

1 Monday, 13 January 2025

2 [Open session]

3 [The accused entered the courtroom]

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

5 PRESIDING JUDGE SMITH: Madam Court Officer, please call the
6 case.

7 THE COURT OFFICER: Good morning, Your Honours. This is case
8 KSC-BC-2020-06, The Specialist Prosecutor versus Hashim Thaci,
9 Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi.

10 PRESIDING JUDGE SMITH: Thank you. Welcome back, everybody. I
11 hope you had a restful time over the holiday.

12 I note that the accused are all present in court today.

13 Before we start with today's witness, there are a few
14 preliminary matters.

15 First, the Panel will issue its decision on the Veseli, Selimi,
16 and Krasniqi Defence request for a certification to appeal the
17 Panel's decision F02787.

18 On December 16, 2024, the Panel issued its Decision on the
19 Prosecution Motion for Admission of Evidence of Witnesses W04826,
20 W04874, and W04875 pursuant to Rules 138, 149, and 154 and Related
21 Request. The decision was given the filing number F02787 and will be
22 referred to as the impugned decision.

23 On 20 December 2024, the Veseli, Selimi, and Krasniqi Defence
24 requested certification to appeal the impugned decision in filing
25 F02812.

1 On 8 January 2025, the SPO responded in filing F02819.

2 The Defence did not reply.

3 The Defence submits one issue for certification, namely, whether
4 the Trial Panel erred in its finding that nothing in the Specialist
5 Chambers' legal framework or in the Order on the Conduct of
6 Proceedings prohibits preparation sessions with expert witnesses, or
7 prevents the calling party from eliciting expert opinion from the
8 expert witnesses on documents not commented in an expert report.

9 The Defence argues that the issue presented satisfies the test
10 for certification as: One, first, it originates from the impugned
11 decision, is sufficiently specific and identifiable, and does not
12 amount to mere disagreements; second, it affects the fair and
13 expeditious conduct of the proceedings or the outcome of the trial;
14 and, third, its immediate resolution by the Court of Appeals Panel
15 may materially advance the proceedings.

16 The Defence further submits that the SPO intends to ask the
17 experts to comment on preparatory sessions on fresh additional
18 matters that are not within their original reports. According to the
19 Defence, this will result in the creation of an additional witness
20 statement or "report" in the form of a preparatory note, which is not
21 permitted under Rule 149.

22 The SPO responds that the issue raised by the Defence is not
23 specific, discrete, or identifiable. The SPO further argues that the
24 issue would have no impact justifying certification. Accordingly,
25 the SPO submits that the request should be dismissed.

1 The Panel recalls and incorporates the applicable law on the
2 legal standard for certification to appeal, as set out in its past
3 decisions.

4 The Panel notes that, in the impugned decision, it found that
5 Rule 149 is *lex specialis* for the admission of expert reports. The
6 Panel also found that, in line with relevant practice and
7 jurisprudence, nothing in the Specialist Chambers' legal framework or
8 in the Order on Conduct of Proceedings prevents the calling party
9 from eliciting expert opinion from expert witnesses on documents not
10 commented on in an expert report. The Panel further found that, as
11 with other witnesses, the purpose of preparation sessions is
12 primarily to help prepare the witness for testimony and evaluate his
13 or her capacity to provide relevant and credible evidence in respect
14 of facts or circumstances relevant to the case.

15 The Panel is of the view that, in the issue raised for
16 certification, the Defence merely repeats its objections on the scope
17 of witness preparation sessions as well as the arguments it set out
18 in its response to the SPO's motion, without explaining why the Panel
19 was in error in dismissing them.

20 The Panel therefore finds that the Defence's issue constitutes a
21 mere disagreement with the Panel's findings.

22 For these reasons, the Panel finds that the Defence has failed
23 to establish that the issue constitutes a discrete topic arising from
24 the impugned decision.

25 Accordingly, the remaining requirements of the certification

1 test arising from Article 45(2) and Rule 77(2) need not be addressed.
2 The Defence's request for certification to appeal, F02812, is
3 therefore rejected.

4 This concludes the oral order.

5 Second, as anticipated, on Friday, 10 January 2025, via e-mail,
6 the Panel would now like to hear submissions on the Veseli Defence
7 motion to exclude evidence from 4500, which is F02822.

8 Do we need to be in private session? Any need to be in private
9 session? All right. Thank you.

10 Does the SPO wish to respond to the motion?

11 MR. PACE: Yes, thank you, Your Honour. And we can stay in open
12 session.

13 PRESIDING JUDGE SMITH: [Microphone not activated].

14 MR. PACE: Thank you, Your Honour.

15 The Defence could, and should, have raised any objections
16 concerning the relevance of W04500's statement before decision
17 F02816, which found the Rule 144 statement admissible.

18 On 2 January 2025, the Veseli Defence indicated that it did not
19 object to the SPO's motion to admit W04500's Rule 154 statement,
20 including the extracts now challenged by the Veseli Defence.

21 In any event, the challenged evidence should not be excluded
22 from W04500's statement as it is relevant to the charges in the
23 indictment, forms an inseparable part of W04500's account, and its
24 probative value is not outweighed by its prejudicial effect. While
25 this part of the Rule 154 statement concerns events outside the

1 indictment period, it is relevant to the relationship between
2 identified KLA members, their actions against victims of crimes
3 charged in the indictment, and efforts to intimidate and discredit
4 witnesses.

5 The evidence is, therefore, relevant to establishing facts and
6 circumstances validly pleaded in the indictment, including by
7 providing context and establishing intent and pattern of conduct.
8 This is consistent with the Panel's previous decision, for example,
9 F01700, paragraph 43.

10 The Panel has previously held that relevant and probative
11 evidence is admissible and may only be excluded where the Defence
12 demonstrates unfairness unconnected to the value of the evidence such
13 as an inability to challenge it fairly and effectively. There I'm
14 referring to F01623, paragraph 36. The Veseli Defence has not
15 demonstrated any such unfairness.

16 The part of the Veseli motion alleging prejudice focuses on one
17 limited part of the challenged evidence; namely, the identification
18 of certain persons as members of SHIK. The Defence claims this
19 identification is speculative. However, first, the witness explains
20 his basis of knowledge in relation to the person discussed in the
21 challenged evidence, so his identification of them is not fairly
22 characterised as speculative. And even if it was, the Panel has
23 repeatedly held that speculation is not a reason, on its own, to
24 exclude Rule 154 evidence. Rather, such issues can adequately be
25 addressed by the Defence in cross-examination. And there I refer,

1 for example, to F02489 and F02571.

2 At the end of the trial, the Panel, as with all evidence, will
3 assign appropriate weight to the evidence at issue in light of the
4 entire trial record. There is accordingly no prejudice and no reason
5 to exclude the evidence. It should be admitted once the Rule 154
6 requirements are met with the witness. Thank you.

7 PRESIDING JUDGE SMITH: Does the Veseli Defence wish to reply?

8 MS. ROWAN: Your Honour, I believe the witness counsel may wish
9 to be heard first.

10 PRESIDING JUDGE SMITH: Oh, I'm sorry.

11 Go ahead.

12 MS. RADZIEJOWSKA: Thank you, Your Honour. We support the SPO's
13 position, and we would like to add another element to the argument
14 from the perspective of Victims' Counsel who represents the interests
15 of this individual, and I would like to go to private session if we
16 could.

17 PRESIDING JUDGE SMITH: Into private session, please.

18 [Private session]

19 [Private session text removed]

20

21

22

23

24

25

1 [Private session text removed]

2

3

4

5

6

7

8

9

10

11

12

13

14 [Open session]

15 THE COURT OFFICER: Your Honours, we are now in public session.

16 PRESIDING JUDGE SMITH: You may proceed, counsel.

17 MS. ROWAN: Thank you, Your Honour.

18 Firstly, in relation to the SPO's submission that this argument

19 should have been raised in the Defence's reply to the 154

20 application. While that, of course, is correct, failure to raise the

21 matter at that stage of proceedings, of course, does not have the

22 effect of rendering otherwise inadmissible evidence relevant.

23 Admissibility of evidence is always a live issue in the case and can

24 always be determined at any stage.

25 In our submission, this evidence is inadmissible and

1 inadmissibility arguments can be dealt with at any stage.

2 Secondly, in terms of the argument that this is an inseparable
3 part of this witness's account. Your Honour, in our submission, the
4 position is simply the opposite of that. This witness gives two
5 clearly distinct accounts in his SPO interview. One account of an
6 incident that occurred during the conflict, and a second markedly
7 distinct account of an incident that happened after the conflict. It
8 is the incident that happened after the conflict that we seek to
9 admit [sic] and is, therefore, clearly distinguishable and easily
10 separable from the 154 statement. And the 154 statement which deals
11 with the issues upon which the SPO seek to rely is understandable in
12 isolation.

13 Your Honour will have our written submissions which deal with
14 the legal test in relation to evidence that falls outside the
15 temporal confines of the indictment. The starting position, as per
16 the Law, it's outlined in our application at paragraph 12, is that
17 the default position is evidence outside of the temporal confines of
18 the indictment is inadmissible unless and until the Prosecution can
19 show the test for admissibility is met.

20 So the burden, in our submission, lies on the Prosecution to
21 show how they meet that test for admissibility. And in order to do
22 so, they must strongly and expressly tie that evidence to a matter in
23 issue in this case, and the exact elements of that test are outlined
24 in paragraph 12.

25 The position is that that test simply isn't met. What we have

1 is a vague assertion that there is a link to the indictment by way of
2 relationship. Nothing specific and nothing tangible in terms of what
3 this evidence goes to prove has been outlined. Crucially, in our
4 submission, when the SPO drafted their Rule 95 summary for this
5 witness, it did not mention this incident, so it never sought from
6 the outset to rely upon it. When it drafted its 154 motion, again
7 silent upon this incident, not seeking to rely upon it. And when the
8 Panel ruled as to the relevance of this witness, the Panel did not
9 find this incident to be relevant from this witness. So at no stage
10 in the proceedings to date has this evidence ever been deemed to be
11 relevant or sought to be argued to be.

12 There is, of course, identifiable prejudice that would be caused
13 by this as it would involve protracted satellite litigation into an
14 issue that is of, in our submission, no, at best minimal, probative
15 or evidential value in this case. On that basis, the Panel must look
16 at, as we have set out, the probative value and the relevance of this
17 material which we say is non-existent.

18 Finally, dealing with the question of whether or not the
19 allegations made are speculative. Of course, speculative evidence in
20 and of itself is not a basis to exclude evidence. But when one
21 takes, and when one is making this assessment in these circumstances
22 with this burden, when you only have a very speculative allegation
23 being made in those prejudicial circumstances, the fact that the
24 allegation is speculative is of more importance. And my learned
25 friend is incorrect when he says that this is not a speculative

1 application.

2 The core of the issue in terms of speculation is whether or not
3 those -- and I'm conscious we're in open session. That those persons
4 who were responsible for this incident belonged to an identified
5 organisation. He provides a basis for the identity of the persons.
6 That is correct. My learned friend is correct in that assessment.
7 But no basis of knowledge is provided for the assertion that those
8 persons belong to the named organisation. That allegation is what we
9 are concerned with. That allegation is wholly speculative.

10 And then, finally, Your Honour, in relation to the point raised
11 by my learned friend for the Victims. While it may be the case that
12 a point may come in this trial where, were we to reach a point of
13 conviction, an issue such as this and an illustration of harm would
14 become relevant, in my submission, Your Honour, that is the
15 reparations case, if this case ever reaches that point. This nature
16 of harm or any allegation of harm does not go to, and is not
17 probative of, the issues in this case. It is not relevant to the
18 issues. It's relevant to a different matter that criminal trial
19 proceedings may deal with at different stages, and it should not form
20 part of Your Honours' consideration for admissibility of evidence at
21 this stage.

22 And before I take a seat, I've been informed that there is an
23 error in the transcript. Your Honour, line 10, page 8, it should not
24 say "we seek not to admit," it should say "we seek to admit." It
25 should say "we should seek not to admit," I'm grateful, if that made

1 sense. Thank you. Unless I can be of further assistance.

2 PRESIDING JUDGE SMITH: Pardon me?

3 MS. ROWAN: Unless I can be of further assistance.

4 PRESIDING JUDGE SMITH: No.

5 MS. ROWAN: Thank you.

6 PRESIDING JUDGE SMITH: Anybody else wish to comment?

7 MS. TAVAKOLI: No, thank you. But as a matter of principle, we
8 support the legal submissions made by Ms. Rowan.

9 MR. TULLY: And the same for us, Your Honour. Thank you.

10 MR. ELLIS: Yes, the same position, Your Honour.

11 PRESIDING JUDGE SMITH: Thank you very much.

12 MS. RADZIEJOWSKA: If I may, Your Honours.

13 PRESIDING JUDGE SMITH: Yes.

14 MS. RADZIEJOWSKA: Excuse me. Just to remind everyone that we,
15 as Victims' Counsel, are obliged to submit our statement on harm at
16 the end of the trial, not in the course of the reparations
17 proceedings, but before the trial ends. Thank you.

18 PRESIDING JUDGE SMITH: [Microphone not activated].

19 Thank you for your submissions. Having heard the parties and
20 the participants, the Panel will enter an order on the motion before
21 the start of W04500's testimony.

22 We will now start hearing the evidence of Prosecution
23 Witness W04875.

24 Madam Court Usher, please bring the witness in.

25 MS. ROWAN: Your Honour, might I ask, while that's being done,

1 we would be greatly assisted if the Panel were in a position to give
2 a ruling today as it will assist our preparations overnight for the
3 witness's attendance tomorrow.

4 PRESIDING JUDGE SMITH: I can't promise that today because we're
5 going to be busy all day.

6 MS. ROWAN: I appreciate, yes.

7 PRESIDING JUDGE SMITH: Thank you.

8 MS. ROWAN: Thanks.

9 [The witness entered court]

10 PRESIDING JUDGE SMITH: [Microphone not activated].

11 THE WITNESS: Good morning.

12 PRESIDING JUDGE SMITH: Witness, the Court Usher will now
13 provide you with the text of the solemn declaration which you are
14 asked to take pursuant to our Rule 149(5). So please read it aloud.

15 THE WITNESS: Conscious of the significance of my testimony and
16 my legal responsibility, I solemnly declare that I will perform my
17 expert analysis conscientiously and to the best of my knowledge, and
18 that I will state my findings and opinions accurately and completely.

19 WITNESS: WILLIAM GOODWIN

20 PRESIDING JUDGE SMITH: Thank you very much. You may be seated
21 now.

22 THE WITNESS: Thank you.

23 PRESIDING JUDGE SMITH: Witness, today we will start your
24 testimony, which is expected to last approximately one day. As you
25 may know, the Prosecution will ask you questions first, and then

Witness: William Goodwin (Open Session)
Procedural Matters

Page 23547

1 counsel for the Victims. And once they are finished, the Defence has
2 right to ask questions of you, and members of the Panel might also
3 ask questions of you.

4 The Prosecution estimate for your examination is one hour. The
5 Defence estimates that it will need four and a half hours for their
6 cross-examination. As regards each estimate, we hope that counsel
7 will be judicious in the use of their time. The Panel may allow
8 redirect examination if conditions for it are met.

9 Witness, please try to answer the questions clearly, with short
10 sentences. If you don't understand a question, feel free to ask
11 counsel to repeat the question or tell them you don't understand and
12 they will clarify.

13 Also, please try to indicate the basis of your knowledge of
14 facts and circumstances that you will be asked about. In the event
15 you are asked by the SPO to attest to some corrections made regarding
16 your statements, you are reminded to confirm on the record that the
17 written statement, as corrected by the list of corrections,
18 accurately reflects your declaration.

19 Please also speak into the microphone and wait five seconds
20 before answering a question, and then speak at a slow pace for the
21 interpreters to catch up.

22 During the next days while you are giving evidence in this
23 Court, you are not allowed to discuss with any person the content of
24 your testimony outside the courtroom. If any person asks you
25 questions outside the Court about your testimony, please let us know.

Witness: William Goodwin (Open Session)
Examination by Mr. Pace

Page 23548

1 Please stop talking if I ask you to do so and also stop talking
2 if you see me raise my hand. These indications mean that I need to
3 give you an instruction.

4 If you feel the need to take a break, please make an indication
5 and an accommodation will be made.

6 Just so you know, at approximately 10.00 we will break for about
7 ten minutes, and then we will continue on until 11.00 at which time
8 there is a half-hour break, and then continuing on after that until
9 1.00, and then we will have a lunch break, and then continue from
10 2.30 to 4.00 if necessary.

11 So do you have any questions about any of that?

12 THE WITNESS: I do not.

13 PRESIDING JUDGE SMITH: Thank you.

14 We begin now with the questions of the Prosecution first.
15 Please give them your attention. They are seated to your left.

16 Go ahead, Mr. Pace.

17 MR. PACE: Thank you, Your Honour.

18 Examination by Mr. Pace:

19 Q. And good morning, Witness.

20 A. Good morning.

21 Q. We've met before, but I'll introduce myself again. I'm
22 James Pace, a Prosecutor with the SPO. And as the Judge said, I'll
23 be asking you questions for the next hour or so.

24 Could you please state your name.

25 A. My name is William Holger Goodwin.

Witness: William Goodwin (Open Session)

Page 23549

Examination by Mr. Pace

1 Q. And your date of birth?

2 A. Is 25 May 1969.

3 MR. PACE: I'd like to call up 103392-103400. And this and the
4 remainder of the items I will be calling up today are not for public
5 broadcast, so they should not be broadcasted to the public.

6 PRESIDING JUDGE SMITH: Could you repeat the numbers, please?

7 MR. PACE: Certainly. 103392-103400, and this is going to be
8 the expert's CV.

9 Q. Witness, do you see a document on the screen in front of you?

10 A. I do.

11 Q. And is this your CV?

12 A. It is, yes.

13 Q. Are its contents accurate to the best of your knowledge?

14 A. The contents are essentially correct. There are some minor
15 changes as this CV was submitted two or three years ago, but
16 essentially the key details are the same.

17 Q. Is there anything you'd like to add to it?

18 A. I don't think there's anything of significance that I need to
19 add.

20 Q. Thank you.

21 MR. PACE: And, Your Honour, we do seek admission of the CV.
22 Given that pursuant to decision F02787, you would only rule on the
23 admission of expert reports once the parties and Panel have exhausted
24 all questioning, we can deal with admission of all items tendered
25 through the expert later, which would mean that for now we would just

Witness: William Goodwin (Open Session)
Examination by Mr. Pace

Page 23550

1 ask for an MFI for this item.

2 PRESIDING JUDGE SMITH: [Microphone not activated].

3 Please give it an MFI, Madam Court Officer.

4 THE COURT OFFICER: Thank you, Your Honour.

5 This document will receive MFI P01950. The classification is
6 confidential. Thank you.

7 MR. PACE: Thank you.

8 PRESIDING JUDGE SMITH: Thank you. Go ahead.

9 MR. PACE: Thank you. We can take this document down. And
10 instead, I'd like to call up 103373-103387.

11 Q. And while that's happening, Mr. Witness, this is both for your
12 benefit and for mine. We're in an unusual situation in this court,
13 we're both speaking English, so let's both try to pause, so you after
14 I ask my question, and I will try to pause after you provide your
15 response, and that's for interpretation into other languages.

