, biological
- 8 traces taken at the crime scene from a given crime. And this kind of
- 9 comparison is done through the help of biostatistical calculations, on
- the basis of which the expert will give his opinion as to the identity of
- 11 the person who could have left a biological trace. And in this type of
- 12 case the identity of the person to which the skeleton sample belongs.
- 13 Q. Tell us, please, must these electropherograms be made for every
- 14 biological trace and every reference sample?
- 15 A. As a rule, before all the courts in Serbia, as well as before all
- 16 the courts in the United States of America, such electropherograms must
- 17 be made available to the e-courts themselves and all the parties to a
- 18 proceeding, that's to say both the prosecution and the defence, so that
- 19 every side could hire their own respective experts who would then check
- 20 the trust-worthiness of DNA profiles taken and of the biostatistical
- 21 calculation taken as well as of the expert opinion given by the expert

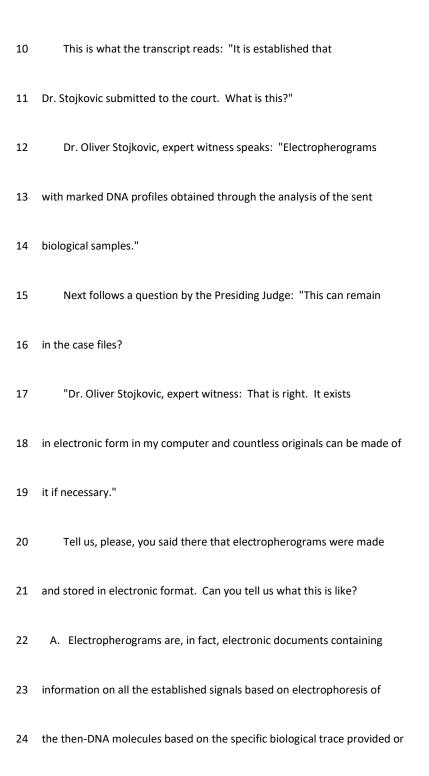
22 who had already testified in a given case.

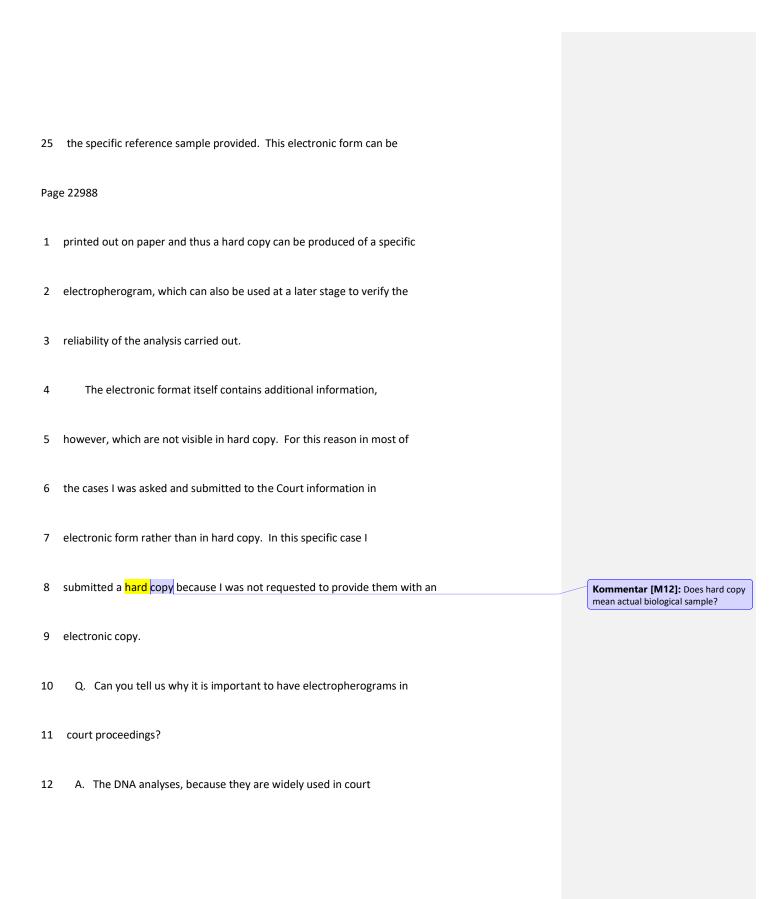
- 23 JUDGE AGIUS: I think we all deserve a break now. 25 minutes,
- 24 please. Thank you.
- 25 --- Recess taken at 12.32 p.m.

Page 22987

- 1 --- On resuming at 12.58 p.m.
- 2 JUDGE AGIUS: Madam Tapuskovic, you may proceed, please.
- 3 MS. TAPUSKOVIC: [Interpretation] Thank you, Your Honour.
- 4 Q. Mr. Stojkovic, let us resume where we left it off. I have to
- 5 alert you to the fact that you have to speak slowly so that everything is
- 6 entered into the transcript. I will continue dwelling on this document,
- 7 which is 1D1221, we have it on our screens. This is the English
- 8 version -- or rather, page 10 of the English version, and page 6 of the
- 9 B/C/S version.

Kommentar [M11]: Fair enough, but the electropherograms are pictures not the samples themselves. Does not analyzing them instead of physical samples presuppose faith in the integrity of the provider of these electropherograms?

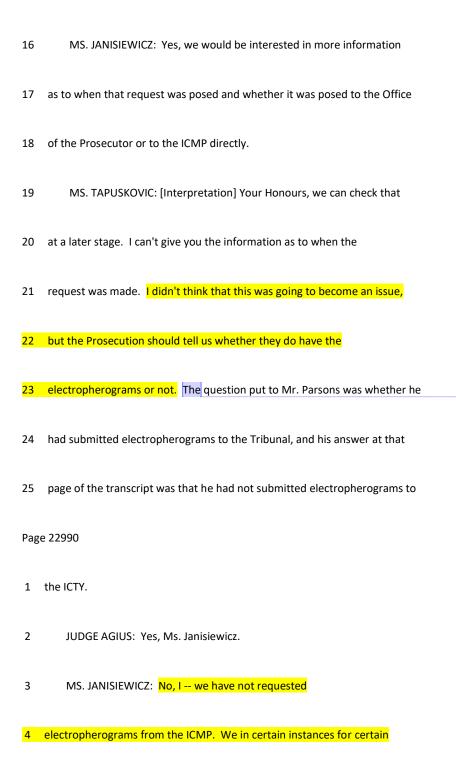




13	proceedings and because they carry a great probative value in criminal
14	proceedings and litigations alike
15	JUDGE AGIUS: Yes, Ms. Janisiewicz.
16	MS. JANISIEWICZ: Yes, Your Honour, we're going to object to this
17	line of questioning on relevance grounds. We have no information that
18	that has been requested.
19	JUDGE AGIUS: Yes, Ms. Tapuskovic, would you like to comment?
20	And in commenting can you indicate the relevance of this line of
21	questions, please.
22	MS. TAPUSKOVIC: [Interpretation] Your Honours, when Witness
23	Parsons was heard, that was on the 1st of February, 2008, he was asked
24	about whether he had brought along electropherograms to present and
25	produce to the Court, his answer was in the negative, that was page
Pag	e 22989
1	20911. What the significance of electropherograms is, is something that

2	the witness has just been explaining to us. He's been explaining to us
3	what their probative value is.
4	JUDGE AGIUS: Yes, Ms. Janisiewicz.
5	MS. JANISIEWICZ: Yes, Mr. President, our understanding is that
6	they've never asked him to provide - him being the ICMP - to provide
7	electropherograms nor have they ever requested them from us.
8	JUDGE AGIUS: Is that correct, Ms. Tapuskovic?
9	MS. TAPUSKOVIC: [Interpretation] No. Your Honour, this was
10	not or rather, it he was asked that. My further questions will
11	make it clear to you why this line of questioning is important. We want
12	to see in what form electropherograms are made and in what form DNA
13	reports are made, and what it is that the Defence can glean from these
14	electropherograms. The Defence did ask for these electropherograms, but
<mark>15</mark>	they were denied and I can't recall exactly when this was.

Kommentar [M13]: Not a good answer. Should be able to cite the formal request if there was one



Kommentar [M14]: A great example of defence frivolity generally

5 reasons were provided with some matching reports, but that has not been 6 an issue that we've sought additional material from them on. 7 JUDGE AGIUS: Right --8 MS. JANISIEWICZ: And may --9 JUDGE AGIUS: Still, if the situation is what has been described, 10 even though the two versions do not exactly tally, why do you still object to the question put by Ms. Tapuskovic asking from the witness, 12 from the expert witness, information as to why electropherograms would be 13 useful? MS. JANISIEWICZ: Well, Mr. President, our apologies for not 14 having the exact transcript reference, but our understanding of

16 Mr. Parsons' testimony was that he stated that electropherograms could be

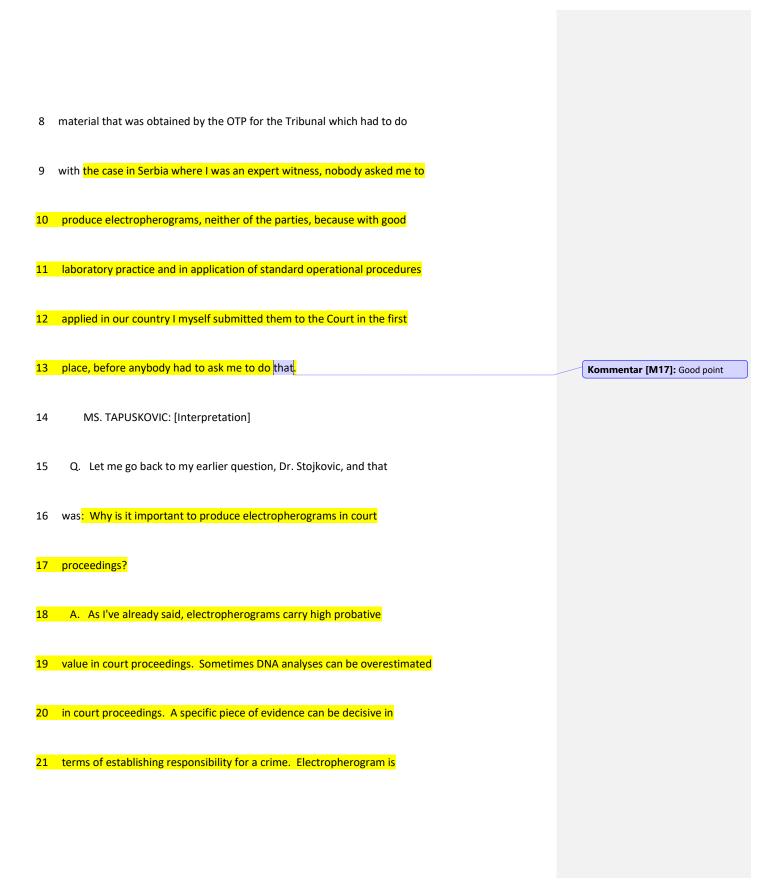
17 used, they are the raw data; however, it's also possible to rely on the