16 And, Witness, on your screen now, on the left in Albanian and on
17 the right in English, do you see the document?

18 A. I do.

19 Q. And did you prepare this 22 September 2021 report?

20 A. I do -- I did.

21 MR. PACE: Now, let's keep the report on our screens in English,
22 please, and take down the Albanian. And instead call up
23 102472-102482.

24 Q. Now, on the left on your screen we see a letter of instruction
25 addressed to you and dated 30 July 2021. Is this the letter of

Witness: William Goodwin (Open Session)

Page 23551

Examination by Mr. Pace

1 instruction on the basis of which you prepared the report on the
2 right side of our screens?

3

4 A. It is, yes.

5 Q. Do you recall being provided with a number of documents along
6 with this letter of instruction?

7 A. I do.

8 Q. And is it correct that this letter of instruction contained both
9 general questions about DNA and specific questions about a number of
10 the DNA-related documents provided to you?

11 A. Yes.

12 Q. Do you recall reviewing the documents you were asked about in
13 the letter of instruction and making specific reference to such
14 documents in the expert report on our screens?

15 A. I do, yes.

16 Q. And does the expert report on our screens contain your
17 independent opinion concerning the matters addressed therein?

18 A. It does, yes.

19 Q. Do you recall recently being provided with an opportunity to
20 review and provide clarifications or corrections to the expert report
21 on our screens?

22 A. I do, yes.

23 Q. Do you recall that you made a number of clarifications to this
24 report?

25 A. I do, yes.

Witness: William Goodwin (Open Session)

Page 23552

Examination by Mr. Pace

1 Q. And do you recall that these clarifications and corrections were
2 included in a note which was read back to you?

3 A. I do, yes.

4 MR. PACE: And we can take the letter of instructions, so the
5 document on the left, down for now, please. And in the report, which
6 is on the right-hand side of our screen, let's please turn to page
7 103379 and zoom in on the last paragraph in the main text, please.

8 Q. And I'm going to read from the last paragraph, which you can
9 also follow on your screen. We can see it reads as follows:

10 "I have carried out a calculation and estimate the likelihood
11 ratio to be 216,411 that when combined with a prior probability of
12 1/3000 gives a probability of relatedness as described in the report
13 of 98.63%. I would say that in isolation this is quite weak evidence
14 for identity.

15 Now, Witness, is there anything you would like to correct or
16 clarify in relation to this excerpt?

17 A. Based on our discussion and review of it, the term "quite weak"
18 could be revised to "moderate."

19 Q. And could you explain to the Judges, in brief, why that would
20 be? Why you wrote "quite weak" and now you're saying it could be
21 reviewed to "moderate"?

22 A. It is a subjective judgment. It is based on aligning as best as
23 possible with a likelihood scale that is provided by the European
24 Network of Forensic Science Institutes, and so it is borderline, but
25 it would err towards the moderate rather than the weak.

Witness: William Goodwin (Open Session)

Page 23553

Examination by Mr. Pace

1 Q. On this same page, I'm going to refer you to footnote 7 at the
2 bottom of the page, and the penultimate sentence of this footnote
3 reads as follows:

4 "No correction was made for population substructure."

5 Witness, is there anything you would like to correct or clarify
6 in relation to this particular excerpt?

7 A. When making these calculations, there are a number of
8 assumptions that are included in the calculation. And what I -- when
9 carrying out this work, I have done as close as I could to what I
10 believe that the initial calculations carried out by ICMP would have
11 been. I don't know exactly how they did it, but I believe they would
12 not have used population substructure at the time. I'm sure we will
13 discuss through the day whether this is appropriate or not, but in
14 the calculations presented population substructure has not been used.

15 Q. And what impact, if any, would including the factor the
16 calculation of population substructure generally have on the results?

17 A. The inclusion of population substructure would reduce the -- the
18 likelihood ratio and, therefore, also the probability of identity.

19 Q. And would that reduction to the ratio and probability generally
20 be a dramatic or a significant reduction as such or one that is not
21 significant or dramatic, let's say?

22 A. That would depend partially on which pieces of DNA are shared.
23 The impact will be higher on pieces of DNA that are rare within the
24 population and less so on pieces of DNA which are common within the
25 population.

Witness: William Goodwin (Open Session)

Page 23554

Examination by Mr. Pace

1 As a general rule, the -- well, there's the general guidelines.
2 The population substructure would reduce the -- I think the 216.000
3 by an order of 10 to 20. So in this case, the inclusion of a
4 population substructure would reduce this particular value to around
5 15.000, which is clearly much lower.

6 Q. And in your experience, is correction for population
7 substructure generally included in identification reports?

8 A. Generally speaking, when carrying out identification reports,
9 the inclusion of substructure is not -- I will say not consistently
10 applied. It would depend very much on the laboratory undertaking the
11 work and the circumstances of that work.

12 MR. PACE: And in the same report, let's please turn to page
13 103384. And there we'll zoom in on the last subheader and paragraph,
14 please.

15 Q. Now, here we see what we call an ERN, so the code that we use
16 for a document, which is described as the DNA report for the person
17 whose name appears on your screen. We're in open session. We won't
18 mention names. There is also no need to do so for present purposes.
19 And then your report reads as follows:

20 "The DNA profile is encrypted which limits the potential for
21 full review. However, based on the family members that are available
22 and the matching of encrypted loci the reported likelihood ratio and
23 probability of identity appear reasonable."

24 And my question is whether there is anything you'd like to
25 correct or clarify in relation to this excerpt?

Witness: William Goodwin (Open Session)

Page 23555

Examination by Mr. Pace

1 A. Without further information, there's nothing that I would like
2 to change about that statement.

3 Q. And do you recall when we met last week you mentioned a paper
4 based on simulations reflecting the typical likelihoods of different
5 pedigrees?

6 A. I do, yes.

7 Q. And based on the information in that paper and those
8 simulations, does that inform your assertion in relation to the
9 family members that are available and the matching of encrypted loci
10 at all?

11 A. It does.

12 Q. In what way?

13 A. By carrying out simulations, we can estimate the typical range
14 of likelihoods we would expect to see from different family pedigrees
15 or family trees. So whilst it's not an -- you can't map it over
16 exactly, it gives an indication of the sort of range of likelihoods
17 we would expect from different tests.

18 Q. And please correct me if I'm wrong, which I may well be, would
19 that mean that, for example, if the persons tested are, for example,
20 the spouse, son and daughter of the deceased, there is a certain
21 range or likelihood that you would expect to see? Is that what -- is
22 that correct?

23 A. That is correct. We would expect to see different ranges of
24 likelihood with different relatives tested.

25 MR. PACE: We can take this report down from our screens. And

Witness: William Goodwin (Open Session)

Page 23556

Examination by Mr. Pace

1 instead I'd like to please call up 111160-111162, and we'll look at
2 the first page, please. Thank you. And now let's turn to the last
3 page, please.

4 Q. Witness, you see that this is a different report to the one
5 we've been addressing thus far. Did you prepare this 6 March 2023
6 report?

7 A. I did, yes.

8 Q. And did you prepare this report following receipt of a letter of
9 instruction from the SPO?

10 A. I did, yes.

11 MR. PACE: Let's please take down the Albanian version, keep the
12 English version on the screen, and also call up 111165-111169.

13 Q. And we see that this, on the left side of your screen, is a
14 letter of instructions addressed to you dated 15 February 2023. Is
15 this the letter of instruction on the basis of which you prepared the
16 report on the right-hand side of our screen?

17 A. It is, yes.

18 Q. Do you recall being provided with a number of documents along
19 with this letter of instruction?

20 A. I do, yes.

21 Q. And is it correct that this letter of instruction contains
22 specific questions about one particular DNA-related document and
23 updated report?

24 A. Yes, that's correct.

25 Q. And do you recall reviewing that updated report that was

Witness: William Goodwin (Open Session)

Page 23557

Examination by Mr. Pace

1 provided to you and making specific reference to it in this expert
2 report?

3 A. I do, yes.

4 Q. Does the expert report now on our screens contain your
5 independent opinion concerning the matters addressed therein?

6 A. It does, yes.

7 Q. And do you recall recently being provided with an opportunity to
8 review this report and provide clarifications or corrections to it
9 and noting that you had none to provide?

10 A. I do, yes.

11 Q. Subject to the corrections we discussed in relation to the first
12 report, is the information that you provided in both your expert
13 reports accurate and truthful to the best of your knowledge and
14 belief?

15 A. It is, yes.

16 Q. Subject to the corrections we discussed for the first report, do
17 both your expert reports accurately reflect what you would say if you
18 were examined about the items addressed therein?

19 A. They do, yes.

20 MR. PACE: And, Your Honour, we seek admission of the two
21 letters of instruction and the two expert reports. Since the Panel
22 will only rule on admission later, for now we ask for an MFI for each
23 of them, so that's four documents in total.

24 PRESIDING JUDGE SMITH: [Microphone not activated].

25 I need an MFI for 103373 to 103387, which is the first report,

Witness: William Goodwin (Open Session)
Examination by Mr. Pace

Page 23558

1 September 2021.

2 THE COURT OFFICER: Yes, Your Honour. That report will receive
3 MFI P01951.

4 PRESIDING JUDGE SMITH: And then as to the letter of instruction
5 on that report, which is 102472 to 102482, MFI.

6 THE COURT OFFICER: That will be MFI P01952. Classification is
7 confidential for both.

8 PRESIDING JUDGE SMITH: And then 111160 to 111162.

9 THE COURT OFFICER: It will be assigned MFI P01953. Thank you.

10 PRESIDING JUDGE SMITH: And then 111165 to 111169.

11 THE COURT OFFICER: The document will be assigned MFI P01954.

12 PRESIDING JUDGE SMITH: Thank you.

13 THE COURT OFFICER: Thank you.

14 PRESIDING JUDGE SMITH: Go ahead, Mr. Pace.

15 MR. PACE: Thank you. At this stage, the SPO also tenders the
16 source material related to these two expert reports into evidence.
17 The relevant ERNs of the source material are set out in Annex 1 of
18 the witness preparation note, which is 124392-124406.

19 Again, we understand that a ruling on this material will be
20 issued following the completion of the expert's testimony. And also
21 given the volume of the source material, perhaps there's no need to
22 assign MFIs at this stage. We can deal with them at the end of
23 questioning.

24 PRESIDING JUDGE SMITH: That's satisfactory unless someone has
25 an objection. No objection is heard.

Witness: William Goodwin (Open Session)

Page 23559

Examination by Mr. Pace

1 Go ahead.

2 MR. PACE: Thank you. We can take the two documents on our
3 screens down, please, and instead I would like to call up
4 U015-4164-U015-4164 RED. And side by side with this document, I'd
5 like to call up the first expert report, which now has MFI P01951,
6 and there I'd like to turn to page 103378, please.

7 Q. Now, Witness, so on the left is your first expert report. And
8 if you look at the top of that page, there is a reference number,
9 U015-4164. And just to orientate you, that is the document which now
10 appears on the right-hand side of your screen.

11 MR. PACE: I'd like to scroll down a little bit on the same page
12 of your report. In fact, to the last two paragraphs.

13 Q. And I'm now going to read this, what you say in your report
14 concerning the document still on the right-hand side of your screen.
15 You say as follows:

16 "However, some elements of the report are unusual. The profiles
17 of the victims and family members are encrypted, so we can't see
18 which loci have been tested nor the identity of the alleles. As such
19 it is not possible to recheck the analysis.

20 "When making the calculation of likelihood ratio a reference
21 database would have been used to estimate the significance of sharing
22 alleles - this information is not included in the report so I can't
23 comment on its appropriateness."

24 Witness, am I correct in understanding that the information in
25 this item means you're not able to check the ICMP's calculations?

Witness: William Goodwin (Open Session)

Page 23560

Examination by Mr. Pace

1 A. That is correct.

2 Q. And to your knowledge, what could be the reason or reasons for
3 the encryption of the profiles that you mention in this excerpt?

4 A. I believe it would be for data protection so that these profiles
5 could not be used for any other reason other than this particular
6 identification.

7 Q. And despite this issue that we just talked about, based on your
8 expertise, do you have any concern as to the accuracy of the report
9 that is on the right-hand side of our screen?

10 A. In terms of the analysis or the result, it would be in line with
11 the sort of likelihood expected from this type of family grouping.

12 MR. PACE: Thank you. We can take the document on the right
13 down, so we'll keep the report there, the expert report there. And
14 let's call up side by side SPOE0072678-0072750 RED, and here we're
15 going to go to the page ending 72691.

16 THE COURT OFFICER: Just to confirm with the counsel, it's RED,
17 because there is another RED. Yeah? Okay.

18 MR. PACE: Yes, correct, just RED, not RED2. And the page is
19 72691.

20 And in the expert report on the left side of the screen, which
21 is still the same one, P01951, let's first please turn to page
22 103381. And if we could zoom in on the bottom part of the page --
23 yes.

24 Q. So, again, Witness, just to orientate you, on the left side of
25 your screen is your expert report, and in bold towards the end of the

Witness: William Goodwin (Open Session)

Page 23561

Examination by Mr. Pace

1 document you can see our reference number, SPOE00072678, and that is
2 the document which shows up on the right-hand side of your screen.

3 MR. PACE: I'm now going to ask to turn to the next page of the
4 expert report where you continue to discuss this document.

5 Q. And you say, and this is the second question and answer on the
6 screen, they read as follows:

7 "Does the information contained in this report support the
8 conclusion reached therein?"

9 "The data is largely encrypted so it is not possible to fully
10 assess the conclusions. Assuming then the same alleles are encrypted
11 with the same code the conclusion of relatedness is consistent with
12 the data."

13 Witness, could you explain what you mean by: "Assuming then the
14 same alleles are encrypted with the same code the conclusion of
15 relatedness is consistent with the data"?

16 A. Yes. It's the same number is used for the same allele. So if
17 you have a particular allele, the same number is used for that
18 throughout the encryption.

19 Q. Okay. Let's go through the document a little more closely for
20 now. So at the top -- and here I'm referring to the DNA report, so
21 on the right-hand side of your screen.

22 MR. PACE: And if we can perhaps zoom in the left-hand side
23 portion of that for now -- yes, that's sufficient. Thank you.

24 Q. So at the top left of this document, in the first, let's say,
25 box, can we see a reference to D3S1358? Is that right, Witness?

Witness: William Goodwin (Open Session)

Page 23562

Examination by Mr. Pace

1 A. Yes.

2 Q. And then below that, we see Allele 1, Allele 2, and then 07.4,
3 and 08.9; right?

4 A. Correct.

5 Q. Now let's start here. Can you explain what this information
6 that I just referred to means or what it refers to?

7 A. Okay. Well, first of all, the name D3S1358 is the name of the
8 region of DNA that is being tested, so it's a particular region of
9 the genome, a short tandem repeat that is being tested. We expect
10 each -- any individual tested to have two alleles. An allele is a
11 version of DNA at a particular location. And so where we have
12 different -- in this case, for the sample 8105426, we have allele
13 coded 07.4 and 08.9. These are not normal names used for alleles;
14 hence, the -- this is why we know it is encrypted.

15 But we expect, in this case, the -- we have a series of
16 relatives below it where we have -- we have a son, one -- two
17 daughters. The son and the two daughters are the easiest to look at.
18 We would expect that the sons and the daughters inherit at least one
19 of the alleles from the sample if this sample belongs to the father
20 of those two -- of those three -- daughters and a son.

21 So allele 1, 07.4, we see that is present in the son, which is
22 the second one down; in the daughter, which is the third one down.
23 And then if we look at the allele 08.9, that is present in the second
24 daughter. The brother also shares the 08.9. This is not so -- when
25 we're dealing with siblings, it's not so -- always so clear because

Witness: William Goodwin (Open Session)

Page 23563

Examination by Mr. Pace

1 we may, just by chance, inherit different DNA from our parents. So
2 the easiest ones to look at are the direct relations, either parents
3 and children, where we expect to see one of the alleles of the parent
4 in the child's profile.

5 Q. And, in fact, thus far we've addressed the alleles of the sample
6 8105426. We also have, correct me if I'm wrong, the code, let's say,
7 for the alleles of the spouse --

8 A. Yeah.

9 Q. -- or the person listed as the spouse of the victim, and there
10 we have 09.5 and 09.5 as the first entries.

11 A. Correct.

12 Q. And you mentioned in your response that we would expect - and,
13 again, correct me if I'm wrong - to see an allele from one parent and
14 an allele from the other in the children. And is that, in fact, what
15 we do see for the son and the two daughters?

16 A. That is correct. So where we have in the -- if you look at the
17 son, we have the 07.4 could have come from the father. The 09.5
18 could have come from the spouse who has two copies of that 09.5. The
19 same applies to the first daughter and to the second daughter.
20 Because the spouse has two alleles which are the same, all the
21 children will have that same allele.

22 Q. Thank you. Let's keep the report on the left-hand side there
23 and take down the report on the right-hand side, so the DNA report.

24 MR. PACE: And instead let's please call up 073685-073786 RED,
25 and I'm referring specifically only to RED for now. And in this

Witness: William Goodwin (Open Session)

Page 23564

Examination by Mr. Pace

1 document, let's turn to page 073700. Thank you. And in the expert's
2 report on the left of our screens, which remains P01951, let's please
3 turn to page 103384. And if we can scroll down a little bit in the
4 report. Thank you.

5 Q. And, again, Witness, here, if you look at (i) towards the
6 penultimate question in the page, you see a reference in bold to a
7 document 073685, and that is the document which appears on the
8 right-hand side of our screens. And in relation to this item, at
9 this page of your report you state as follows:

10 "As most of the information is redacted or encrypted it is
11 difficult to say whether the conclusions are supported by the
12 information. It is notable that this profile presented in the report
13 (p.073700) (PDF p 16)) shows data for only seven of the STR loci and
14 is an example of a partial profile (which is not uncommon when
15 analysing bone samples).

16 "However, the likelihood ratio and probability of relatedness
17 are extremely high, especially as they are based on only seven loci.
18 I would recommend re-evaluation if the non-encrypted profiles become
19 available."

20 Now, Witness, on the document on the right-hand side of our
21 screens, we can see what we refer to in this Court as redactions, so
22 the black boxes. And if we can zoom a little bit more closely on
23 those on the left-hand side of the page, we can see that they have an
24 E-code. That's just so that you can follow.

25 MR. PACE: Now, instead of this version on the right-hand side

Witness: William Goodwin (Open Session)

Page 23565

Examination by Mr. Pace

1 of our screen, I'd like to call up 073685-073786 RED2, and turn to
2 the same page, which is 073700. And if we can again -- yes, thank
3 you.

4 Q. Witness, what you have on the right-hand side of your screen is
5 the same document we looked at earlier, so the same document that you
6 talk about in your report, but this is what we refer to as a lesser
7 redacted version. And, in fact, here we're able to see more
8 information. Can you tell the difference between the version on your
9 screen now and that before?