18 established record of the institution and thus --

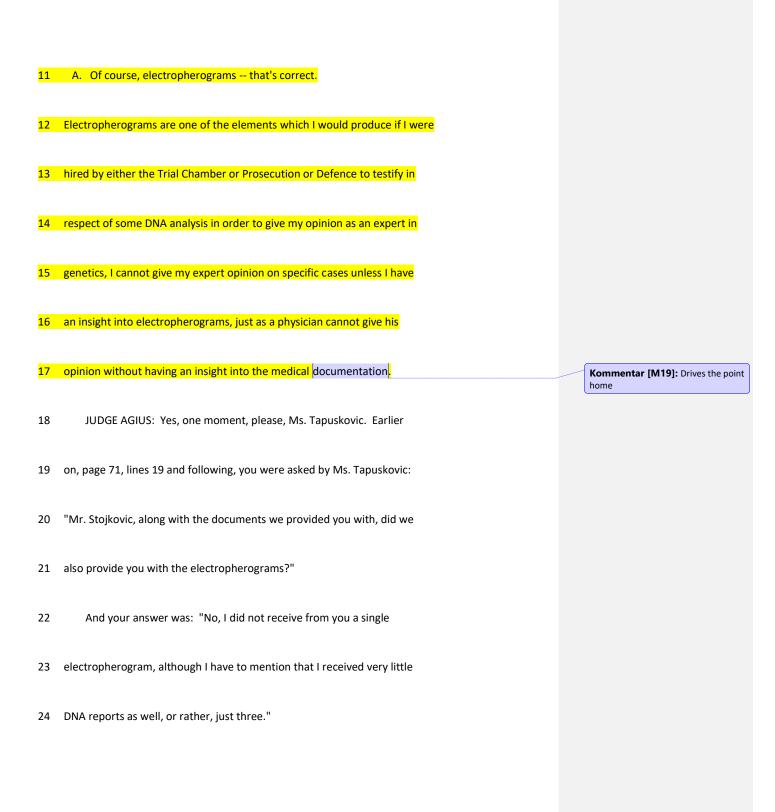
Kommentar [M15]: How can the prosecution pursue its case without having requested and examined such key evidence? Tallies with the admission of prosecutor in Karadzic that ICMP did not show DNA data to the prosecution (Prosecutor v. Karadzic), Status conference, 23 July, 2009, p. 364, lines 21–23)

Kommentar [M16]: Established record of the institution is a euphemism for taking it on faith. Cross-check Parson's statement on this issue

19	JUDGE AGIUS: All right. Stop, stop, because then you're
20	prompting an answer to the witness himself. But let me consult with my
21	colleagues.
22	[Trial Chamber confers]
23	JUDGE AGIUS: Yes, we've come to the conclusion that the question
24	put by Ms. Tapuskovic is a legitimate one.
25	So, Mr. Stojkovic, if you could answer the question. If you need
Pag	e 22991
1	Ms. Tapuskovic to repeat the question to you, that can be done.
2	THE WITNESS: [Interpretation] Can the question be repeated,
3	please, but let me tell you something before the question is put to me
4	again. I'd like to say something that might perhaps help to solve the
5	dilemma.
6	JUDGE AGIUS: Please go ahead.
7	THE WITNESS: [Interpretation] In this specific instance of the



<mark>22</mark>	the crucial piece of evidence, by the same token as, for instance, a	
23	transcript of a given conversation can be proof of the conversation	
<mark>24</mark>	having taken place before the court of law. Failure to produce	
<mark>25</mark>	electropherograms would be tantamount to an expert testifying about a	
Pag	e 22992	
1	conversation which took place between certain individuals without having	
2	had prior insight into the tape of the conversation or the transcript of	
3	the conversation. By the same token, a bone sampling can be likened to	
4	the tape-recording and or to the transcript. Thus, pherograms would	
5	indicate the results of the DNA analysis of the bone and the individuals	
6	concerned, just as the tape-recording would indicate whether the	
7	conversation took place. This is necessary in order for the expert to	
8	pronounce his opinion on the reliability of a given piece of evidence.	 Kommentar [M18]: Probative significance of electropherograms
9	Q. Therefore, without electropherograms, you are not able to advance	
<mark>10</mark>	your opinion about the reliability of a given DNA analysis?	

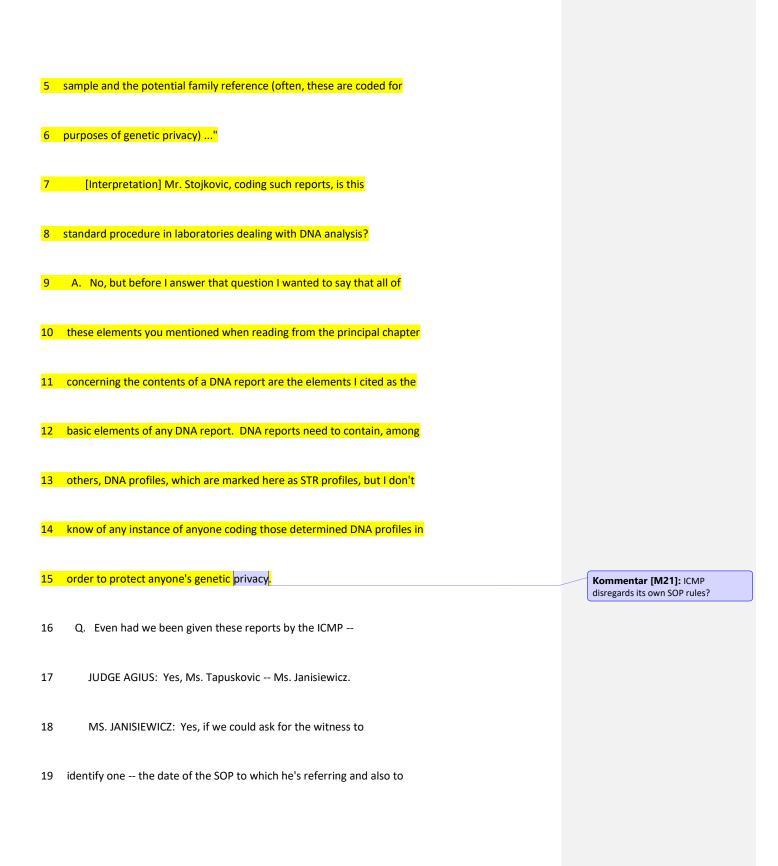


25	Did you ask for more DNA reports and did you ask for	
Pag	e 22993	
1	electropherograms from the Popovic Defence team?	
2	THE WITNESS: [Interpretation] No, I didn't ask for either the	
3	reports or electropherograms or any other document given to me by the	
4	Prosecution. I merely referred to the documents that were given to me in	
5	my report; and since none of them contained anything that I would be able	
6	to use in advancing my expert opinion, that was where my engagement for	
7	the purposes of the Defence team ended.	Kommentar [M20]: Does this mean
7	the purposes of the Defence team ended. JUDGE AGIUS: Yes	Kommentar [M20]: Does this mean he was unable to perform his task as a result of failure to furnish him with the necessary means?
		he was unable to perform his task as a result of failure to furnish him with
		he was unable to perform his task as a result of failure to furnish him with
8	JUDGE AGIUS: Yes	he was unable to perform his task as a result of failure to furnish him with
8	JUDGE AGIUS: Yes THE WITNESS: [Interpretation] Admittedly, I did state in my	he was unable to perform his task as a result of failure to furnish him with
9	JUDGE AGIUS: Yes THE WITNESS: [Interpretation] Admittedly, I did state in my report that I would need DNA reports of several cases as well as	he was unable to perform his task as a result of failure to furnish him with
8 9 10	JUDGE AGIUS: Yes THE WITNESS: [Interpretation] Admittedly, I did state in my report that I would need DNA reports of several cases as well as electropherograms from the same cases in order to be able to draw any	he was unable to perform his task as a result of failure to furnish him with