10 A. I can, yes.

11 Q. And in particular, on the version on your screen now, we're able
12 to see the types of family relationships of the persons tested. So
13 now we see in the table in the bottom or the middle part of the
14 screen mother, father, spouse, daughter, son. Could you tell the
15 Judges whether this additional information - i.e., or that is the
16 type of relationship, as I said, mother, father, spouse, daughter,
17 son - has any impact on your assessment, which assessment stems from
18 your report, the excerpt that I just read out?

19 A. It does, yes. In this particular case, we have a very complete
20 pedigree. We have the mother and the father which alone with the
21 missing person can give a very high likelihood. And, in addition, we
22 have the son and the daughter along with the spouse. So
23 collectively, we'd expect each of those loci to return a high
24 likelihood, and so the figure becomes plausible.

25 Q. Thank you, Witness.

1 MR. PACE: And, Your Honour, we have no further questions for
2 this witness.

3 PRESIDING JUDGE SMITH: Before you begin, we'll take a
4 ten-minute break as I stated earlier.

5 Please escort the witness out.

6 We'll take ten minutes now and then we'll start back with
7 questions from the Defence.

8 [The witness stands down]

9 MS. ROWAN: Your Honour, if I might just check before we break,
10 to assist me in asking questions, I'll go first for the Defence
11 teams, the position of confidentiality. All of those persons that
12 are concerned with these DNA samples were all public in the
13 indictment bar two. In those circumstances, we had been proceeding
14 on the assumption, therefore, that these DNA reports could be named,
15 the reference samples referred to, as these are public victims in
16 this case. So it's not clear to us why any of the reports that
17 concern public victims in those circumstances would be confidential.

18 And, secondly, the expert's reports, letters of instruction, and
19 CV, while, of course, they contain personal information like his
20 mobile number, which, of course, should be redacted, again we don't
21 see any reason why they should also be confidential. It may be
22 simply that redacted versions need to be provided. But we would ask
23 the Panel to consider that matter because, of course, the default
24 position should be public.

25 PRESIDING JUDGE SMITH: Do you wish to be heard?

1 MR. PACE: Yes, thank you, Your Honour. In terms of the
2 mentioning of victims, I would need to double-check. I believe that
3 the victims listed in schedule B to the public version of the amended
4 indictment are mainly redacted. Even if the victims' names are
5 not -- are available to the public, we're dealing with very sensitive
6 issues here, which is the identification of specific victims, family
7 relations. As I think I established by the way I proceeded, there is
8 actually no need to name names while we're doing these things. That
9 could cause undue harm or stress or be -- or psychological -- have an
10 adverse psychological impact on the victims and families of the
11 victims.

12 In terms of the classification of the documents, this is how we
13 always proceed. A document is either public or confidential. If it
14 comes to later on and there is an order to prepare a public redacted
15 version, we can certainly do so.

16 PRESIDING JUDGE SMITH: Thank you. We'll consider that and
17 answer before you begin.

18 We'll take the ten-minute break now. We're adjourned.

19 --- Break taken at 10.01 a.m.

20 --- On resuming at 10.11 a.m.

21 PRESIDING JUDGE SMITH: Please bring the witness in.

22 MS. ROWAN: Your Honour, my apologies, before we do that, could
23 we please have clarity in relation to --

24 PRESIDING JUDGE SMITH: Hold on just a second.

25 MS. ROWAN: -- the confidentiality.

1 PRESIDING JUDGE SMITH: I can't hear you.

2 Okay. Go ahead.

3 MS. ROWAN: Your Honour, pardon me. It was simply to ask for
4 clarity in relation to the mentioning of names and confidentiality of
5 documents before I proceed.

6 PRESIDING JUDGE SMITH: Yes. I believe we should leave it the
7 way it is now. We will not be mentioning the names. We believe that
8 the report should be redacted and made public and that the
9 instructional letters should be redacted and made public. But there
10 are still some names that cannot be repeated, relatives who gave a
11 sample, for example, so we would rather leave that out for now.

12 MS. ROWAN: Your Honour, then on that basis, two of, I believe,
13 26 potential identified victims - only two - are redacted. So, of
14 course, I won't refer to those. But in those circumstances -- in the
15 circumstances where family members are identifiable, those documents
16 cannot be public, but it is possible to mention the name of the
17 possible ID as in line with Rule 120, the reason to keep that
18 confidential would be to protect identity of victims. But, of
19 course, these victims are, in fact, identified so should be able to
20 be named.

21 PRESIDING JUDGE SMITH: Do you wish to be heard on that?

22 MR. PACE: Yes, Your Honour. As I mentioned before the break,
23 we would object to that. The reasons why we don't make certain
24 documents or information public isn't merely that a particular victim
25 or witness has in-court protective measures. There is also the

1 psychological well-being of the victims and the witnesses, the
2 relatives in particular in this case, to be protected. And so we
3 haven't heard anything as to why we can't proceed as we have thus
4 far.

5 PRESIDING JUDGE SMITH: Yeah, I don't understand the importance
6 of going into the names since the information is evident to us and
7 that's all that's necessary.

8 MS. ROWAN: Your Honour, in any trial, the Court, in our
9 submission, should seek to endeavour to ensure that all information
10 is public.

11 PRESIDING JUDGE SMITH: I understand that. And we do understand
12 that --

13 MS. ROWAN: Yes.

14 PRESIDING JUDGE SMITH: -- and we do try to seek it. But in
15 this case, we are not convinced that it should be made public.

16 MS. ROWAN: Yes, but my learned --

17 PRESIDING JUDGE SMITH: So that's the ruling on all the names.

18 MS. ROWAN: Very well.

19 [The witness takes the stand]

20 PRESIDING JUDGE SMITH: Be seated.

21 Witness, we continue now. The Veseli Defence, seated to your
22 immediate right, will first be asking questions.

23 Ms. Rowan, go ahead.

24 Cross-examination by Ms. Rowan:

25 Q. Good morning, Mr. Goodwin. My name is Kerrie Rowan and I ask

1 questions on behalf of the second defendant in this case.

2 A. Good morning.

3 Q. I'll try to remind both of us, but primarily myself, to watch
4 speed, because we're both going to be speaking in English for the
5 rest of this morning.

6 What I'd like to just do at the outset, because I'm sure you're
7 anxious to know where we might be going for the next couple of hours,
8 is just to outline the broad topics that I would wish to address with
9 you in your evidence.

10 I'd like to look at the limited nature of the instructions that
11 you received from the Prosecution, what you were and what you were
12 not asked to do. I'd then like to look at DNA profiling of skeletal
13 remains a little bit more broadly. Thirdly, I'd like to explore,
14 with your assistance, the limits of some of the data that you were
15 provided with in this case and the impact of that limited dataset.
16 And then, finally, I'd like to look at just some potential issues
17 that arise from that underlying data. So that's where we're going.

18 A. Okay. Thank you.

19 Q. All right. So, Mr. Goodwin, it's right that you were instructed
20 initially by the SPO in this case in July 2021; is that right?

21 A. That is correct.

22 Q. And prior to July 2021, you did not have any involvement with
23 any of the cases that these reports are concerned with; is that
24 right?

25 A. That is correct.

1 Q. You weren't involved in any of the initial DNA extraction or
2 sampling processes that were conducted?

3 A. That is correct.

4 Q. You weren't involved in any way in the creation of the reports
5 that you were asked to look at as part of your instruction?

6 A. That is correct.

7 Q. So when we look at the dataset that we have and the conclusions
8 in those reports, those are the conclusions of others. They aren't
9 your conclusions.

10 A. They are the conclusions of the ICMP who carried out the work.

11 Q. Yes. Sometimes we can identify who that might be, sometimes we
12 can't.

13 A. Right.

14 Q. Correct. Now, it's right also that you have not had the
15 opportunity to speak to the persons who conducted those reports?

16 A. That is correct.

17 Q. And you were not invited to do so by the Prosecution?

18 A. I was not invited nor did I ask.

19 Q. Yes. And as we dealt with a moment ago, it's right that when we
20 look at the array of reports that we have, a number of those it's
21 impossible to identify the person who authored the report, but in
22 some cases it is possible. In the minority of cases we can identify
23 the author of the report.

24 A. Based on the information provided, that is correct.

25 Q. And I hope I have my count right, but in total you were asked to

Witness: William Goodwin (Open Session)

Page 23572

Cross-examination by Ms. Rowan

1 look at I believe it's 26 reports related to unknown DNA samples.

2 Does that sound about right?

3 A. Yeah, you've counted more recently than I have, but I don't
4 object to that number.

5 Q. I'm sure we'll be corrected by somebody in the room if one of us
6 --

7 A. Yeah.

8 Q. -- have gotten it wrong. And it's right that all of those
9 reports that you looked at with the exception of one, that one being
10 the report that was subject to your additional second report, all the
11 other reports originate from the ICMP?

12 A. Yeah, I believe that's correct, yes.

13 Q. And in each of those reports that you examined, the conclusion,
14 for various reasons, in various reports, those reports cited a
15 possible identity match to persons connected with this case?

16 A. Correct.

17 Q. Could we then just please look at your letter of instruction.

18 MS. ROWAN: I believe this is now MFI 1952, please. And this
19 should not be broadcast publicly in line with the Panel's ruling.

20 Q. So this is the letter, Mr. Goodwin, we've looked at a little bit
21 earlier. And so that we're clear, a letter of instruction is a
22 document that is sent by party in a case to an expert setting out
23 what that party wants the expert to do.

24 A. Correct.

25 Q. It is a document that instructs you in your capacity as an

Witness: William Goodwin (Open Session)

Page 23573

Cross-examination by Ms. Rowan

1 expert to answer certain questions and conduct certain analyses on
2 behalf of your instructing party.

3 A. Correct.

4 Q. Now, when dealing with this case, this was the original letter
5 of instruction that you received setting out the instructions by the
6 Prosecution?

7 A. Yeah, I believe that is correct.

8 Q. We might as well just clarify at the outset. I will not be
9 asking you any questions in relation to the DNA report that was
10 subject to your second letter of instruction and your second report,
11 so you can take all my questions as confined to this letter of
12 instruction if that assists.

13 A. Understood.

14 MS. ROWAN: So if we just go to the Annex 1, please, which is
15 where the specific questions are contained. It's page 3 of the PDF,
16 please. Thank you very much.

17 Q. So if we look here, the first thing that you were asked to do by
18 the Prosecution was simply to provide some definitions for scientific
19 terms that could be found in that underlying material. That's right?

20 A. Correct.

21 Q. And you were also asked, we can see, some general questions
22 about how DNA testing can assist in establishing identity of remains
23 in a broad sense.

24 A. Correct.

25 MS. ROWAN: And if we then go down a page, please.

1 Q. The report then came on to ask you some more targeted questions
2 about certain DNA reports that you had been provided with; is that
3 right?

4 A. Correct.

5 Q. Now, you were provided with material by the Prosecution, and we
6 can see, can't we, at the top of this page, some quite long -- we
7 call them ERN numbers. Those numbers, for example, IT-04-84bis, that
8 applies to one of the documents that you were provided with by the
9 Prosecution; is that right?

10 A. Yes.

11 Q. So you were given a confined dataset by the Prosecution from
12 which to work, and we see the record of that data reflected in this
13 annex; is that correct?

14 A. Correct.

15 Q. Now, would you agree that when we look at the questions that you
16 were asked by the Prosecution, you were asked to take quite a
17 targeted approach to your answers? You were asked specific questions
18 about specific documents, and they are set out as we see here?

19 A. I would agree that the questions were quite precise.

20 Q. Yes. There wasn't very many broader overarching questions
21 contained within this annex save for how does DNA analysis work in
22 general?

23 A. There were not.

24 Q. Yes. Now, fully in line with the instructions that you were
25 given, you followed those instructions to the letter, and the report

Witness: William Goodwin (Open Session)

Page 23575

Cross-examination by Ms. Rowan

1 that you produced ultimately were answers to those questions and no
2 more as that is what you were instructed to do; is that right?

3 A. That is correct.

4 Q. So if we could just step back then and just look at what you
5 were not asked to do by the Prosecution looking at the black letter
6 of this instruction document.

7 So you were not asked to conduct a fresh analysis of any of
8 these conclusions -- or of any of these findings, pardon me. You
9 weren't asked to conduct a fresh analysis of your own.

10 A. By a fresh analysis -- could you define what you mean by a
11 "fresh analysis"?

12 Q. Yes. You were not asked to do the work again, analyse these DNA
13 profiles again and come to your own conclusions as to what the
14 likelihood of a match would be in your opinion. You were not asked
15 to do that work.

16 A. As in the practical work, the --

17 Q. Yes.

18 A. I was not asked to do that.

19 Q. You weren't asked to do the maths, you weren't asked to do the
20 analysis again?

21 A. I think the -- there are some questions where I did offer a
22 mathematical --

23 Q. Yes.

24 A. -- opinion. I can't specifically remember whether I was asked
25 to do it or not.

Witness: William Goodwin (Open Session)

Page 23576

Cross-examination by Ms. Rowan

1 Q. You did. You -- helpfully for a number of the reports, where
2 some the numeric figures hadn't been translated into percentage
3 probabilities --

4 A. Yeah.

5 Q. -- you assisted us by converting those.

6 A. Okay, yeah.

7 Q. That is correct. But in terms of being asked to do an analysis,
8 you weren't asked to re-analyse these profiles. Whether or not
9 that's possible or not we'll come on to.

10 A. Just so I'm -- make sure I -- are you talking about looking at
11 actual DNA profiles?

12 Q. Yes.

13 A. No, I did not see any of the DNA profiles. I only saw the
14 conclusions of the DNA profiles.

15 Q. Yes. We'll deal with in a moment what may or may not be
16 possible for you to do had you been asked to do it.

17 A. Yeah.

18 Q. Which is limited by your last answer. You were not asked to
19 confirm the accuracy or the veracity of the conclusions in the
20 reports. You weren't in terms asked to do that?

21 A. No.

22 Q. You were not asked to confirm whether the methodology as you
23 could see it, if at all, met with the satisfactory standard in your
24 opinion?

25 A. Correct, I was not asked to comment on the methodology.

Witness: William Goodwin (Open Session)

Page 23577

Cross-examination by Ms. Rowan

1 Q. And you were not asked more broadly to highlight any concerns,
2 deficits, or weaknesses that you were in a position as an expert to
3 identify in this underlying dataset?

4 A. That is correct.

5 Q. Now, I believe it's been mentioned already. It's right that you
6 had what we called a preparatory session with the Prosecutor last
7 week?

8 A. That is correct.

9 Q. So you spoke to a number of members of the Prosecution team via
10 Zoom about the evidence that you were going to give today.

11 A. That is correct.

12 Q. Now, in that Zoom, one of the things that you raised with the
13 Prosecution, quite fairly, was your status as a witness in this case.
14 Do you recall that?

15 A. I do, yes.

16 Q. And you had explained to the Prosecution that in the UK, which
17 am I correct in saying that's the jurisdiction in which you
18 ordinarily work or reside at present?

19 A. I am based in the UK.

20 Q. Yes. Because as you informed the Prosecution, in the UK you
21 would be considered as an expert of the Court.

22 A. Correct.

23 Q. And you sought clarity on whether or not that was also the
24 position as far as you were concerned today.

25 A. That is correct.

1 Q. Because it's right, in the UK, isn't it, when you give an
2 expert's statement, attached to every expert statement you would see
3 in the UK is a lengthy experts declaration that all experts are
4 required to sign, which gives the court guarantees that all evidence
5 being given is independent, unbiased, putting the court first than
6 either party?

7 A. Correct.

8 Q. And you were properly assured by the Prosecution that that
9 equally applies to your evidence today?

10 A. Correct.

11 Q. And are you aware that you are the only DNA expert that the SPO
12 is calling in this case? Was that made clear to you?

13 A. That was my understanding.

14 Q. Yes. All right. If we could step back and more broadly just
15 deal with extraction of DNA from skeletal remains.

16 A. Yeah.

17 Q. Thank you. All right. So methodology of extraction for DNA
18 from skeletal remains. Taking the whole dataset that we're dealing
19 with, is it right that all of the samples, the initially unknown
20 samples that are dealt with in these reports, all of those derived
21 from samples of bone collected at autopsy from exhumed remains as far
22 as you understood?

23 A. That would be my understanding.

24 Q. So what we're dealing with for all of these reports is exhumed
25 skeletal remains?

1 A. Yes.

2 Q. Now, sometimes we have, and we've actually seen it already
3 looking at one of the reports, some of the reports we can see a
4 photograph of the bone sample that was used for extraction purposes;
5 is that right?

6 A. That is correct.

7 Q. And commonplace we see that on the bottom left-hand corner of
8 these reports --

9 A. That is correct.

10 Q. -- where available. Now, it's right, because of the paucity of
11 information that we've been provided with, that we don't know the
12 methodology that was deployed in that extraction process for those
13 bones; is that right?

14 A. That is correct.

15 Q. And because we simply don't have that information available to
16 us, you, in your capacity as an expert, are not in a position to
17 comment on the quality or appropriateness of any methodology that was
18 deployed when seeking to extract DNA profiles from those samples?

19 A. That is correct. I did not have knowledge of the specific
20 methods used in the cases that we are looking at.

21 Q. So simply for want of information, you are not --

22 THE INTERPRETER: Interpreter's note: We kindly ask the
23 speakers to pause between question and answer. Thank you very much.

24 PRESIDING JUDGE SMITH: Just a second. You're overlapping a
25 bit.

1 MS. ROWAN: Inevitably. My apologies.

2 Q. That's our first warning, Mr. Goodwin, to slow down. I'm sure
3 it's my fault.

4 In the absence of that information, therefore, you're simply not
5 in a position, nor could you be, to confirm that the extraction
6 procedures used would meet a standard that you would deem to be
7 satisfactory?

8 A. The requirement for an extraction would be that you recover DNA
9 from a single source. And so where we have a profile, we can infer
10 that DNA was recovered.

11 Q. But we don't have the profiles in this case, do we?

12 A. Well, we have either the profiles or a coded version of the
13 profile.

14 Q. We have a coded version of certain loci within the profile, but
15 we do not have the raw profile; is that right?

16 A. We do not have the raw DNA profile to interpret. That's
17 correct.

18 Q. Yes. Now, extracting DNA from exhumed bones, would you agree,
19 is a very sensitive exercise?

20 A. It depends on the bone. It depends on the condition that the
21 bone is in when it is recovered. And so for -- it is an extended
22 process compared to most forms of extraction. So, for example, the
23 reference samples that are used of either blood -- typically blood is
24 much easier, but you can usually get good -- a lot of DNA from bone
25 if it has not been subjected to too adverse an environment, but it

1 takes longer.

2 Q. And, of course, you don't know the condition that any of these
3 bone samples arrived in the laboratory in as we don't have that
4 information?

5 A. I do not know that information.

6 Q. Would you agree that when dealing with bone samples and DNA
7 extractions from bone samples, that in those circumstances, that
8 there is a heightened risk of contamination as compared to other work
9 that might be done in extraction?

10 A. Again, it depends on the condition of the bone. Many bone
11 samples will have a large amount of DNA, and so in those conditions
12 contamination is no more likely than with reference samples.

13 Q. Would you agree with this: The reason that it can often be a
14 sensitive exercise is because often, albeit not exclusively, the
15 amount of DNA that you can extract is limited. Therefore, when you
16 are dealing with small amounts of DNA, small amounts of DNA are at a
17 heightened risk of contamination.