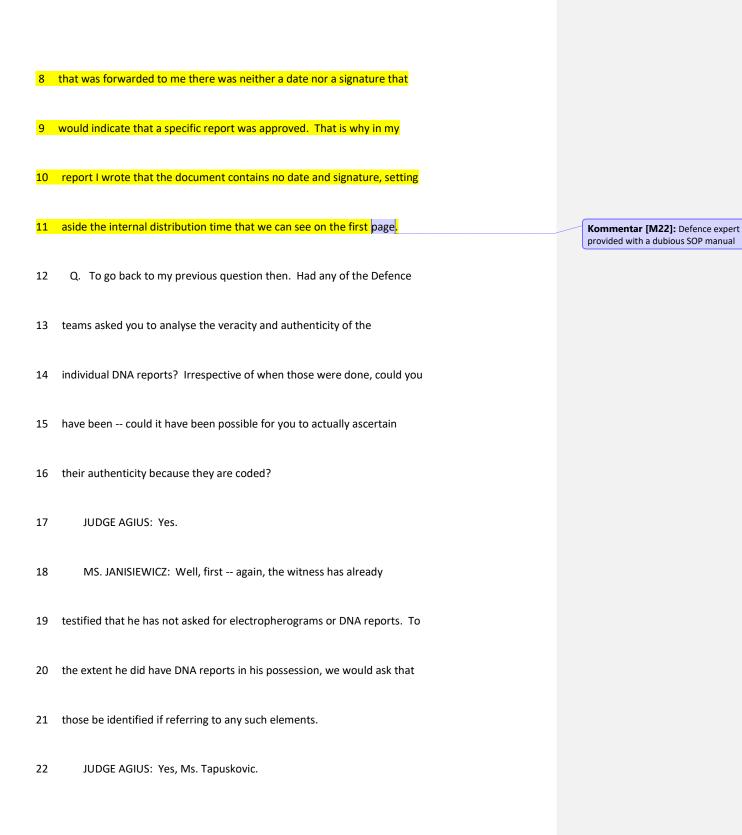
14	MS. JANISIEWICZ: Yes, Mr. President, in light of the witness's
15	answer, we again question the relevance of this testimony. He has just
16	stated that he did not receive
17	JUDGE AGIUS: Yeah, but he didn't receive them, and he didn't
18	ask
19	MS. JANISIEWICZ: ask for them.
20	JUDGE AGIUS: for them.
21	Perhaps you can tell Ms. Tapuskovic, and she can relay what you
22	need to say.
23	And at this point it's also becomes important for us to know
24	whether indeed a request was tabled with the Prosecution for the
25	provision of these electropherograms or not. That you can tell us or you
	e 22994
1	can confirm at a later stage.

2	Yes, Ms. Tapuskovic.
3	MS. TAPUSKOVIC: [Interpretation] Thank you, Your Honour.
4	Q. Mr. Stojkovic
5	JUDGE AGIUS: Are you proceeding with the questions on
6	pherograms electropherograms or are you moving to something
7	MS. TAPUSKOVIC: [Interpretation] One more question has to do with
8	electropherograms, that is to say about the way electropherograms are
9	made at the ICMP; and we will answer your query later on because I told
10	you I don't know the date when the request for electropherograms was
11	made.
12	[Trial Chamber confers]
13	JUDGE AGIUS: Let's leave this and then move on, Ms. Tapuskovic,
14	please.
15	MS. TAPUSKOVIC: [Interpretation] Thank you.
16	Can we call up document, or rather, Exhibit P3235, page 2.

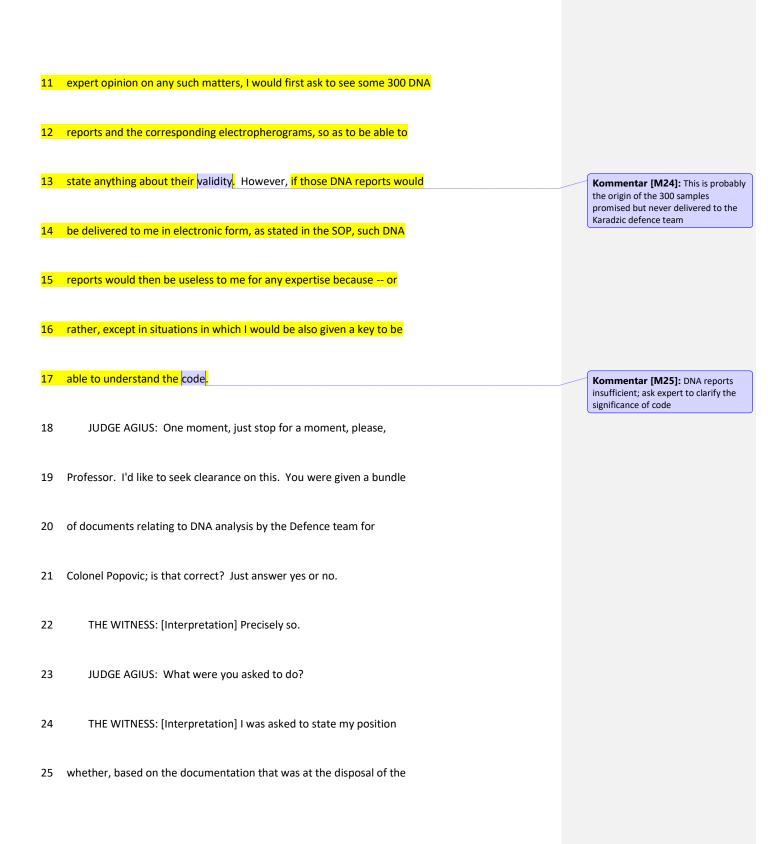
17	Q. Mr. Stojkovic let's wait for the document to appear. P32
18	I'm sorry 3225.
19	Mr. Stojkovic, do you know what this represents?
20	A. Yes. This is part of the standard operational procedure of the
21	International Commission of Missing Persons called standard operational
22	procedure for the review of DNA matching reports.
23	Q. I will read one portion in the middle of the paragraph starting
23 24	Q. I will read one portion in the middle of the paragraph starting with Roman numeral I entitled: "Principle," and I'll read one part of
24	with Roman numeral I entitled: "Principle," and I'll read one part of
24 25	with Roman numeral I entitled: "Principle," and I'll read one part of
24 25 Pag	with Roman numeral I entitled: "Principle," and I'll read one part of it. e 22995
24 25	with Roman numeral I entitled: "Principle," and I'll read one part of it.
24 25 Pag	with Roman numeral I entitled: "Principle," and I'll read one part of it. e 22995
24 25 Pag	with Roman numeral I entitled: "Principle," and I'll read one part of it. e 22995 [In English] "Match reports contained the following information: Bone sample, code assigned by the submitting pathologist, the bone
24 25 Pag	with Roman numeral I entitled: "Principle," and I'll read one part of it. e 22995 [In English] "Match reports contained the following information:
24 25 Pag	with Roman numeral I entitled: "Principle," and I'll read one part of it. e 22995 [In English] "Match reports contained the following information: Bone sample, code assigned by the submitting pathologist, the bone



20	the extent he refers to other standard operating procedures, if he could	
21	provide the date and perhaps the file numbers of that as well.	
22	JUDGE AGIUS: Yes.	
23	Ms. Tapuskovic, you could take care of that with the witness,	
24	please.	
25	MS. TAPUSKOVIC: [Interpretation] For the witness to be able to	
Page 22996		
1	answer the question, could we please go back to page 1 of this document	
2	that we have on the screen. Could we please zoom in, and to show us the	
3	bottom part of the page.	
4	Q. Mr. Stojkovic, can you read for us what it says here.	
5	A. On the first page of this standard operational procedure it says	
6	that it was distributed internally DNA, in Sarajevo, the 8th of May,	
7	2007. Also, in my report, I state that on the last page of the report	



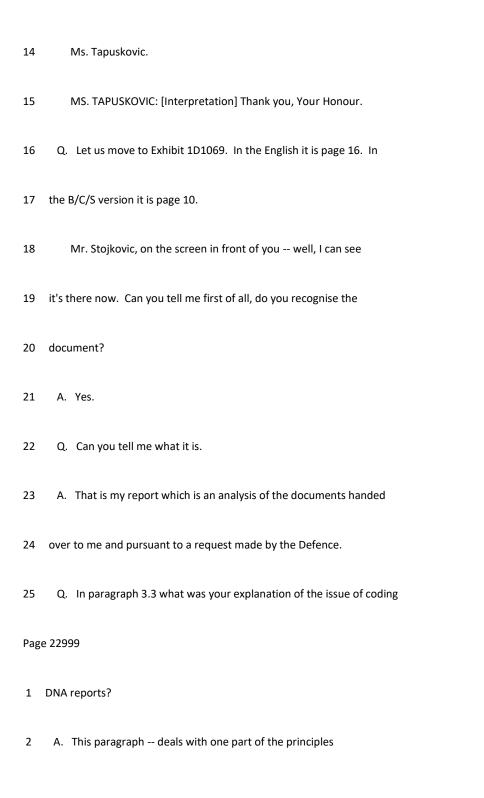
23	MS. TAPUSKOVIC: [Interpretation] We are in a position to tell you	
24	which reports were handed over to the witness. DNA reports under the	
25	following numbers: 1D1242 and 1D1243, and I will get to that one later	
Pag	e 22997	
1	on while examining the witness.	
2	JUDGE AGIUS: I think try to condense it because I don't want us	
3	to run at a tangent here. The whole issue is the following:	
4	Given what you have been given by the Defence team for	
5	Mr. Popovic, were you in a position to ascertain the authenticity of the	
6	individual DNA reports had you been asked to do that? This is the	
7	question basically that it all boils down to.	Kommentar [M23]: Basic issue according to judge
8	THE WITNESS: [Interpretation] My response to that question is not	
9	so simple. It depends on what form of the DNA reports they would be	
10	delivered to me. If any of the parties would request me to provide an	



Page 22998

- 1 Defence, if it would be possible for me to provide an expert opinion on
- 2 the authenticity of DNA profiles in the cases pertaining to the
- 3 Srebrenica event in July 1993 or 1995. It is in the documents. I
- 4 mentioned that in my report. The request was to offer my comments about
- 5 the forwarded documents, whether the SOPs I was given in relation to the
- 6 activities of the ICMP in the process of DNA identification of missing
- 7 persons are in keeping with the rules of the profession and science. I
- 8 studied the SOPs in detail and my position was a positive one, save for
- 9 the SOP pertaining to the publication of a DNA report. I stated that
- 10 that particular SOP is not transparent and that it makes impossible any
- 11 additional insight into any additional evidence that may be arriving from
- the ICMP concerning the identity of the persons involved.
- 13 JUDGE AGIUS: Okay. Thank you.