18 A. That would be a fair point.

19 Q. So where we have a small amount of DNA extracted and that we're
20 working with, lab technicians, scientists dealing with that, they
21 must take, would you agree, precautions additional to what you might
22 have in relation to other samples to protect against contamination?

23 A. I would say precautions should be similar because you should be
24 careful with all --

25 Q. Of course.

Witness: William Goodwin (Open Session)

Page 23582

Cross-examination by Ms. Rowan

1 A. -- all samples. There are precautions in reference samples
2 also. So, yes, precautions should be taken to minimise the potential
3 for contamination, of course.

4 Q. As you mentioned it's, of course, applicable to all, but it is
5 important to have robust procedures and ideally mitigation measures
6 in place when dealing with samples such as this.

7 A. Yes.

8 Q. Now, when we're talking about contamination, and perhaps just
9 looking at what we mean by "contamination," at the lab, for example,
10 contamination may be contamination of the sample that you were
11 looking at with a DNA sample that's come through that lab in recent
12 times, or contamination, for example, by a staff member. There are
13 different types of forms of contamination that can happen and that we
14 need to look to put mitigation measures in place to protect against
15 in a laboratory.

16 A. I would agree. And I would say this applies to all samples.

17 Q. Yes. But it's right that certain labs will have different types
18 of mitigation measures in place or different procedures in place to
19 protect against those risks. Not all labs are uniform in their
20 approach.

21 A. There are similarities. But, of course, each lab has its own
22 distinct procedures.

23 Q. For example, quite a common mitigation mechanism that you would
24 see in the UK, for example, would be when dealing with a sample such
25 as this, a common mitigation measure would be when the DNA sample is

Witness: William Goodwin (Open Session)

Page 23583

Cross-examination by Ms. Rowan

1 extracted, one would run that extracted sample against the last six
2 months of samples that that lab has seen cross its doors to ensure
3 that your new sample hasn't been contaminated by any of those in the
4 last six months. That's a common mitigation measure.

5 A. To -- yes. Whether six months, but, yeah, for -- certainly to
6 compare against a batch of previously extracted samples, yes.

7 Q. Yes. And sometimes, and, again, to compare against staff?

8 A. It would always be to compare against staff.

9 Q. For obvious reasons that the lab techs themselves may
10 inadvertently contaminate samples?

11 A. Correct.

12 Q. But it's right that, again, for all of these reports and for all
13 of these samples we simply don't know what procedures were in place
14 to mitigate against any contamination risks?

15 A. No, I cannot speak to that.

16 Q. And because we can't know what they were, you, of course, cannot
17 comment on whether or not they would be, in your opinion, sufficient?

18 A. Correct.

19 Q. Okay. Can we deal, please, Mr. Goodwin, with co-mingling of
20 bones. Now, by co-mingling, that can refer, would you agree, to
21 bones that may be found together, moved together, stored together, or
22 would you have a more precise definition?

23 A. No, I -- "co-mingling" is a fancy word for mixing of bones --

24 Q. Yes.

25 A. -- from different bodies.

Witness: William Goodwin (Open Session)

Page 23584

Cross-examination by Ms. Rowan

1 Q. That being the key. It's not the mixing of bones from an
2 individual body. It is the mixing of bones of more than one body.

3 A. Of more than one body.

4 Q. And would you agree that where we have co-mingling of bones,
5 that there is a risk of contamination amongst those bones?

6 A. The potential for contamination exists, but I would say it was
7 very low given the procedures that all laboratories would undertake
8 in a laboratory once they receive a bone.

9 Q. Now, just in terms of best practice when dealing with bones.
10 Would you agree that best practice when setting out upon looking to
11 extract a DNA profile from a bone, best practice would say that you
12 should send that bone sample to a different laboratory to one that
13 does ordinary day-to-day DNA sampling? That best practice dictates
14 it should go somewhere else to reduce that contamination risk?

15 A. I think it should be extracted in a separate area. I don't
16 think it necessarily -- I mean, I don't think any laboratories would
17 send their samples to a different laboratory necessarily. I'm
18 looking at the UK example for that. The crime scene samples are
19 processed in the same facilities albeit in a different room to the
20 reference laboratory. So whilst in a perfect world it might be nice
21 to have a separate facility just to deal with the bones, I wouldn't
22 say it was a requirement.

23 Q. No, not a requirement. As I stated, best practice, in an ideal
24 world, you would like them to go separately.

25 A. In an ideal world, it would be nice --

Witness: William Goodwin (Open Session)

Page 23585

Cross-examination by Ms. Rowan

1 Q. Yes.

2 A. -- but I -- yeah.

3 Q. If practical. Often not.

4 A. Yeah.

5 Q. And would also agree that, again in an ideal world, in a
6 situation where you're dealing with co-mingling of bones, if it is
7 possible to identify samples as likely originating from separate
8 deceased, by that I mean, for example, we may have two leg bones, we
9 may therefore think that likelihood is that they come from two
10 different deceased persons. In a best-case scenario or in an ideal
11 world, we would also like those two bones to go to two separate labs
12 to reduce the risk of contamination, if possible?

13 A. I mean, I think that would be over-specification, to be honest.
14 I don't think there's a -- you would need an awful a lot of
15 laboratories in the world to process if you were sending every sample
16 to a different laboratory. I say based on processing of crime scene
17 samples, they are done in the same facilities.

18 Q. All right. Now, when we talk about contamination, I just want
19 to look at what we actually mean by contamination when we talk about
20 a DNA sample getting contaminated. So what we mean by contamination
21 is that the DNA profile that's extracted may become mixed with
22 another DNA sample or more than one other DNA sample. Mixing is a
23 form of contamination. Would you agree?

24 A. Correct.

25 Q. And when -- when mixing occurs, we can see mixing of a DNA

Witness: William Goodwin (Open Session)

Page 23586

Cross-examination by Ms. Rowan

1 sample with one, two, three, any number of other samples of DNA.

2 A. Correct.

3 Q. And it's not uncommon for laboratories to have to deal with
4 mixed samples on a day-to-day basis; is that right?

5 A. Laboratories that process crime scene work see a lot of mixtures
6 just because of samples they receive are mixed when they receive
7 them.

8 Q. So perhaps if we look at that crime scene example and we just
9 take a real world example just to place us in what we are talking
10 about. If in the UK a crime scene was being processed where there
11 had been a violent incident and there was a cap, a baseball cap left
12 behind in the crime scene --

13 A. Yup.

14 Q. -- and that cap was sent for analysis for DNA.

15 A. Yeah.

16 Q. Something like a cap is something that can be worn by multiple
17 people, and it is possible, for example, that in the brow of that cap
18 a lab might find a mixed profile of DNA.

19 A. Quite probable.

20 Q. So that's an example where we might see it in a crime scene
21 setting?

22 A. Yes.

23 Q. But where we are looking at mixed profiles in this setting, we
24 are talking about after the DNA profile has been extracted from bone,
25 at some point and for some reason along that process, that profile

1 has become contaminated and mixed with another DNA profile.

2 A. Another DNA source.

3 Q. Source.

4 A. Yeah.

5 Q. Thank you. Yes, another DNA source. And it's right that
6 because it's not an uncommon event for labs to deal with, that all
7 labs should have some sort of procedure in place to deal with mixing
8 when it occurs?

9 A. Laboratories would be able to identify mixtures because the
10 profile of a mixed sample is different to the profile of a non-mixed
11 sample.

12 Q. I'm being reminded to slow down, so I'm going to try to do that.
13 But, again, the procedures in place for mixing can vary. For
14 example, in the UK criminal context, which we've mentioned before, in
15 the UK when providing results, mixed profiles are never omitted.
16 They're almost always included in a criminal setting within the
17 results.

18 A. Yeah, if you'd obtained a mixed profile, you would report on a
19 mixed profile.

20 Q. Exactly. Whereas there are cases in certain labs where -- where
21 mixed profiles are identified, if indications of that mixture do not
22 meet certain thresholds, the lab disregards what may be evidence or
23 considered to be evidence by others of mixing.

24 A. Okay.

25 Q. Would you agree that that can happen?

1 A. I think it's very context specific.

2 Q. Yes.

3 A. I wouldn't like to be -- to make general comment on it.

4 Q. It is possible -- do you agree, therefore, that it's possible
5 when looking at profiles, without having access to the EPG --

6 A. Mm-hmm.

7 Q. -- we'll come on to the EPGs in a moment. The DNA profile.

8 A. Yeah.

9 Q. Without access to the DNA profile, you cannot tell or an expert
10 cannot tell how mixing has been dealt with.

11 A. Correct.

12 Q. And because in this case we don't know how mixing has been dealt
13 with, because we don't have the DNA profiles, we don't know if any of
14 the profiles that we're dealing are or could be mixed. We can't
15 exclude that.

16 A. We have no -- yeah, there's no evidence in the profiles that we
17 have been given that there's been any mixture. But we cannot -- I
18 mean, whether samples were excluded because there was mixture is a
19 possibility.

20 Q. Yes. And so without you having the opportunity to examine those
21 raw DNA profiles, you cannot definitively exclude the possibility
22 that we're dealing with mixture, i.e., contamination?

23 A. Okay. I'm -- yeah. I'm taking it on trust from the reports
24 when I'm commenting on them that that was a single-source profile,
25 and I have no way of -- as you've said, we've not looked at the DNA

1 profile, so that is taken on trust.

2 Q. So would it be fair to say that you giving your fellow
3 scientists deference may assume that that is the case, but you cannot
4 confirm it to be correct or confirm it to be true?

5 A. Correct. I have not seen the DNA profile, so I cannot comment
6 on it.

7 Q. So let's deal with DNA profiles, which might be the elephant in
8 the room that we keep referring back to. And I'd just like to do
9 that in a little bit of detail before we start to come on to deal
10 with these reports.

11 A. Sure.

12 Q. What does EPG stand for?

13 A. Electropherogram.

14 Q. Now, an electropherogram is the DNA profile, that raw DNA
15 profile; is that right?

16 A. It is the output that we see as a scientist of the DNA profile,
17 yes.

18 Q. The full DNA profile?

19 A. Yes.

20 Q. Now, EPG, in terms of what it is or what it looks like in terms
21 of the format that it appears in, it appears ordinarily in a graph
22 form, with peaks and lows?

23 A. That is correct.

24 Q. And those peaks and lows in that graph is what results from the
25 sequencing done after looking at the DNA; is that right?

1 A. It results from the amplification of the DNA. The different
2 amplified pieces within the DNA show us peaks, as you say, on the
3 electropherogram.

4 Q. And that's after using PCRs as part of the multi-mixes, which
5 we'll come on to deal with in a moment?

6 A. Exactly. The PCR amplification allows us to detect the DNA.

7 Q. Yes. And it's right that what it also does is it illustrates
8 individual areas of DNA in different colours so you can differentiate
9 the different areas of DNA?

10 A. The different pieces of DNA, the -- we can refer to them as --
11 by the loci before, are either differentiated by size or by colour or
12 combination of size and colour.

13 Q. So when you are in possession of that EPG or that DNA profile,
14 you, as a scientist, are in a position to examine the whole DNA
15 profile, ideally, all the different loci, as distinct from each
16 other?

17 A. Correct.

18 Q. Now, perhaps for the next questions, again, I'm going to ask you
19 for your help just on some definitional points again before --

20 A. Sure.

21 Q. -- we get into specifics. But it might just help us, I think,
22 to have a copy of one of these reports with us so that we have a
23 reference point.

24 MS. ROWAN: Madam Court Officer, could I please have P854, page
25 197, not for public broadcast, please.

1 Q. Apologies, Mr. Goodwin, we're going to move through one or two
2 documents.

3 A. [Overlapping speakers] ...

4 Q. We do everything digitally.

5 A. [Overlapping speakers] ... that's okay.

6 Q. It would be easier with a hard copy bundle, but we'll have just
7 a few delays getting stuff up on screen.

8 A. That's no problem at all.

9 Q. So you know what's coming up --

10 PRESIDING JUDGE SMITH: Excuse me, you're still talking over
11 each other. Please pause briefly before answering a question.

12 MS. ROWAN: It's page 197 of this, please.

13 Q. And, Mr. Goodwin, for your reference, what we're going to be
14 looking at is one of the underlying summary reports that you have
15 examined in the course of your reports. And also just for your
16 reference, this is also one of the reports that was in the body of
17 the additional expert report that you received.

18 A. Okay.

19 Q. Okay. So it's one of those. And we can see, for our reference,
20 the possible identity recorded on that, and we can see in the top
21 left that this derives from the ICMP.

22 Now, Mr. Goodwin, is it right, just to orientate ourselves with
23 this, that this is -- we've seen one of them already, the standard
24 format of the reports that you've been looking at as part of your
25 analysis in this case?

Witness: William Goodwin (Open Session)

Page 23592

Cross-examination by Ms. Rowan

1 A. Correct.

2 Q. And most of this page or most of these pages when we see them
3 comprise of this chart form in the middle?

4 A. Correct.

5 Q. And they are the purported DNA results from the amplification
6 testing?

7 A. Correct.

8 Q. All right. Now, would you agree that we can tell, looking at
9 the -- or you can tell looking at this report, because of how it's
10 set out and the information contained within it, that we're dealing
11 with an STR DNA profiling technique?

12 A. Yes, a typical STR profiling report.

13 MS. ROWAN: Now, could I ask, please, Madam Court Officer, can
14 we just zoom in on maybe the top left-hand corner, please.

15 Q. Just stepping back from the report a moment ago. You had dealt
16 with this in examination-in-chief, but perhaps if you could just run
17 over it very briefly. The loci or the locus of a DNA -- on DNA, that
18 refers, would you agree, to the specific location of a genome within
19 the DNA; is that right?

20 A. It refers to a specific location within the genome, yes.

21 Q. Yeah, its location.

22 A. Yeah.

23 Q. So when we think locus, we think location?

24 A. Yes.

25 Q. Genes have many different loci? When we're looking at

Witness: William Goodwin (Open Session)

Page 23593

Cross-examination by Ms. Rowan

1 individual one, we're looking at individual location on the DNA?

2 A. Correct.

3 Q. All right. Now, if we look at this report, we find the loci --
4 now, because the difficulty with these reports is they're not
5 labelled. So if we look at that top row where it says D3S1358, that
6 top row of a variety of numbers --

7 A. Yeah.

8 Q. -- they're the loci that are being tested; is that right?

9 A. Yes, they are the different loci. Yeah.

10 Q. Could I ask you -- there should be pen on the right-hand side.

11 A. Oh, yeah.

12 Q. Yeah, like a digital pen. Could I ask you, please, with the
13 assistance of madam clerk, could you just circle that first box at
14 the top. Put an L beside it so we know that they're the loci when
15 we're dealing these.

16 A. This one here.

17 Q. Yes, please. And maybe just put an L. Thank you. So in any of
18 these that we're looking at, that top line is the loci. Now, when
19 doing relationship testing, scientists only look at a specific
20 collection of loci; is that right?

21 A. Yes.

22 Q. And there's a reason behind that, because humans actually share
23 quite a large amount of identical DNA. So when we're looking at
24 relationship testing, what scientists are actually looking to explore
25 is the DNA that changes the most?

Witness: William Goodwin (Open Session)

Page 23594

Cross-examination by Ms. Rowan

1 A. That is correct.

2 Q. So we see in this -- we don't have the full screen up, but the
3 16 loci looked at at this?

4 A. Yes.

5 Q. And we always look at one to tell us the sex?

6 A. Yeah.

7 Q. All right. And we can see that one here, AMG X,Y? That would
8 be the sex loci looked at?

9 A. Exactly. That's the amelogenin locus.

10 Q. Could you circle that for us, maybe, while we're here, please,
11 the AMG X, Y. This is what we look at when we're looking at sex.

12 A. [Marks]

13 Q. Thank you. And maybe if we put an S beside that. I'm conscious
14 we will have to come back at some point to understand these markings,
15 so if we just mark them accordingly, please.

16 A. [Marks]

17 Q. Thank you. Now, Mr. Goodwin, alleles. Alleles are the loci
18 that are analysed as part of this relationship testing because the
19 alleles are what come in the different forms that we spoke about.
20 There are different versions of the loci that we can see in different
21 people. Is that a correct description?

22 A. Yes. The allele would be different variants of the particular
23 piece of DNA that we are looking at.

24 Q. Right. So we're looking at a piece of DNA, we're looking at a
25 loci, and we're trying to see what version of that loci this sample

Witness: William Goodwin (Open Session)

Page 23595

Cross-examination by Ms. Rowan

1 has?

2 A. Yes.

3 Q. And there we look at the alleles?

4 A. Yes.

5 Q. And we see then, in the second row here, we have allele 1,
6 allele 2.

7 A. Yes.

8 Q. So that's what's being looked at here is what type of allele for
9 that loci does this person have?

10 A. Correct.

11 Q. Could you circle maybe underneath TH01, allele 1 and allele 2,
12 just we see where they appear.

13 A. [Marks]

14 Q. Thank you. And maybe if you just put an A beside those.

15 A. [Marks]

16 Q. Thank you very much. Now, alleles are capable of being
17 measured; is that right?

18 A. Correct.

19 Q. And as we referred to earlier, the ordinary way of measuring
20 alleles is looking at their height within the DNA profile or the EPG?

21 A. We characterise them based on their length which is determined
22 by looking at the EPG.

23 Q. Yes.

24 A. Well, on the software underlying the analysis of the EPG.

25 Q. The software that runs the EPG?

Witness: William Goodwin (Open Session)

Page 23596

Cross-examination by Ms. Rowan

1 A. Yeah.

2 Q. Yes. So STRs, that's also a term that's been referenced
3 already as well.

4 A. STR, yes.

5 Q. Apologies, the Irish accent catches the R.

6 A. That's quite okay.

7 Q. STRs are short pieces of DNA which essentially repeat
8 themselves; is that right? Short tandem repeats. They're pieces of
9 DNA that repeat?

10 A. That is correct. They are short tandem repeats.

11 Q. And when you look at the DNA when we're looking at DNA in this
12 setting, we're looking at STRs that appear in base multiples of 4; is
13 that right?

14 A. With the exception of Penta D and Penta E which occur in base
15 multiples of 5.

16 Q. And we can see Penta E as the fifth one in and Penta D just
17 beside the AMG toward the right-hand side; is that right?

18 A. Correct.

19 Q. So with the exception of those, we are looking at STRs that
20 repeat at base multiples of four?

21 A. Correct.

22 Q. These two, base multiples of 5?

23 A. Yes.

24 Q. Okay. Now, in terms of what you would refer to as allelic
25 designations. So when you're looking at alleles, alleles in DNA

1 testing are traditionally reflected in numeric form.

2 A. That is correct.

3 Q. And what one would ordinarily expect to see when looking at the
4 results for allelic designations that derive from the PCR testing
5 would be whole numbers or whole numbers with a .2. That's what we
6 would ordinarily expect to see?

7 A. We ordinarily expect to see whole numbers or with a point, and a
8 point can range from 1 up to 1 short of the full repeat. So they can
9 be .1, .2, .3.

10 Q. Well, Mr. Goodwin, would you accept from me that ordinarily you
11 would not expect -- well, ordinarily what you would expect to see is
12 whole numbers or a whole number .2, that's what ordinarily you would
13 expect to see?

14 A. I would disagree. It depends on the locus. If we look at locus
15 TH01, we see a 9.3. That particular allele is very common, so we
16 were certainly not surprised to see TH01 9.3.

17 Q. You picked out the exact sample we were going to come to in a
18 moment. Other than the situation being that normally you would
19 expect whole numbers and .2s, you can and do see on occasion .1s and
20 .3s. And the example that we have here is we have a .3. And while
21 not common, does occur?

22 A. Correct.

23 Q. All right. So can we just clarify that, because I appreciate
24 we've been back and forth a little bit. Would you agree that
25 ordinarily when you are looking at allelic designations, what you

Witness: William Goodwin (Open Session)

Page 23598

Cross-examination by Ms. Rowan

1 expect to see in the results are whole numbers or whole numbers with
2 a .2, but it also can occur that those allelic designations appear
3 with a .1 or .3, albeit not very commonly?

4 A. That is correct.

5 Q. But you do not expect ordinarily to find any decimal points
6 beyond .3?

7 A. In the Penta repeat you could potentially have a .4, although I
8 think that would be very rare.

9 Q. Very rare. And certainly nothing beyond that?

10 A. No, because then it would be another full repeat.

11 Q. And because STRs repeat in bases of four, that doesn't happen?

12 A. Well, if we had -- when we get to .4, we have a full repeat and
13 so we would have a whole number.

14 Q. Exactly. So you would not expect to see for any allelic
15 designations anything beyond a .4 and even the .4 being very rare?

16 A. Yes.

17 Q. Thank you. Now, a person will typically have, or should have,
18 two alleles for every STR, one from each parent, and that's why we
19 see allele 1, allele 2. Everyone should have two alleles for each
20 STR?

21 A. That is correct.

22 Q. All right. And that is why we use this analysis when looking at
23 relationship testing is because you get one of each of these alleles
24 from a parent, so this how we use these results to try and determine
25 whether or not persons are related?

Witness: William Goodwin (Open Session)

Page 23599

Cross-examination by Ms. Rowan

1 A. Correct.

2 Q. I'm just conscious of the time. I'll do one more topic with
3 you --

4 A. Sure.

5 Q. -- or one more aspect with you before we break for the half an
6 hour.

7 Multi-mix testing. When looking to use DNA to confirm existence
8 or not of relationships, you mentioned a moment ago what labs use is
9 something called multi-mix testing; is that right?

10 A. We call that multiplex.

11 Q. Multiplex.

12 A. Yeah.

13 Q. Multiplex testing. And what they are are tests that are a
14 manufactured set of DNA probes; is that right?

15 A. They are a set of manufactured PCR primers which will target the
16 particular loci, for example, the ones listed here.

17 Q. And the PCR amplifies the DNA to enable us to see the full
18 profile?

19 A. The PCR, we take a very small amount of starting DNA and we
20 amplify the bits that we are interested in, only the bits we are
21 interested in, and that allows us to analyse them.

22 Q. And you say the bits that you're interested in. So ordinarily
23 when looking at relationship testing, you don't look at the whole
24 profile when doing the analysis of whether or not a match exists.
25 These tests focus upon ordinarily 16 loci; is that right?

1 A. Okay. Just for precision, say we do look at the whole profile.

2 Q. Yes.

3 A. We don't look at the whole genome.

4 Q. My fault. Pardon me.

5 A. No, no, I just wanted to be precise.

6 Q. Yes. No, no, it's very important that you are. Ordinarily, and
7 as we can see here, we have 16 loci.

8 A. Yup.

9 Q. So when we're doing relationship testing, ordinarily a science
10 will look at and these tests look at 16 loci specifically?

11 A. In this case, yes. I mean, we can have different multiplexes --

12 Q. Yes.

13 A. -- which will look at fewer or more.

14 Q. But PowerPlex 16 is the standard?

15 A. It was the standard at this time.

16 Q. Yes. Yes.

17 A. It has been superseded now. But certainly for 15 years,
18 starting from around the 2000s, it was one of the two standard kits
19 in use around the world.

20 Q. So the first half of the noughties that we're dealing with in
21 these reports, standard test?

22 A. Yes.

23 Q. All right.

24 MS. ROWAN: Your Honours, is that a convenient time?

25 PRESIDING JUDGE SMITH: Witness, we'll take the half-hour break

1 now. Please leave the courtroom with the usher. Please do not speak
2 with anyone.

3 [The witness stands down]

4 PRESIDING JUDGE SMITH: [Microphone not activated].

5 --- Recess taken at 10.59 a.m.

6 --- On resuming at 11.30 a.m.

7 PRESIDING JUDGE SMITH: As to the objection by the Veseli
8 Defence to disallow certain testimony of Witness 4500, first, as a
9 procedural matter, the Defence should have raised this objection at
10 the time of the 154 response. It failed to do so and failed to show
11 good cause as to why the extension of time would be warranted. We
12 reiterate that, in principle, parties are expected to respond in a
13 timely manner, and this was not done here.

14 The application is, in effect, an application for
15 reconsideration of our decision F02816, the test and standard of
16 which was not applied nor met by the Defence. However, in its
17 discretion the Panel can, on an exceptional basis, agree to consider
18 the new belated arguments put before it by the Veseli Defence.

19 The part of the evidence which the Veseli Defence now challenges
20 is relevant and meets all other requirements for admission under
21 Rules 154 and 138. On relevance, the impugned evidence goes to show
22 what could amount to an attempt to interfere with the account of a
23 witness and the account of another person, [REDACTED] Pursuant to In
24 Court Redaction Order F2826RED. who were
25 witnesses to the crimes alleged in the case. This evidence is
relevant at the very least to assessing the reliability and

1 credibility of accounts given to us about what happened to
2 [REDACTED] Pursuant to In Court Redaction Order F2826RED. and those
with whom it is said he was taken and who
3 were killed.

4 On the claim of prejudice, the basis of his belief that the
5 individuals concerned were part of SHIK can be explored on
6 cross-examination.

7 That ends that oral order.

8 Please bring the witness in.

9 [Microphone not activated].

10 Any idea on the remaining time?

11 MS. ROWAN: Your Honour, we had indicated two hours. I am
12 likely to ask the Panel for some additional time. If it assists, my
13 learned friends are not likely to take their whole allocated time, so
14 overall we should not go over.

15 PRESIDING JUDGE SMITH: No problem.

16 MS. ROWAN: Thank you.

17 PRESIDING JUDGE SMITH: Go ahead.

18 [The witness takes the stand]

19 PRESIDING JUDGE SMITH: Be seated.

20 Witness, we continue with questions from the Veseli Defence.

21 MS. ROWAN:

22 Q. Welcome back, Mr. Goodwin. Picking up where we left off, I hope
23 you should still have on your screen the document that you were
24 marking before the break?

25 A. I do, yes.

1 Q. Excellent. If we could just look at that before we move on in a
2 little bit more detail, you'll recall that before the break you were
3 explaining to us the type of allelic designations that you might
4 expect to find in such a report. Those allelic designations you
5 would expect to find being whole numbers.

6 If we just look just across this row, we see, bar one exception,
7 whole numbers; is that right?

8 A. Correct.

9 Q. And that is what you might anticipate seeing in a report such as
10 this?

11 A. Yes.

12 Q. And you pointed out to us already the one exception to that in a
13 spot exactly where you might expect to see it, which is TH01, and we
14 have a 9.3.

15 A. Correct.

16 Q. Just in terms of the numbers themselves. In addition to
17 anticipating, in results such as this, whole numbers, it's right that
18 when looking at these loci, you would anticipate figures 10-plus.
19 Would you agree?

20 A. Sorry, could you repeat the question?

21 Q. Sorry, it was a poor question. In addition to anticipating
22 whole numbers, that the types of numbers you would expect to see, you
23 would expect to see numbers above 10, not below 10. Would you agree
24 with that? Ordinarily.

25 A. That depends on the locus.

Witness: William Goodwin (Open Session)

Page 23604

Cross-examination by Ms. Rowan

1 Q. For these locus that we're looking at now --

2 A. If we look at D7, which is around halfway along, you'll see
3 there is an 8 and a 9, which are not unusual. I can mark them if you
4 would like.

5 Q. Please do.

6 A. We got an 8 and 9 there, we've got an 8 here, we've got a 9
7 here. So it depends very much -- in the third one there's a 9. So
8 the number is just a reflection of the number of repeats --

9 Q. Yes.

10 A. -- in that piece of DNA, and so it depends on the locus as to
11 how many we see.

12 Q. Another good example perhaps would be the third one in. We have
13 D21S11. For that loci, you do expect numbers over 20 usually; is
14 that right?

15 A. Typically, yes.

16 Q. Typically. So when looking at results for that particular loci,
17 you would anticipate seeing numbers over 20 and that's exactly what
18 we have there?

19 A. Correct.

20 Q. And, obviously, we have the exception of D7 which you pointed
21 out. But would you agree that for the majority of these loci, one
22 would anticipate a figure over 10?

23 THE INTERPRETER: Interpreter's note: We kindly ask the
24 speakers to slow down and make a pause between question and answer.
25 Thank you very much.

Witness: William Goodwin (Open Session)

Page 23605

Cross-examination by Ms. Rowan

1 MS. ROWAN:

2 Q. Would you agree for the majority you would anticipate that?

3 Pardon -- because we deal with transcripts, Mr. Goodwin, if you could
4 just speak your answer so it's reflected on the transcript.

5 A. Yeah. In very general terms, yeah, but then there's another
6 here, one Penta 7 -- but, yes, in general, this is a typical profile
7 that I would expect and there's nothing unusual about this profile.

8 Q. You took my next question out of my mouth. Looking at this,
9 this is the types of figures, the types of numbers that you would
10 expect to see in a results table like this; is that right?

11 A. Correct.

12 Q. Okay. And while it doesn't say so on the face of the report,
13 are you in a position to deduce that the likely test package that was
14 used for this was PowerPlex 16 looking at the loci that we're dealing
15 with?

16 A. Yes.

17 Q. You can't know that to be true but it's likely to be the case?

18 A. Yes, it's highly likely that that is the explanation for these
19 loci.

20 Q. Yes, because those are the loci that PowerPlex 16 examines?

21 A. Exactly.

22 MS. ROWAN: Now before we move away from this report, firstly
23 can we save it, please, before I forget to do so, and perhaps give it
24 an MFI number.

25 PRESIDING JUDGE SMITH: [Microphone not activated].

Witness: William Goodwin (Open Session)

Page 23606

Cross-examination by Ms. Rowan

1 MS. ROWAN: Your Honour, in line with the position taken by the
2 Prosecution, we'll await the Panel's decision on admissibility of the
3 underlying --

4 PRESIDING JUDGE SMITH: Yes, I'm just asking -- it is a tender,
5 though, and then we'll rule on it later.

6 MS. ROWAN: In the event that the underlying report is admitted,
7 in those circumstances we will seek to tender the marked copy.

8 PRESIDING JUDGE SMITH: [Microphone not activated].

9 MS. ROWAN: Contingent upon that.

10 PRESIDING JUDGE SMITH: [Microphone not activated].

11 Can you restate the numbers for this?

12 MS. ROWAN: I can. This --

13 PRESIDING JUDGE SMITH: The location.

14 MS. ROWAN: This is an extract of P854, page 197, but I'm simply
15 looking to mark for identification a screenshot of these markings,
16 please.

17 PRESIDING JUDGE SMITH: An MFI for P854, page 197, screenshot.

18 MS. ROWAN: Thank you.

19 THE COURT OFFICER: Thank you, Your Honour. Just a moment.

20 Yes. The markings made by Witness 4875 on page 197, Exhibit P00854,
21 will be registered with the Registry number REG01197 and assigned MFI
22 2D00035. Classification is confidential, I believe.

23 MS. ROWAN: Thank you.

24 PRESIDING JUDGE SMITH: Thank you.

25 Go ahead.

Witness: William Goodwin (Open Session)

Page 23607

Cross-examination by Ms. Rowan

1 MS. ROWAN: Perhaps just before we take this off screen, could
2 we please have the bottom right-hand corner in view. And if we could
3 just zoom in on the bold text on the bottom right, please.

4 Q. Mr. Goodwin, this is simply just to confirm that this is one of
5 the reports that you looked at earlier which you said provided
6 moderate support for identity; is that right?

7 A. That is correct.

8 Q. Thank you.

9 MS. ROWAN: We can take that off the screen. Pardon me.

10 Q. Now, Mr. Goodwin, we've alluded to on a couple of occasions
11 information that you don't have, and I just want to deal with that,
12 but specifically the impact of that on -- or the constraints of that
13 on your ability to analyse or comment upon this body of work.

14 Turning back to those EPGs. Just for the sake of clarity, it's
15 right that we do not have a full DNA profile, or otherwise known as
16 the EPG, for any of the samples in this case; is that right?

17 A. Correct. I have not seen any EPGs related to any of these
18 cases.

19 Q. For all of these cases, all that we have is a document similar
20 to that which we just had on screen which is a summary report of the
21 testing done?

22 A. That is correct.

23 Q. And it's right that you raised this issue with the Prosecution
24 in your report, that you pointed out this absence of EPGs to the
25 Prosecution on more than one occasion; is that right?

1 A. I -- I can't remember the specifics, but I think it's
2 reasonable.

3 Q. Yes. It's right it immediately stood out to you that this was
4 missing, and you let the Prosecution know that this information was
5 missing. And you also let the Prosecution know that you would expect
6 that information to be available on request.

7 A. Yeah, I -- I can't remember having specific communications with
8 the Prosecution on that, but I'm not -- yeah. I can't remember the
9 specifics of the -- what I put in the report.

10 Q. Mr. Goodwin, it's paragraph 12 [sic] --

11 A. Yeah.

12 Q. -- of it. If you would --

13 A. Okay. No --

14 Q. -- like, you can refer to it.

15 A. -- no, I'm taking it as -- but I'm just saying I don't have
16 specific recollection of it.

17 Q. Thank you. Page 12, not paragraph 12 --

18 A. Yeah, okay.

19 Q. -- for those following.

20 A. Okay.

21 Q. We can have a look at that.

22 A. Thank you.

23 Q. Now, you referred throughout your report to those DNA profiles
24 as being encrypted. Would you agree that the issue with the EPGs or
25 the DNA profile isn't one of encryption. We just don't have them.

1 It's not that we have DNA profiles or EPGs that are subjected to
2 encryption. They're absent. We don't have them.

3 A. We don't have the DNA profile from which those reports were
4 based.

5 Q. Yes. I appreciate it's a matter of terminology. But it's not a
6 matter that there's folders in your computer where you have the EPGs?

7 A. No.

8 Q. You just can't decrypt them. You just don't have them.

9 A. I don't have them.

10 Q. Yes. And those EPGs or those DNA profiles are something that
11 you as an expert would expect to see in a fellow expert's report,
12 would you agree?

13 A. They would follow a relationship report. They would not
14 typically -- typically -- I'll take a step back. I wouldn't
15 necessarily expect them to be in a report typically, but they would
16 be there for examination if requested.

17 Q. You would expect them to be available to you if you request
18 them.

19 A. Yeah.

20 Q. And you would certainly expect them to be made available to you
21 were you to be requested to conduct any analyses?

22 A. If I requested them, yes.

23 Q. Yes.

24 A. If I felt it was relevant.

25 Q. Now, the impact of the absence of those reports, would you agree

Witness: William Goodwin (Open Session)

Page 23610

Cross-examination by Ms. Rowan

1 with me that because you don't have access to those EPGs, that you
2 cannot say, because you cannot examine them, that the DNA profiles
3 were accurately extracted?

4 A. I cannot comment on whether they were interpreted correctly.

5 Q. And you cannot confirm or comment upon whether we are dealing
6 with single-source DNA as we dealt with before because you can't look
7 to check; is that right?

8 A. I can't look to check. I wouldn't expect mixed -- as we alluded
9 to before, in this type of work I wouldn't expect mixtures to be a
10 big issue.

11 Q. And you can't make any assessment of the level, the richness,
12 the quality of the DNA samples that were extracted?

13 A. No, I cannot.

14 Q. And, again, in the context of, it was your second report that
15 you had -- your follow-up report that you did for the Prosecution --

16 A. Yes.

17 Q. -- you had a phone call with them in relation to that report?

18 A. Mm-hmm.

19 Q. And that was in March 2023 --

20 PRESIDING JUDGE SMITH: Excuse me, you have to say yes or no.

21 THE WITNESS: Yes.

22 MS. ROWAN: My fault.

23 Q. And that was in March 2023. And one of the things that you
24 explained to them at the time was that you were not in a position to
25 testify about the quality of the DNA profiles produced by the

Witness: William Goodwin (Open Session)

Page 23611

Cross-examination by Ms. Rowan

1 laboratory in question for that report?

2 A. That is correct.

3 Q. And is that equally true of all the other reports?

4 A. It is.

5 Q. Now, in relation to the absence of the EPGs, without those you
6 were not able to confirm that any of the allelic designations in the
7 test results in the tables that we have seen are correct. Would you
8 agree with that?

9 A. I -- no, I cannot verify that without seeing the EPGs.

10 Q. So to break that down a little bit, you can see what their test
11 results are, but you're not in a position to take those test results,
12 go back to the original DNA profile, and check that they're right and
13 there's no problems, and that that all is correct as far as you're
14 concerned? You can't do that analysis?

15 A. That is correct.

16 MR. PACE: Your Honour, I'm going to object to this. It's been
17 asked in different formulations multiple times. The witness has
18 clearly expressed his view on what this implication is. I don't know
19 why we need to go over it repeatedly.

20 PRESIDING JUDGE SMITH: Well, we've heard that enough times now,
21 though, so just move on.

22 MS. ROWAN:

23 Q. What that comes to, before we move on, is you cannot say that
24 any of the results are correct?

25 MR. PACE: Your Honour, that's exactly a question that has been

Witness: William Goodwin (Open Session)

Page 23612

Cross-examination by Ms. Rowan

1 asked and answered before.

2 PRESIDING JUDGE SMITH: Overruled.

3 MS. ROWAN:

4 Q. You can answer the question.

5 A. That is correct.

6 Q. Thank you. Allele detection thresholds. We don't have access
7 to the allele detection thresholds used by the lab; is that correct?

8 A. That is correct.

9 Q. Now, what is an allele detection threshold?

10 A. It is the amount of -- well, we're talking about peaks on the
11 electropherogram. It is the height which that peak would have to
12 reach in order for us to accept it as a real peak and not an
13 artefact.

14 Q. So for every allele you have a certain height that must be met
15 before you count it?

16 A. Correct.

17 Q. And that is the threshold that it must meet for it to be taken
18 into account in your analysis?

19 A. Correct.

20 Q. We don't know what thresholds were used. We don't have access
21 to that.

22 A. Correct.

23 Q. Different labs use different thresholds?

24 A. Yes.

25 Q. We don't know what thresholds were used by any of these labs.

Witness: William Goodwin (Open Session)

Page 23613

Cross-examination by Ms. Rowan

1 Would you agree?

2 A. Correct.

3 Q. And as such, you, in your position, are not in a -- you are not,
4 in your position -- I'll get it right the third time. You are not in
5 a position to comment upon the appropriateness of any allelic
6 threshold applied?