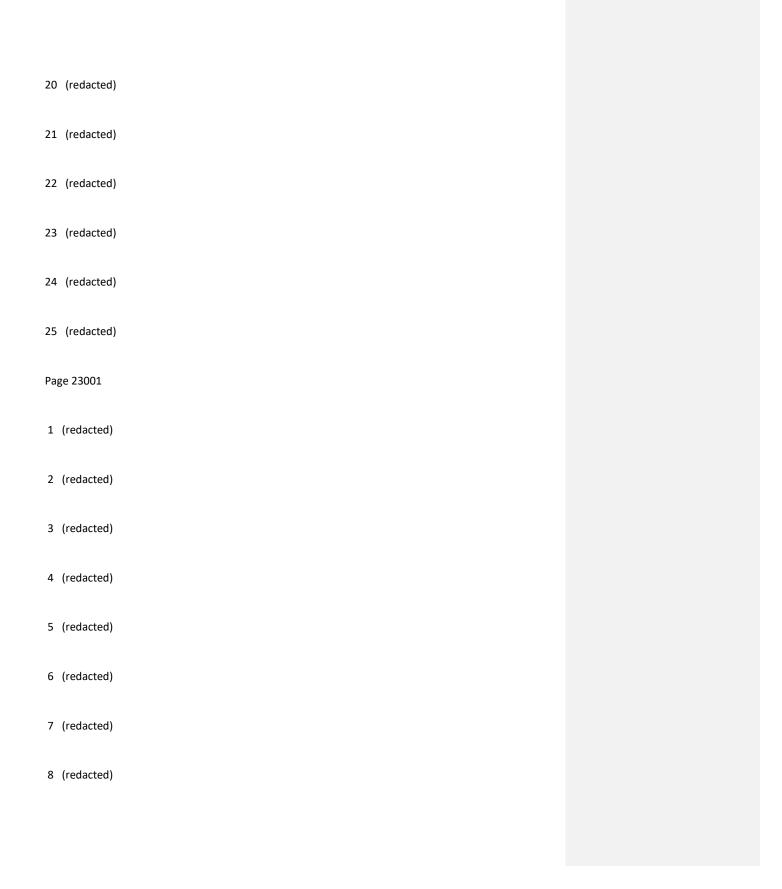
Kommentar [M26]: What exactly does authenticity mean in this context?

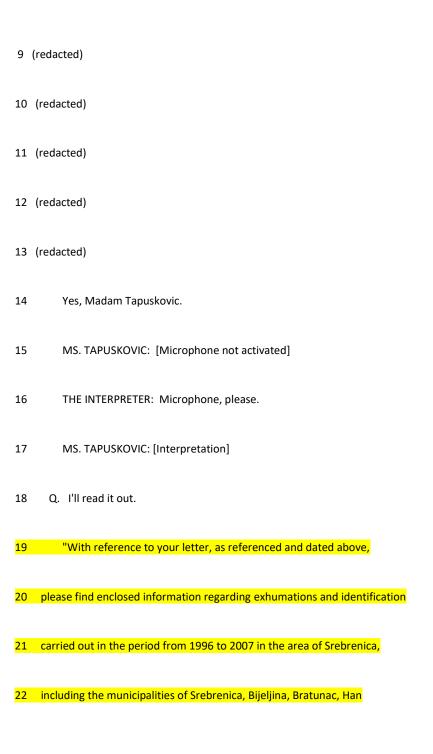


- 3 concerning the standard operational procedures dealing with DNA reports
- 4 studied in which it is stated that specific DNA results are often handed
- 5 over in coded form. I was of the opinion, as I am now, that it is in
- 6 complete disaccord with the rules of profession to have any DNA results
- 7 handed over in coded form. From the text of the SOP principles, it is
- 8 completely unclear in which cases such coding is done as opposed to in
- 9 what cases the ICMP chose to hand over to the pathologist involved the
- 10 original results instead of the coded ones. The frequency of coding is
- 11 something I could not see from the documents I had.
- 12 Q. Concerning the SOP you referred to from the exhibit we just saw,
- 13 what does the term "genetic privacy" mean?
- 14 A. It is unclear to me what the author of the SOP had in mind when
- using the term "genetic privacy," given that the genetic markers I have
- 16 discussed at the beginning of my testimony do not contain any genetic

information whatsoever concerning any characteristic of those tested except at the level of matching concerning blood relations between the person whose identity is being sought on the one hand and the persons who gave the samples. The term genetic privacy has to do with the protection 20 21 of that part of genetic information which have to do with the medically 22 relevant facts on the chances of a certain person to develop specific hereditary diseases or the susceptibility of that person to develop any symptoms of the mentioned hereditary disease or to develop certain behaviour of patterns or any other physiological or pathological symptoms Page 23000 in that person. 2 I also wanted to say again that in the specific forensic genetic analysis, such analysis is not done when analysing specific genetic markers, which as I said were established in 1984; no medical information 5 or any other type of information that needs to be protected cannot be

6	arrived at in analysing these markers. That is why I believe that the	
7	argument in favour of genetic privacy, protection, does not stand.	
8	On the other hand, it is possible that the author of this SOP had	
9	in mind that by coding this information he would be able to protect the	
10	genetic information pertaining to the blood relationship between the	
11	tested persons. However, even if such information is coded such	
12	relationship can be gleaned from other data. Therefore, the argument of	
13	genetic privacy, protection, does not stand.	
14	(redacted)	
15	(redacted)	
16	(redacted)	
17	(redacted)	
18	(redacted)	
19	(redacted)	