7 A. Correct.

8 Q. So that's the core data that we're missing. But I just want to
9 deal with some other aspects of the data that you might ordinarily
10 expect to see when being asked to provide an expert report in a
11 criminal matter.

12 The first of those. It's correct, isn't it, that you were not
13 provided with any of the laboratory working notes for any of these
14 samples; is that right?

15 A. Correct.

16 Q. Were you to be provided with laboratory working notes, what
17 information might you expect them to contain?

18 A. They would contain when the extractions were carried out, who
19 carried them out, what methodology was used, for example.

20 Q. And you could gather that information from them?

21 A. Yes.

22 Q. Would you agree that as standard lab notes can often be around
23 seven or eight pages?

24 A. It very much depends --

25 Q. It varies?

Witness: William Goodwin (Open Session)

Page 23614

Cross-examination by Ms. Rowan

1 A. It very much depends on what we're looking at. For these, I
2 would expect them to be quite streamlined because it's the same
3 process repeated multiple times.

4 Q. Yes. But because of the absence of those notes, you can't
5 examine that information?

6 A. That's correct.

7 Q. We also don't have, or it has not been provided to us, any
8 standard operating procedures that may have applied at the labs doing
9 the work?

10 A. Correct.

11 Q. We also don't have provided to us any information in relation to
12 chain of custody of these bone samples?

13 A. Correct.

14 Q. So we'd have no information about how, with whom, in what
15 fashion, with what precautions, these bone samples made it from
16 autopsy to extraction?

17 A. Yeah, I mean, I certainly have not seen that information.

18 Q. No. That makes two of us, Mr. Goodwin. So we have -- in
19 addition to that, in the work that's done, scientists don't only deal
20 with the unknown sample. They deal with provided familial samples of
21 those who are hoping to identify a family member.

22 A. Correct.

23 Q. So within the data, we have mention of those family associates
24 who have given samples to be tested.

25 A. Correct.

Witness: William Goodwin (Open Session)

Page 23615

Cross-examination by Ms. Rowan

1 Q. Against the unknown samples.

2 A. Correct.

3 Q. In terms of those samples, we don't know how, when, where, they
4 were taken. We know nothing about where those samples originated
5 from.

6 A. I have not been provided with that information.

7 Q. For the majority of the reports that we have looked at, not
8 including those four reports that are the subject of the bigger
9 expert report, does that distinction make sense? I'm conscious not
10 to name the persons involved.

11 A. Yeah.

12 Q. So for all reports bar those four --

13 A. Yeah.

14 Q. -- that are the subject of a report, we don't know whether or
15 not any of the testing was the subject of a peer review on the face
16 of the documents?

17 A. That is correct.

18 Q. Just dealing with those, perhaps, two categories of documents.
19 Within the material that you were provided with, we have a collection
20 of summary reports in the format we have seen.

21 A. Yeah.

22 Q. And then we have what -- perhaps we could refer to it as a
23 subset of those which were the -- also the subject of an expert's
24 report signed by three persons.

25 A. Okay.

1 Q. Do you recall that additional report in the materials you were
2 provided with?

3 A. I -- I can't picture it, but I ...

4 Q. Perhaps for your benefit we should just show it --

5 A. Okay.

6 Q. -- to see if it --

7 A. Yeah.

8 Q. -- jogs memory.

9 MS. ROWAN: Could we have P855, please.

10 Q. This document, Mr. Goodwin, is actually two reports --

11 A. Okay.

12 Q. -- put together in the same PDF. And I'm hoping just the front
13 sheet might jog your memory of it. I can tell you that they are both
14 reports dated in 2004 and both signed off by three persons.

15 A. Okay.

16 Q. Having seen the front page, do you recall seeing this expert
17 report in the data you were provided with?

18 A. I -- I have a vague recollection of it. It was a while ago I
19 looked at it.

20 Q. Yes. And the reason we make that distinction with those reports
21 is because more information is available, would you agree, about
22 those tests in that report than is available for all of the others?
23 Or would you wish to have some time to have a look at it?

24 A. I would need some time to have a look at it.

25 Q. Okay, no problem. Well, perhaps if we can just have a note --

Witness: William Goodwin (Open Session)

Page 23617

Cross-examination by Ms. Rowan

1 I'll make a note of that for perhaps over the lunch break just to
2 give you the opportunity to have a look at that and we can deal with
3 it afterwards. Thank you.

4 MS. ROWAN: Madam Clerk, could we now have U015-4164.

5 Q. Mr. Goodwin, as this is being brought up, this is one of the
6 results tables you looked at this morning.

7 A. Okay.

8 MS. ROWAN: And perhaps could we please have Mr. Goodwin's
9 report at page 6, split screen, as well. Not for public broadcast.

10 THE COURT OFFICER: If we can have the ERN of the first
11 document, please.

12 MS. ROWAN: U015-4164. Thank you. And the report now has an
13 MFI 1951. Could we have page 6 of the report on the left-hand side,
14 please. And if we could scroll down so that the totality of
15 question (iv) is in view, please. And with the report on the
16 right-hand side, could we increase it so that the first part of the
17 table is in focus. Yeah, thank you.

18 Q. Mr. Goodwin, this was one of the reports that you were asked to
19 deal with in isolation, and you were asked some specific questions
20 about that report.

21 A. Correct.

22 Q. We can see those questions on the left-hand side of --

23 A. Yeah.

24 Q. -- our screen. Now, you were referred to these answers by my
25 learned friend for the Prosecution this morning, and the answers that

1 you had given to question (iv). I just want to deal with this in a
2 little bit more detail with you. You were asked:

3 "Does this report appear to adhere to the relevant standards
4 required for such documentation?"

5 And you comment that there are some aspects present that you
6 would expect to see. But then you say this:

7 "However, some elements of the report are unusual. The profiles
8 of the victims and [the] family members are encrypted, so we can't
9 see which loci have been tested nor the identity of the alleles. As
10 such it is not possible to recheck the analysis.

11 "When making the calculation of likelihood ratio a reference
12 database would have to be used to estimate the significance of
13 sharing alleles - this information is not included in [this] report
14 so I can't comment on its appropriateness."

15 So it's right that in answering that question by the Prosecution
16 in your report, you have flagged three areas that you can identify
17 that are unusual about this report; is that correct?

18 A. That would be correct.

19 Q. So we have the absence of the DNA profile, the absence of the
20 named loci, and the absence of information about a reference
21 database.

22 A. Correct. I mean, the -- I would say the -- given the nature of
23 the identification programme, I can understand why the reference
24 database is not on there, and that may not be -- because that may be
25 contained in the overarching agreement document. But for the other

1 elements, I would agree with, yes.

2 Q. Now just dealing with this absence of loci and what we mean by
3 that. If we look at the report that we see on our right-hand side,
4 we can immediately see that this looks different to the last report
5 that we were looking at in that in that top line for loci, instead of
6 those numbers TH01, DS, DT, that we were looking at before, we just
7 have ICMP 1, 2, 3, 4, 5, 6; is that correct?

8 A. That's correct.

9 Q. Now, that line is where the identity of the loci should be
10 present as it was present in the last report we looked at.

11 A. That would be normal, yes.

12 Q. But we don't have any of the information about the loci in this
13 report.

14 A. Correct.

15 Q. It has been removed, redacted. It's not reported.

16 A. Correct.

17 Q. We can see that there's 16 loci that have been examined.

18 A. Correct.

19 Q. But we simply cannot know definitively which loci were looked at
20 because this report does not tell us?

21 A. Correct.

22 Q. Ordinarily, you would expect to see the loci on a report such as
23 this to enable you to understand and fully analyse the results.

24 A. That would be typical.

25 Q. And the absence of the loci here prohibits you from

Witness: William Goodwin (Open Session)

Page 23620

Cross-examination by Ms. Rowan

1 re-evaluating or assessing the validity or nature of these findings;
2 is that correct?

3 A. Correct.

4 Q. Now, I'd like to deal with on this report --

5 MS. ROWAN: Could we zoom in a little bit more, please, just so
6 that we have quite clear -- and then if you can go over to the right
7 a little bit. What I'm interested in looking at is ICMP 1 to 6,
8 please. Right. Thank you.

9 Q. Now, you had said in relation to questions from the Prosecution
10 a moment ago that these are not normal -- the expression you used was
11 not normal names that we see reflected in the alleles. I just want
12 to --

13 A. Correct. Yeah, the allelic designations are not typical.

14 Q. So I'd like to explore this a little bit with you. Now, as you
15 just said there, in your opinion the allelic designations are
16 abnormal.

17 A. Yes.

18 Q. Now, if we can just break down what that means. As we looked at
19 earlier, the allelic designations are these numbers that we're
20 looking at, 4.5, 4.8, 1.6, 1.9; yes?

21 A. Correct.

22 Q. The allelic designations that appear in this report are highly
23 unusual and not what you would expect to see for allelic designations
24 in a results table like this.

25 A. Correct.

1 Q. Now, let's look at why they're highly unusual. They are highly
2 unusual because, as you have explained to us earlier, you expect to
3 see STR repeats in multiples of 4 reflected as whole numbers, maybe
4 with a .2, rarely but sometimes a .1, a .3, very rarely a .4, never
5 over a .4.

6 A. Correct.

7 Q. And what we have here is a .5, a .8, a .6, a .9, .6, .5, .9?

8 A. Correct.

9 Q. So the majority of the figures that we can see on the screen and
10 in the drop-down, highly unusual --

11 A. Yes.

12 Q. -- for that reason?

13 A. Yes.

14 Q. We don't know where these numbers have come from. Would you
15 agree?

16 A. I would agree.

17 Q. You don't know how these numbers were reached at -- were reached
18 by whoever did this analysis?

19 A. Yeah, my presumption is it's an encrypted profile.

20 Q. So this is what I was going to come on to deal with. You have
21 made, if I could put it this way, an assumption that they may be
22 encrypted; is that correct?

23 A. That's correct.

24 Q. But you've made the assumption that they may be encrypted
25 because you can't explain these numbers; is that right?

Witness: William Goodwin (Open Session)

Page 23622

Cross-examination by Ms. Rowan

1 A. That is correct.

2 Q. One possible explanation that exists is that they could be
3 encrypted.

4 A. Correct.

5 Q. You don't know that they are, in fact, encrypted.

6 A. I do not know that for sure, but they are not -- it's not a
7 normal STR profile.

8 Q. So if we go then at the first part of that -- the first part,
9 perhaps it's the second part of that sentence. The starting position
10 is this is not a normal STR profile?

11 A. I would agree.

12 Q. It's highly unusual?

13 A. I would agree.

14 Q. You have no information about any of the surrounding work,
15 methodology, underlying reports, anything, to assist you in figuring
16 out why it's highly unusual?

17 A. I would agree.

18 Q. It might be encrypted. If it's encrypted -- and I appreciate
19 both of us are taking that on a speculative basis because neither of
20 us could say that for sure. If we speculate and say, well, it could
21 be encrypted, we can't know the nature of that encryption?

22 A. No.

23 Q. We couldn't know what the encrypted numbers mean?

24 A. Not without reverse coding it.

25 Q. We'd be shooting in the dark to guess what --

Witness: William Goodwin (Open Session)

Page 23623

Cross-examination by Ms. Rowan

1 A. Yeah.

2 Q. -- encryption or what code could possibly have been applied to
3 this?

4 A. Yeah. We cannot ascertain the underlying profile.

5 Q. No. So all that we can really say about this report is on its
6 face it's highly unusual and we have no idea why.

7 A. Yes.

8 Q. We can't say why.

9 A. Yeah.

10 Q. Have you ever seen numbers like this appear in a report like
11 this?

12 A. No, I have not.

13 MS. ROWAN: And perhaps just for the benefit of those following,
14 could we just look at this. Could we keep the right-hand side,
15 please, and could we take down the report for now, please, and can we
16 get back up P854 at page 197, please, split screen. And can we zoom
17 in, please, on the top right?

18 Q. Mr. Goodwin, this is the report we looked at previously --

19 A. Yes.

20 Q. -- that you had said contained numbers of the kind --

21 MS. ROWAN: I'm sorry. Can we go to the left. Thank you. A
22 little bit more to the right so we have a few more in view. Thank
23 you.

24 Q. We're looking at, on the left-hand side, the report that we
25 looked at earlier which contains the types of results you may expect

Witness: William Goodwin (Open Session)

Page 23624

Cross-examination by Ms. Rowan

1 to find. And on the right-hand side, we're looking at a report with
2 highly unusual findings you would not expect to find. And we can see
3 here the very visible difference between these two sets --

4 A. Yes.

5 Q. -- of results; is that right?

6 A. Correct.

7 Q. Thank you.

8 MS. ROWAN: Thank you. Madam clerk, could we please take down
9 the left-hand side report that we just looked at, and could we please
10 have back up Mr. Goodwin's report, please, at page 11, in its place.

11 Q. Mr. Goodwin, while that's being done, in your preparatory
12 session you had mentioned to the Prosecution that you understood at
13 the time that it was the ICMP's practice to encrypt.

14 A. That's correct.

15 Q. How and when did you come to know that or understand that?

16 A. Just from working in the field for the last 20 or so years. I
17 know it had been raised in the past.

18 Q. Yes. And when -- I'll just wait.

19 MS. ROWAN: Page 11, please.

20 Q. Would you agree that when we're looking at reports such as that
21 on the right-hand side that we've been looking at with the unusual
22 allelic designations, that there is or there exists a valid reason to
23 query the nature of those results because they are not usual?

24 A. Yeah, they are unusual reports.

25 Q. Yes. And because they are unusual, would you agree that that

Witness: William Goodwin (Open Session)

Page 23625

Cross-examination by Ms. Rowan

1 warrants or you would advise there to be further exploration as to
2 how those results were arrived at because it's not clear?

3 A. I mean, certainly knowing -- understanding what encryption was
4 used would be helpful.

5 Q. Certainly. Or perhaps it may be that encryption is not the
6 reason why they appear like that, because we can't know that. You or
7 any other expert would want to know how those numbers were
8 designated.

9 A. Yes.

10 Q. Thank you.

11 MS. ROWAN: We're at page 11. Thank you.

12 Q. Now, standing back a little bit. Reports of this nature, as a
13 collection that you were shown, not including those four that are --

14 A. Yeah.

15 Q. -- in the report. The SPO in your letter of instruction asked
16 you -- you'll see here, actually. We have it here on page 11. You
17 have this collection, you'll see, of victims' names?

18 A. Yeah.

19 Q. So we have for all of victims listed there a report that looks
20 like the one we have on the right-hand side?

21 A. Yeah.

22 Q. Now, you were asked some generally applicable questions that
23 apply to all of those reports?

24 A. Yeah.

25 Q. And they were whether the reports - so dealing with each one -

Witness: William Goodwin (Open Session)

Page 23626

Cross-examination by Ms. Rowan

1 appeared to adhere to the relevant standards required for such
2 documentation and whether such reports contained conclusions
3 supported by information set out in such items. And we can see at
4 the bottom of page 11 on our screens that you answer that question in
5 the collective at the outset.

6 A. Yes.

7 Q. Is that correct?

8 A. Yes.

9 Q. So when we look at your answer here, is it right that your
10 answer applies to all of those reports listed in the victims
11 mentioned there?

12 A. Yes.

13 Q. But it would equally apply to the report we're looking at now
14 which actually isn't in that list.

15 A. Okay.

16 Q. Would you agree?

17 A. Yeah, yeah.

18 Q. So all of the reports that look like that, the charts, the
19 one-page charts?

20 A. Yeah.

21 Q. Okay. So just in terms of how you dealt with the first
22 question, which is whether or not the reports appear to adhere to the
23 relevant standards required, if we could just look at your answers
24 here. One of the observations you make is that these are reports in
25 summary form. Is it right, then, to understand that in your opinion

Witness: William Goodwin (Open Session)

Page 23627

Cross-examination by Ms. Rowan

1 these are reports, they're just summaries of reports?

2 A. I believe this would be the report.

3 Q. Yeah. So in your opinion it's an expert report. It's just a
4 short one.

5 A. Yes.

6 Q. Now, we can come on to see the difference between a lengthy
7 expert report that can be served like the one we brought up on screen
8 a little bit earlier.

9 MS. ROWAN: But if we could please turn your report to page 12
10 where you set out your answer to this question.

11 Q. Now, here we have your response to this collection of reports
12 collectively. And would you agree it's right that you set out here
13 three elements that you identified in the reports that are not
14 standard in your opinion?

15 A. Yes, I would agree.

16 Q. And in short form, because we have covered a lot of this ground,
17 firstly, no information is provided on the methods used for the
18 analysis of samples which would normally feature?

19 A. Yeah.

20 Q. Secondly, DNA profiles presented in the reports are encrypted,
21 and this prevents re-evaluation of data or comparison with DNA
22 profiles. No statistical re-evaluation is possible. And, number
23 three, one element that is not very clear on the reports is who has
24 signed off the reports. There is a signature but it is not possible
25 to identify.

1 A. Correct.

2 Q. Right. And as you've already explained, it's right, isn't it,
3 that these three concerns apply to all of the reports that come in
4 this form that we see on our right?

5 A. Correct.

6 Q. And on top of those concerns, would you agree that we have two
7 additional concerns that apply, one being the unusual -- highly
8 unusual allelic designations; is that correct?

9 A. Yeah, I -- I mean, I would say that. I mean, I am confident
10 that it's the encryption.

11 Q. Yes.

12 A. Which is -- but is --- that in itself is unusual.

13 Q. Yes. And secondly the encryption of the loci?

14 A. Yes.

15 Q. So we can add two to that list as well?

16 A. Yeah. I believe the encryption is in there already in point 2,
17 the -- well, I'm presuming encryption.

18 Q. Yes. I had taken you to mean -- am I incorrect in my
19 understanding that when you had said encryption of the profiles, you
20 weren't referring to the encryption of the EPGs?

21 A. No, I was referring to the encryption of the data that we see in
22 these reports.

23 Q. Okay. So could we then add to the list absence of EPGs?

24 A. Yes.

25 Q. Yes. Okay. Just so that we have all of it in one place. All

Witness: William Goodwin (Open Session)

Page 23629

Cross-examination by Ms. Rowan

1 right. Now, in terms of this report specifically, so coming away
2 from these reports as a collective --

3 A. Yes.

4 Q. -- and back to this one we have here.

5 MS. ROWAN: Could we please go to page 6 of your report.

6 Q. Because as we dealt with earlier --

7 MS. ROWAN: And I'm interested in question 3. Yeah, great.

8 Q. As we dealt with earlier, you were asked some specific questions
9 on certain reports and then grouping-type questions on others.

10 A. Yeah.

11 Q. But one specific question that you were asked on this report
12 was:

13 "Does the information contained in this report support the
14 conclusion reached therein?"

15 And I just want to look at your answer in relation to this. So
16 if we look at the first part of your answer, it reads:

17 "As far as the reports can be interpreted the results support
18 the conclusion and the calculation is correct."

19 Would it be fair to put it perhaps in this way, that if the
20 results recorded in the report are accurate, then it is correct?