11	did the ICMP receive accreditation?
10	Q. Do you remember from the transcript what Mr. Parsons said? When
9	Dr. Parsons before this Tribunal.
8	that. I received from the Defence the transcript of the testimony of
7	A. Yes, I think I mentioned him too but, yes, I am familiar with
6	mentioned him a moment ago.
5	from Mr. Parsons, who you mentioned a moment ago or rather, I
4	Q. Thank you. And you're also familiar that we had testimony here
3	contents.
2	A. Yes, I was shown this document, and I am familiar with its
1	this document before?
Pag	re 23002
25	Now, in preparing for the Defence, Mr. Stojkovic, had you seen

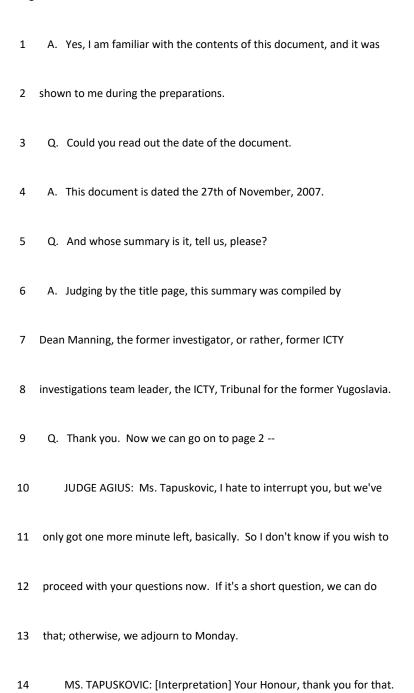
23 Pijesak, Kalesija, Kladanj, Rogatica, Sekovici, Vlasenica, and Zvornik.

"The information relates to 4.415 identified victims."

Kommentar [M27]: Establish source and reference number of this document. Why does its victim count include individuals from districts far beyond the location of any Srebrenica grave sites?

12	A. I think that Dr. Parsons said that it was in July of 2007 that	
13	the International Commission for Missing Persons received accreditation	
14	from a German company for accreditation, which is called DAC.	
<mark>15</mark>	Q. Mr. Parsons spoke about that at 20082, lines 7 to 9 of the	
<mark>16</mark>	transcript.	
<mark>17</mark>	On that page of the transcript, Mr. Parsons said that the	
18	accreditation was received in October 2007.	
<mark>19</mark>	A. Well, then I failed to remember that particular piece of	
20	information, but I did remember him speaking about it, what the period of	
21	time was.	 Kommentar [M28]: ICMP received
		accreditation only in 2007
22	Q. May we now move on to P2993, page 2, please. May we have page 1	
23	displayed on our screens first, please.	
24	Mr. Staileauia ara yay familiar with this daguraanta Maait ahawa	
24	Mr. Stojkovic, are you familiar with this document? Was it shown	
25	you during preparations for your testimony?	

Page 23003



15	I would just like to ask one more question to round off this area. Thank
16	you.
17	JUDGE AGIUS: Go ahead.
18	MS. TAPUSKOVIC: [Interpretation]
<mark>19</mark>	Q. On page 2 here, the lower part of that page, in bold letters it
20	says or rather, can you read out what it says.
21	A. "All victims linked to Srebrenica identified by ICMP by DNA is
22	5.021."
23	Q. Now, Mr. Stojkovic, my question to you is this: Bearing in mind
24	the date when Mr. Parsons said that the ICMP received its accreditation
<mark>25</mark>	and bearing in mind the previous letter dated July when the
<mark>Pag</mark>	e 23004
1	identification of 4.000-odd cases was conducted and this document dated
2	November 2007, if you take all of that into consideration, what is your

3	conclusion, what is the conclusion that follows from all this?
4	A. Bearing in mind your previous question with respect to the period
г	af the according to the life and all the coat it is suident that at least
5	of the accreditation itself and all the rest, it is evident that at least
6	4.000-odd cases which were shown in the previous document were analysed
	The state of the s
7	and the identity established before the ICMP had its accreditation for
8	its laboratories and procedures by the accreditation agency.
0	Q. Do you mean the 4.451 individuals mentioned a moment ago?
9	Q. Do you mean the 4.451 mulviduals mentioned a moment ago:
10	A. Yes, but that's the minimum number. So quite possibly of all the
11	5.021 persons the analysis had been conducted for all of them by October
12	2007 or Neverther, when we it when the correlation arrived?
12	2007 or November - when was it when the accreditation arrived? - and
13	that the process of identification, DNA analysis, and other procedures as
14	well and comparing data bases, biostatistical calculations, and all the
4 =	
<u>15</u>	rest of it that is necessary in the SOP, standard operational procedure,
16	which were put to me, that would be it.

Q. Thank you, Mr. Stojkovic.

Kommentar [M29]: Huge number of identifications performed by ICMP without proper accreditation

MS. TAPUSKOVIC: [Interpretation] I think that we can break for
the day, adjourn for the day.

JUDGE AGIUS: And for the week, Ms. Tapuskovic. We'll reconvene
Monday morning at 9.00. Thank you. Have a nice weekend everyone.

--- Whereupon the hearing adjourned at 1.47 p.m.,

to be reconvened on Monday, the 30th day of

June, 2008, at 9.00 a.m.

24