21 A. That would be reasonable.

22 Q. Yes. Because would you agree that there needs to be a caveat
23 within that answer somewhere to take account for the fact that you
24 can't check?

25 A. Yes.

1 Q. Yes. And you give it to us in a certain way at the beginning:

2 "As far as [this] can be interpreted ..."

3 A. Yes.

4 Q. Yes. So on its face it looks like the maths is correct, but we
5 can't know that it is?

6 A. Yeah, we cannot -- the end value is reasonable given the family
7 that's been tested and the underlying testing that we understand is
8 happening.

9 Q. Yes.

10 A. But we can't test the maths.

11 Q. Yes. Looking at that proposition, because you had mentioned
12 something along those lines earlier about what you might reasonably
13 expect a statistic to look at --

14 A. Yeah.

15 Q. -- can we just look at that briefly. When you are looking at
16 testing familial members against unknown samples, there are certain
17 ranges of results that you might expect to find --

18 A. Yes.

19 Q. -- in case of positive matching; is that right?

20 A. That's correct.

21 Q. So when you speak of results being reasonable or within the
22 range of reasonable responses you might expect --

23 A. Yes.

24 Q. -- what that simply amounts to is that's not an unusual result,
25 that's within the range that we would expect in this type of test

Witness: William Goodwin (Open Session)

Page 23631

Cross-examination by Ms. Rowan

1 with these types of relationships being tested; is that right?

2 A. That's correct.

3 Q. Okay. And you also give the caveat in that answer in any event,
4 if we look down, that given the format of the report, other than
5 checking the profiles are compatible, you can't scrutinize it.

6 A. Correct.

7 MS. ROWAN: And then the last -- I think it's the last question,
8 question (v) which doesn't appear on our report, it might be just
9 over the page, please. Thank you.

10 Q. You were asked:

11 "Does the conclusion in this report denote a low or high
12 likelihood that the deceased person was accurately identified through
13 DNA analysis?"

14 And you give a short response in relation to that answer, which
15 is:

16 "I would class this as extremely strong support for identity."

17 Would it be more accurate if I was to rephrase that to say a
18 finding of 99.999949 is extremely strong support for identity?

19 A. Yes, that --

20 Q. That that finding is extremely strong support?

21 A. That is the basis of my statement in question 5.

22 Q. Yes. But you are not in a position to tell us that this
23 analysis, this report, in fact, gives extremely strong support?

24 A. That's correct.

25 Q. Thank you. I think we're finally done with our report on the

Witness: William Goodwin (Open Session)

Page 23632

Cross-examination by Ms. Rowan

1 right.

2 MS. ROWAN: Could we please replace the report on the right with
3 SPOE00072678 to 00072750 RED, and I'm looking for page 14 of the PDF,
4 please, ERN ending 2691.

5 Q. Again, Mr. Goodwin, it's one that we've looked this morning
6 already with the Prosecution.

7 A. Yes.

8 MS. ROWAN: Thank you. Could we please zoom in as before.
9 Thank you very much. And could we please have page 9 of
10 Mr. Goodwin's report on the left. And could we scroll down please to
11 where that victim's name is at the bottom. Thank you.

12 Q. All right. This again was one of those reports that you were
13 asked to look at on an individualised basis as opposed to as a
14 collective; is that right?

15 A. Correct.

16 Q. And that might be because, it's right, isn't it, that in the
17 conclusions of this report there are -- there is mention of or
18 reference to a mutational event?

19 A. That's correct.

20 Q. Could you explain to us what a mutational event is, please?

21 A. Yes. A mutational event is where the STR passed on from the
22 parent to the child changes as a process of mutation. So the child
23 would receive a slightly different variant of the STR of the allele
24 than the parent contains.

25 Q. And you were asked to deal with that. Again, it's a question

1 like that we have -- like the ones we've dealt with earlier. You
2 have explained to the Prosecution that there are various approaches
3 to incorporating mutational events into findings like this; is that
4 right?

5 A. That's correct.

6 Q. There's different ways of doing it depending on the lab or the
7 person doing that work?

8 A. The lab would have a procedure, but procedures would vary
9 between laboratories.

10 Q. And then again, you have not been provided with the procedures
11 that were in place for dealing with this mutational event by this
12 laboratory?

13 A. That's correct.

14 Q. And as such, you cannot confirm whether or not the manner in
15 which this mutational event was dealt with would be of the standard
16 or done in a way that you would approve of or confirm is correct?

17 A. That is correct.

18 Q. With this report, you were also asked those two overarching
19 questions like you were with the other reports, and are we correct to
20 assume that the five points that we've looked at apply here?

21 A. They do.

22 Q. One exception being, if we look at this, we actually do have the
23 loci for this one?

24 A. Yeah. They vary between [Indiscernible] loci given depending
25 from report to report.

1 Q. And, of course, you'll need an opportunity to have a look at it,
2 but I believe we're dealing with 14 that have no loci.

3 A. Okay.

4 Q. And, again, just before we move away from this, looking at the
5 allelic designations both for the unknown reference sample at the top
6 but also with the various familial references that we have, would you
7 agree that, again, reflected in this report, are these highly unusual
8 allelic designations, .9, .7, .9, .9?

9 A. Correct.

10 Q. Correct. And the evidence that you gave in relation to the
11 report we previously looked at would equally apply in this case?

12 A. Correct.

13 Q. Thank you. And, again -- and this question applies to all of
14 these reports. Because of these issues, because of the absence of
15 information for this report, like any other, you cannot confirm the
16 accuracy or the reliability of these conclusions?

17 A. That is correct.

18 Q. Can we look at one more maybe, please.

19 MS. ROWAN: Could we have -- sorry, Mr. Goodwin, bear with me.
20 I'll get my bundle. Could we look at SPOE00291803, please.

21 Q. Mr. Goodwin, I'm not going to take you through all of the
22 reports that you have, because we, of course, have over 20, but I'd
23 like just to deal with one more --

24 A. Sure.

25 Q. -- just so that we -- we're confident that we have really

1 explored the various issues that apply to these summary reports.

2 MS. ROWAN: And if we could have this full page. Thank you. We
3 don't need the other one anymore. Thank you.

4 Q. Now, Mr. Goodwin, is it right that this is another one of the
5 summary reports that you were asked to look at in the course of your
6 work?

7 A. That is correct.

8 Q. And would you agree that, again, all of those weaknesses that
9 you identified in your report apply equally to this?

10 A. I would.

11 Q. But we have again the two new issues that we're looking at.
12 This one is a good example again of encrypted loci at the top; is
13 that right?

14 A. Correct.

15 Q. And, again, highly unusual allelic designations in the body?

16 A. Correct.

17 Q. Thank you. And perhaps it might be something that you could
18 look at for us over the lunch break. I'm conscious -- I don't want
19 to bring you through all of the 20-something reports that we have.
20 But the proposition I wish to put to you is that for all of the
21 reports except those four that are the subject of their separate
22 reports, these issues arise.

23 A. Yes.

24 Q. I don't know whether or not you would be confident to agree to
25 that without having the opportunity to check, which you must have if

1 you wish.

2 A. No, I would agree that for any that display this unusual allelic
3 pattern, that they are highly likely to be encrypted. I mean, one
4 thing to point out is if they all have a protocol key again which is
5 something I would expect in encryption. So I would agree with your
6 summary.

7 Q. Thank you.

8 MS. ROWAN: Now, the other -- we can take that down. Thank you
9 very much.

10 Q. The other broad overarching question that you were asked about
11 these reports --

12 A. Yes.

13 Q. We've looked at one of them.

14 A. Yeah.

15 Q. The other one was whether or not the reports contain conclusions
16 supported by the information set out in such an item. And for your
17 benefit, perhaps we should have your report, page 11, just in case
18 you wish to refer to it.

19 MS. ROWAN: The report is 1951.

20 Q. I'll simply bring it up in case you wish to refer --

21 A. Sure.

22 Q. -- to the answers that you have in your report. But in short,
23 if you would allow me to summarise your response to that, is that you
24 firstly do so -- you reiterate in that response that the DNA profiles
25 are encrypted, you can't do a full review. That's reported there,

Witness: William Goodwin (Open Session)

Page 23637

Cross-examination by Ms. Rowan

1 yes?

2 A. Yes.

3 Q. But you do go on to say that the conclusions "seem appropriate"
4 and "seem reasonable."

5 A. Yes.

6 Q. Yes. Now, that is an answer that's reflected in the report, but
7 just to clarify exactly what's meant by that. And while it may seem
8 obvious, you are not saying conclusively these findings are
9 reasonable and these findings are, in fact, appropriate?

10 A. No, I cannot do that without seeing the underlying data.

11 Q. Exactly. And were you to be provided with that, you could, of
12 course, do that analysis for us?

13 A. Yes.

14 Q. Thank you. And we've already gone through, and I don't intend
15 to repeat, the information you would require to do that and what's
16 missing.

17 MS. ROWAN: Your Honour, I'm conscious that my client has
18 stepped out of court. Would Your Honour allow us ten minutes so we
19 can identify the cause of the issue, please?

20 PRESIDING JUDGE SMITH: [Microphone not activated].

21 MS. ROWAN: Thank you.

22 PRESIDING JUDGE SMITH: We'll break until he can come back.

23 MS. ROWAN: I'm grateful. Thank you.

24 PRESIDING JUDGE SMITH: So we are temporarily adjourned. You
25 may leave the courtroom with the usher.

Witness: William Goodwin (Open Session)
Cross-examination by Ms. Rowan

Page 23638

1 [The witness stands down]

2 PRESIDING JUDGE SMITH: We're adjourned for just a few minutes.
3 Stay close.

4 --- Break taken at 12.24 p.m.

5 --- On resuming at 12.31 p.m.

6 PRESIDING JUDGE SMITH: Please bring the witness in.

7 MS. ROWAN: Your Honour, I'm told I'm almost hitting my two-hour
8 point. But with Your Honours' leave, I will finish by the lunch
9 break, and I understand other teams won't take their allocated time.
10 Thank you.

11 [The witness takes the stand]

12 PRESIDING JUDGE SMITH: All right. Witness, we will continue
13 with the questions.

14 MS. ROWAN:

15 Q. Thank you for your patience, Mr. Goodwin.

16 MS. ROWAN: Could we please have Prosecution Exhibit 854 at page
17 239.

18 Q. Mr. Goodwin, what I'd like to do now is come away from that
19 larger collection of documents and look at one of the four reports in
20 this subset, as I've been calling it, which are the subject of an
21 expert report. Does that make sense?

22 A. Yes.

23 Q. Great. And I'd just like to look at one of the summary reports
24 contained within that.

25 MS. ROWAN: Oh, that doesn't look right. 239, please. It

Witness: William Goodwin (Open Session)

Page 23639

Cross-examination by Ms. Rowan

1 should be another chart.

2 Q. Now, this is a report that you have not yet seen today.

3 A. Okay.

4 MS. ROWAN: Again, it should not be for public broadcast.

5 Q. You can see the possible identity names, you can see it's not
6 one we've already examined. The one that we were looking at from
7 this subset of four earlier concerned a different possible identity.

8 What I simply wish to do with this is, again, to reinforce the
9 difference between this report and the ones -- the three we've just
10 looked at --

11 A. Yes.

12 Q. -- circling back to where we began. If we look at this report
13 we see named loci, would you agree, at the top?

14 A. Correct.

15 Q. Allelic designations within the range that we would expect?

16 A. Correct.

17 Q. We have a rogue .2 in there, but we would expect to see that?

18 A. Exactly.

19 Q. And this is the type of result that you would expect to see, big
20 whole numbers, no decimals?

21 A. Correct.

22 Q. And, again, please say if you would like the time to consider
23 the other two reports, but would you agree that the one we've looked
24 at at the beginning, this one, and the other two that are dealt with
25 in that expert report, all come, as you would anticipate them, to

Witness: William Goodwin (Open Session)

Page 23640

Cross-examination by Ms. Rowan

1 look like?

2 A. Yes.

3 Q. Would you agree?

4 A. I would agree.

5 Q. Thank you.

6 MS. ROWAN: Can we scroll to the bottom of this, please, just so
7 we can just see the bottom.

8 Q. And we'll just look at another difference in these. One other
9 difference, would you agree, Mr. Goodwin, with these four reports as
10 compared to all the others is that we can see at the bottom here
11 "Initial Review," signature and date; "Final Review," signature and
12 date; and "General Review," signature and date?

13 A. Correct.

14 Q. On all of the other reports - and, again, if you need time to
15 check them, please say so - they only contain one report -- one
16 signature, pardon me?

17 A. Okay. Yeah. I'll take that as correct.

18 Q. And in none of those reports is the identity of the person
19 signing the report clear?

20 A. Correct.

21 Q. But here we have three dates in 2002 and we have three
22 signatures. In your opinion, does that indicate that a peer review
23 had been conducted?

24 A. This would suggest that that is based on peer review, yes.

25 Q. So where we have more than one signature indicating more than

Witness: William Goodwin (Open Session)

Page 23641

Cross-examination by Ms. Rowan

1 one review, we can likely deduce from that, that that report was
2 likely subject to peer review?

3 A. Correct.

4 Q. Could you please explain what peer review is?

5 A. Peer review is when a second person will independently check the
6 results to make sure that they agree with the presentation of the
7 data and the conclusions presented.

8 Q. And that is not case for the remaining reports?

9 A. That is not evident on the remaining reports.

10 Q. Yes, we can't know one way or the other?

11 A. Mm-hmm.

12 Q. Now, in relation to -- pardon me. No, we've dealt with the
13 dates. Thank you.

14 MS. ROWAN: That report can come off screen. Thank you very
15 much.

16 Q. Now, I'd like to turn to this expert report that we've mentioned
17 a couple of times.

18 A. Yeah.

19 MS. ROWAN: Could we please have P855. And, again, not for
20 public viewing. Thank you. And if you could just scroll down just
21 to where the body of the report begins, please.

22 Q. And so we can see here "Testimony requested," so the
23 instruction, we might say, given to the authors of this report. And
24 we can see here that they -- the ICMP notes that it was asked to
25 provide expert testimony on DNA analysis which ICMP had performed for

Witness: William Goodwin (Open Session)

Page 23642

Cross-examination by Ms. Rowan

1 UNMIK on biological samples provided by UNMIK.

2 A. Okay.

3 Q. We can see that's the report.

4 A. Yeah.

5 Q. Now, it's right --

6 MS. ROWAN: If we could scroll down to just have an opportunity
7 to refresh your memory in relation to what this report looks like.

8 Q. It's right that this report does deal in some detail with the
9 methodology deployed by the scientists in this case.

10 MS. ROWAN: If you could go down the page.

11 Q. We see here. So it explains the methodology that was used and
12 the tests that were performed.

13 A. Yes.

14 Q. So it's right, therefore, that for those independent four tests
15 we have a little bit more information than we otherwise would have as
16 to the methodology used?

17 A. Yes.

18 Q. And we also have at the end of this report the signatures of the
19 three persons responsible for providing that information?

20 A. Yes.

21 Q. So you were in a position to have a little bit of a better
22 understanding as to what work was done on those four test results
23 that we've been looking at as a subset?

24 A. Yes.

25 Q. Those four test results being the only four that present as you

Witness: William Goodwin (Open Session)

Page 23643

Cross-examination by Ms. Rowan

1 would be -- as you would expect?

2 A. Yes.

3 Q. Now, while that's the case, I just want to deal with a couple of
4 gaps that also exist within this report.

5 THE INTERPRETER: The interpreters kindly ask the speakers to
6 slow down when asking questions.

7 MS. ROWAN:

8 Q. Now I'm conscious --

9 THE INTERPRETER: We really need a pause between question and
10 answer. Thank you.

11 PRESIDING JUDGE SMITH: [Microphone not activated].

12 MS. ROWAN: Yes.

13 PRESIDING JUDGE SMITH: You're being warned again about how fast
14 you're talking.

15 MS. ROWAN: I've been warned to my left. I'm conscious of it.
16 Thank you.

17 Could we go to page 5 of this report, please.

18 Q. Mr. Goodwin, we've been asked not to mention the possible
19 identities by name, but I just want to deal with one of the possible
20 identities. As you will have heard me refer repeatedly to four
21 reports contained within this, this is the fifth. But would you
22 agree that this sample, and we can see at the top here the name of
23 the possible identity --

24 A. Yeah.

25 Q. And perhaps if we can refer to it in this way. It is from an

1 unknown bone sample marked N.N.986. So perhaps if we refer to this
2 as the report for 986. Would you agree that for sample 986, we don't
3 even have that underlying chart that we have for all the other
4 reports?

5 A. Certainly based on what is on the screen, that is true.

6 Q. And you have not otherwise been provided with that?

7 A. I do not believe I have, no.

8 Q. So for this sample, we have no information about the type of
9 testing that was used; is that right?

10 A. Based on what is here, that's correct.

11 Q. We cannot know which loci were tested or what allelic
12 designations may or may not have presented themselves in any test; is
13 that right?

14 A. Correct.

15 Q. We cannot know the nature or number of potential familial
16 relationships tested?

17 A. Correct.

18 Q. And we cannot know whether or not there is any data contained
19 within that analysis that would give you cause to query any
20 conclusions reached?

21 A. Correct.

22 Q. We've no information whatsoever about how the conclusions that
23 are recorded at the bottom of that page were reached by the
24 scientists who conducted the work?

25 A. Correct.

Witness: William Goodwin (Open Session)

Page 23645

Cross-examination by Ms. Rowan

1 Q. And as such, you are not in a position to comment upon in any
2 meaningful way, and certainly not confirm, the veracity of any
3 conclusion given?

4 A. Correct.

5 Q. Thank you. And in addition in this report, again, please say if
6 you'd like time to consider it more fully, but from what you remember
7 from considering this report, would you agree that this report also
8 does not contain any laboratory notes?

9 A. Correct.

10 Q. It also doesn't contain standard operating procedures?

11 A. Correct.

12 Q. And it also doesn't contain any mitigation mechanisms put in
13 place to deal with contamination?

14 A. Correct.

15 Q. So that information that we're lacking for all of the rest of
16 the reports is also missing from this report?

17 A. Yeah. I should say -- I mean, I would not expect that
18 information to be presented into any report.

19 Q. Yes.

20 A. I would expect it to be available if asked for.

21 Q. Yes. And what you would expect it to have is methodology and
22 results, which it does have?

23 A. Yeah.

24 Q. Yes. It reads -- and, apologies, I don't have the page
25 reference for this, but, Mr. Goodwin, if you would like to read it

1 for yourself, please let me know and I can pull the page reference.
2 But in this report, it says that the DNA profiles obtained from the
3 bone samples listed in this report were submitted by the respective
4 DNA laboratories to the Identification and Coordination Centre in
5 Tuzla, and they were entered into the database and a search was
6 performed. When a match between a DNA profile from a bone sample and
7 reference blood samples occurred, a DNA match report has been
8 generated.

9 So would you agree that's the explanation of the steps that the
10 scientists carried out when performing this work?

11 A. Yeah, that would be an understood pathway to come to the
12 conclusion.

13 Q. Yes. It's right that you were not given access to the database
14 used?

15 A. Correct.

16 Q. So you were unable to verify the information that was used to
17 run the searches; is that correct?

18 A. Correct.

19 Q. And you're unable to verify the results of any of those
20 searches?

21 A. Correct.

22 Q. I'm just thinking, Mr. Goodwin, about how to deal with -- we
23 have another situation where I'd like to ask you about another
24 identified individual. Before we take this off the screen, one final
25 question on this report and the four charts that we do have that

1 underlie it. While they are in keeping with what you would
2 anticipate seeing or would expect to see in terms of reports like
3 that, again, you cannot confirm that they are correct and you cannot
4 confirm that the work was reliably done?

5 A. No, I can ...

6 Q. No.

7 MS. ROWAN: I'm going to do it this way. Can I please have
8 P1951 at page 5, please. Oh, I don't mean that. Pardon me. I'm
9 going corrected. 1952, please, the letter of instruction.

10 Q. Mr. Goodwin, I'm just going to use this to identify a name for
11 you --

12 A. Okay.

13 Q. -- to stop us having to go into private session to do it. It
14 might be just easier.

15 MS. ROWAN: So if I can have page 5, please. Thank you very
16 much.

17 Q. Now, Mr. Goodwin, if you could just please look at that top
18 line. You see where it says "Victims"?

19 A. Yes.

20 Q. And we have a number of listed victims there. And do you see
21 the last named victim in that list?

22 A. Yes.

23 Q. Would you agree with me that while he appears in that list of
24 victims, there are, in fact, no DNA reports concerning that possible
25 ID?

Witness: William Goodwin (Open Session)

Page 23648

Cross-examination by Ms. Rowan

1 A. I have not -- I don't believe I've looked at any DNA reports
2 related to that individual.

3 Q. I'm grateful. Thank you. And if you would like to do so, we
4 will be breaking at 1.00, so, of course, you'll have the time to
5 double-check that. But I'll suggest to you that there are no
6 underlying DNA reports for this possible identification.

7 A. Yeah.

8 Q. And tentatively you would agree with that for now?

9 A. Yes.

10 Q. If you could confirm that over the lunchtime, I'd be grateful.
11 Thank you.

12 MR. PACE: Your Honour, I would rise to remind counsel of
13 instructions previously given by the Judge, that counsel's role is
14 not to task the witness, expert or otherwise, to undertake any
15 particular activities. Counsel can ask questions now, but the
16 witness is not here to receive homework.

17 PRESIDING JUDGE SMITH: Sustained.

18 MS. ROWAN:

19 Q. I'll ask you again at 2.30.

20 A. The name does not trigger any memories of DNA profile.

21 Q. Are you confident in your response that you have not seen any
22 DNA report for this person named?

23 A. I'm reasonably confident.

24 Q. Yes.

25 A. As confident as I can be.

Witness: William Goodwin (Open Session)

Page 23649

Cross-examination by Ms. Rowan

1 Q. And I'm sure if we're wrong, we'll be corrected by our learned
2 friend for the Prosecution over his own lunch break.

3 All right. If we just look at them -- just standing back and
4 looking at the difference in these two batches of reports that we
5 have, it's right to say that all of the reports that you've looked
6 at, bar that one that we're not dealing with today that was the
7 subject of a second report, they all originated from the ICMP?

8 A. Correct.

9 Q. However, four of the reports, on their face, vary significantly
10 from the rest of the reports that we've been looking at; is that
11 right?

12 A. Correct.

13 Q. And you're certainly not in a position to explain to us why that
14 difference exists?

15 A. Correct.

16 Q. And what I'd like to do is just look at some differences that we
17 may be able to find in those two subsets and some differences that
18 may exist.

19 Now, for the four reports we've just looked at that are the
20 subject of the report that we still have on screen on the right, it's
21 right that one difference for those reports is that we know that a
22 court, the ICTY, asked the ICMP to provide expert testimony on the
23 analysis that they had conducted for those samples; is that right?

24 A. I -- if it says in the report, yeah.

25 Q. Yes. Perhaps if we go to the first page. I thought we had

Witness: William Goodwin (Open Session)

Page 23650

Cross-examination by Ms. Rowan

1 looked at it, but we --

2 A. Yeah. Yeah, yeah. No, no, I -- I agree.

3 Q. The second difference is that all four of the reports dealt with
4 in this expert's report are dated in 2002.

5 A. Mm-hmm.

6 Q. However, all of the other reports are dated later, in 2005,
7 2006, and some as late as 2009. Would you be in a position to
8 confirm that date disparity?

9 A. I would have to double-check the date. I mean, I can't remember
10 the dates of the individual reports, but yes.

11 Q. It sounds accurate?

12 A. Yes.

13 Q. And another difference on the face of the reports is that we can
14 see evidence of what appears to be peer review for the four reports?

15 A. Yes.

16 Q. Subject to the report. Thank you.

17 Now, Mr. Goodwin, I'm hoping you can assist us with a different
18 type of document, and it's not one that we've looked at yet today.

19 MS. ROWAN: Could we please have SPOE00068661, page 1. Thank
20 you very much.

21 Q. Mr. Goodwin, this is what purports to be a Confirmation of
22 Identity document issued by UNMIK.

23 A. Okay.

24 Q. Can you see that?

25 A. Yes, I can.

Witness: William Goodwin (Open Session)

Page 23651

Cross-examination by Ms. Rowan

1 Q. Now, there should have been at least one of these types of
2 documents in the dataset that you received. Do you recall seeing a
3 document like this before?

4 A. I don't recall it, but that doesn't mean I didn't see it.

5 Q. You won't have seen this one.

6 A. Okay.

7 MS. ROWAN: Could we just scroll down, please. Not that far.
8 If we can just have the date toward -- yes, perfect. Thank you. All
9 right.

10 Q. Perhaps if I could give you a moment just to reorientate
11 yourself with this type of document before I ask you some questions
12 on it and allow you to read it.

13 A. Okay.

14 Q. Mr. Goodwin, this is another form of DNA evidence that exists in
15 the evidential matrix of this case, if I can put it that way, but
16 it's not something or not a type of document you've been asked to
17 comment upon specifically by the Prosecution.

18 A. Yes.

19 Q. But I'd like to ask for your assistance with it. First of all,
20 can we just see at the bottom, it's slightly obscured in the English,
21 the stamp, but we can see it's signed and we can see the name of the
22 person who signed it.

23 A. Yes.

24 Q. I don't believe there is any reason why this needs to be
25 confidential, unless I'm corrected? Nope. And there's a

Witness: William Goodwin (Open Session)

Page 23652

Cross-examination by Ms. Rowan

1 Mr. Baraybar who signed this off.

2 A. Yes.

3 Q. And we can see that he's head of office.

4 A. Yes.

5 Q. Now, you may not recall but we -- I don't believe we looked at
6 the page, but we can know or we can see in the report that we had
7 looked at earlier, he is -- his expertise is as a forensic
8 anthropologist.

9 A. Yes.

10 Q. Yes. You would agree with me that a forensic anthropologist is
11 not by default a DNA expert. They are traditionally separate
12 expertise?

13 A. Yes. They are forensic anthropologists. Their expertise is
14 anthropology.

15 Q. Yes. Not DNA analysis like yourself?

16 A. No.

17 Q. No. They are distinct and don't traditionally cross over while
18 they may well work together?

19 A. In cases like this, they would typically work together, so they
20 should know about each other's profession, but not be acting as a DNA
21 analyst or a DNA analyst as a forensic anthropologist.

22 Q. Not being straying into giving opinions or conclusions into a
23 field that is not their own. Like you wouldn't stray into giving
24 conclusions or opinions about anthropological expertise.

25 A. I wouldn't give a -- I wouldn't give opinion on anthropological

Witness: William Goodwin (Open Session)

Page 23653

Cross-examination by Ms. Rowan

1 expertise, but I may sign off a report which contains anthropological
2 expertise if a forensic anthropologist has contributed to that.

3 Q. Yes, and we've actually see seen a report just like that. The
4 report that we looked at previously is a report conducted by three
5 different experts who came together to share their individual
6 expertise to do a composite report and each three experts signed off.

7 A. Mm-hmm.

8 Q. Yes. So in that setting, of course, you would work together on
9 a report, but you would not consider yourself best placed to exert an
10 opinion independently on anthropological conclusions?

11 A. No, I would not.

12 Q. Yes. And the reverse is also true.

13 MS. ROWAN: Could we have the document, please, more centred
14 again? Thank you.

15 Q. What I'd like to do is just run through some quick questions
16 about the limits of the information that we have here. Would you
17 agree that this document purports to provide, as it says there, a
18 positive identity from the sampling that was done?

19 A. Yes, that would be the conclusion.

20 Q. It says:

21 "The DNA results obtained from the bone or tooth sample were
22 consistent with the listed familial relationship."

23 A. Correct.

24 Q. So it purports to suggest that whatever testing was done
25 resulted in a positive match conclusion?

Witness: William Goodwin (Open Session)

Page 23654

Cross-examination by Ms. Rowan

1 A. Correct.

2 Q. To an unknown familial relationship?

3 A. Correct.

4 Q. Just looking at the limitations of a document like this, and
5 this is ground that we've covered before, but we have not dealt with
6 a document such as this before. But just to confirm, we cannot know
7 where or when this testing was done from the face of the document?

8 A. Correct.

9 Q. We cannot know the methodology deployed in extraction?

10 A. Correct.

11 Q. We cannot, unless provided with it, know anything about the EPG?

12 A. Correct.

13 Q. We cannot know anything, unless provided with it, of any allelic
14 threshold information?

15 A. Correct.

16 Q. We cannot know anything about contamination mitigation
17 procedures that may have been put in place?

18 A. Correct.

19 Q. We cannot know that the DNA profiles were sound and that cannot
20 be checked by anybody?

21 A. Correct.

22 Q. We don't have the test results in a certificate from any
23 multi-mix that may have been used?

24 A. Correct.

25 Q. We can't know what multi-mix would have been used?

Witness: William Goodwin (Open Session)

Page 23655

Cross-examination by Ms. Rowan

1 A. Multiplex.

2 Q. Plex. Pardon me.

3 A. That's okay.

4 Q. The fourth time I'll get it right.

5 A. Multiplex.

6 Q. Multiplex has been used.

7 A. No, we do not -- from this, we do not know what DNA has been
8 analysed.

9 Q. We don't know what sample was used, whether it be bone, or what
10 type of bone or tooth, because we see here the report doesn't even
11 specify that, from the both or tooth, in the italicized indented
12 paragraph, line 2.

13 A. Yeah, no.

14 Q. So we don't even know what part of the skeletal remains were
15 tested?

16 A. Based on this, no.

17 Q. No. Simply based on the face of this document?

18 A. Yeah.

19 Q. We can't know the quality or the richness of any DNA sample
20 looked at?

21 A. No.

22 Q. We can't know whether or not any DNA sample examined was mixed,
23 partial, or composite from this alone?

24 A. From this alone, no. Although, I would expect a mixed profile
25 not to be of -- entered into the analysis.

Witness: William Goodwin (Open Session)

Page 23656

Cross-examination by Ms. Rowan

1 Q. But we cannot know?

2 A. We cannot know, but it would be highly unusual --

3 Q. Yes.

4 A. -- to use a mixed profile to search for other DNA profiles
5 because it would be very difficult to do that.

6 Q. We don't know how many alleles were tested?

7 A. We do not.

8 Q. Or loci?

9 A. You mean loci.

10 Q. Loci.

11 A. Yeah.

12 Q. Pardon me. Yeah. We don't know how many loci were tested. We
13 cannot tell if it was peer reviewed?

14 A. Correct.

15 Q. We cannot know whether or not any mutations were found?

16 A. Correct.

17 Q. We cannot know the allelic designations?

18 A. Correct.

19 Q. We cannot know if they are highly unusual like we saw in the
20 other reports?

21 A. Correct.

22 Q. We do not know if a prior probability was applied and if so what
23 it may have been?

24 A. Yeah, no statistic is given so I think we can assume -- well, we
25 can see that -- well, no statistic is given, so there's no indication

1 of prior or posterior probabilities being used.

2 Q. No indication of such, but cannot confirm that that may have
3 formed part of the analyses?

4 A. It may have formed part of the opinion.

5 Q. Dealing with the expression "consistent with." "Consistent
6 with" is not an expression that's used on Hummel's chart; is that
7 right?

8 A. Hummel's chart is not something I am overly familiar with. I
9 have commented on the report. But "consistent with" is not something
10 that we usually use in forensic reporting.

11 Q. Yes. Well, let's step away from Hummel's chart. "Consistent
12 with" is not used in forensic reporting because, would you agree,
13 it's not a very helpful term because it could mean such a broad --

14 A. Exactly. It doesn't imply given -- it can be consistent with
15 without being -- it gives no value.

16 Q. Yes. Something --

17 A. It gives no indication of how strong that consistency is, if you
18 want to put it like that.

19 Q. Because a finding could be consistent with a result, but that
20 result could still be highly unlikely if it's not inconsistent with?

21 A. Yeah, I think -- I think that the -- the problem with using
22 "consistent with" is it just doesn't give any indication as to the
23 strength of that consistency nor the basis of it.

24 Q. This could be referring to a 50 per cent match or a 90 per cent
25 match and we wouldn't know?

Witness: William Goodwin (Open Session)

Page 23658

Cross-examination by Ms. Rowan

1 A. In principle, yes.

2 Q. Yes. And, obviously, for your purposes for this area of
3 expertise, the difference between a 50 per cent match and a
4 90 per cent match is significant?

5 A. Yeah. I mean, just on terminology, 50 per cent match,
6 90 per cent match doesn't make a lot of sense either.

7 Q. Probability.

8 A. Probability, yeah. 50 per cent probability versus a 90 per cent
9 posterior probability.

10 Q. Posterior. If I can rephrase my question to 50 per cent
11 posterior probability to 90 per cent?

12 A. Yeah.

13 Q. Either of those figures could be consistent with?

14 A. 50 per cent wouldn't be consistent nor inconsistent in the way
15 that I would interpret it. But, yeah, 60 per cent could be.

16 Q. Yeah.

17 A. No, you're right.

18 Q. It could mean anything. It could mean a wide variety of --

19 A. There's a wide range of strength of evidence that that could
20 relate to.

21 Q. Yes. And you're not in a position to rerun an analysis with a
22 document like this?

23 A. No.

24 Q. And you can't know whether or not there's cause or reason to
25 doubt these findings without the underlying material?

Witness: William Goodwin (Open Session)

Page 23659

Cross-examination by Ms. Rowan

1 A. No.

2 Q. And you cannot know whether or not there's any anomalies within
3 the results?

4 A. No.

5 Q. And we cannot meaningfully ask you to comment on this because
6 there's a complete absence of where this conclusion came from?

7 A. Yeah, I think that'd be reasonable.

8 Q. Yes.

9 MS. ROWAN: Finally, if Your Honour would allow me five minutes,
10 I can finish.

11 PRESIDING JUDGE SMITH: No.

12 MS. ROWAN: No? 2.30.

13 PRESIDING JUDGE SMITH: We have to give the court reporter and
14 the interpreters a well-deserved rest.

15 So you'll be excused from the courtroom for an hour and a half
16 for lunch. We'll see you back here at 2.30.

17 THE WITNESS: Okay. Thank you.

18 [The witness stands down]

19 PRESIDING JUDGE SMITH: [Microphone not activated].

20 MR. ELLIS: Your Honour, just to update you, my time estimate
21 was one hour, but a lot of my questions have been covered. I don't
22 anticipate being longer than about 15, 20 minutes.

23 PRESIDING JUDGE SMITH: Thank you.

24 Anybody else want to weigh in on time?

25 MS. TAVAKOLI: I doubt I'll have any questions.

Witness: William Goodwin (Open Session)

Page 23660

Cross-examination by Ms. Rowan

1 MR. TULLY: And I doubt I will have any questions, Your Honour.

2 PRESIDING JUDGE SMITH: All right. Fine.

3 We'll see you all at 2.30. We're adjourned until then.

4 --- Luncheon recess taken at 1.01 p.m.

5 --- On resuming at 2.30 p.m.

6 PRESIDING JUDGE SMITH: You may bring the witness in.

7 [The witness takes the stand]

8 PRESIDING JUDGE SMITH: You may be seated.

9 Ms. Rowan.

10 MS. ROWAN: Thank you, Your Honour.

11 Q. Mr. Goodwin, welcome back.

12 A. Thank you.

13 Q. I just have a handful of questions left.

14 Your preparatory session that you had with the Prosecution last
15 week over Zoom --

16 A. Yes.

17 Q. -- do you recall that?

18 A. Yes.

19 Q. I just want to deal with one comment that you had made to the
20 Prosecution --

21 A. Yes.

22 Q. -- in the course of that session.

23 A. Yes.

24 Q. You mentioned to them - and for those following, it was page 1,
25 paragraph 4 of the note we have of that conversation - you asked them

Witness: William Goodwin (Open Session)

Page 23661

Cross-examination by Ms. Rowan

1 whether or not in your status as their witness should mention certain
2 weaknesses during your testimony. Do you remember seeking
3 clarification on that from the Prosecutor?

4 A. Yes.

5 Q. Could I ask you, when you asked that question of them, what
6 weaknesses did you have in mind?

7 A. The data that I presented in the report in terms of likelihoods
8 was based on analysis that I would think ICMP probably carried out
9 similar analysis. So Prosecution touched on one element of that this
10 morning when asking about population in a substructure. And so
11 incorporating population in substructure would reduce the likelihood
12 ratios where I have calculated likelihood ratios.

13 Another element is that the PowerPlex 16 has two -- or four
14 loci. There are two pairs of loci on the same chromosome. So in
15 some circumstances one of those is discounted as evidence, which,
16 again, reduces the overall likelihood ratios.

17 Q. Just dealing with that last point as we haven't dealt --

18 A. Yeah.

19 Q. -- with that before. Could you just spell out in a little more
20 detail what impact that may have on a result?

21 A. Yes. So the fact that two loci are situated on the same
22 chromosomes means they are physically attached and, therefore, they
23 may be not inherited entirely independently. They are located a
24 significant distance apart on the chromosomes which means that any
25 combination between them is common during miosis, if you want to be

Witness: William Goodwin (Open Session)

Page 23662

Cross-examination by Ms. Rowan

1 technical.

2 Q. Yes.

3 A. But to err on the side of caution, that can be taken into
4 consideration, that linkage between them, physical linkage between
5 them.

6 Q. And you mentioned that that is something that can occur on the
7 PowerPlex 16 testing system?

8 A. There are two pairs of loci on the PowerPlex 16 where that
9 applies.

10 Q. And the reason that that's relevant to this case is that while
11 it is not indicated on the reports that we have that that is the test
12 used, you can deduce from the tests where the loci are named that
13 that is the likely test that has been used?

14 A. Correct.

15 Q. And that is why that concern of yours would be relevant to the
16 testing that we see?

17 A. Yes.

18 Q. I'm grateful. Are you, could I ask you now, having given
19 evidence for a morning, confident that you have had the opportunity
20 to go through all of the weaknesses as you see them in the underlying
21 data?

22 A. Yes, I believe so.

23 Q. And then finally just on this point, when you raised that
24 question with the Prosecution, did the Prosecution ask you to
25 elaborate or explain to them the weaknesses that you saw?

Witness: William Goodwin (Open Session)

Page 23663

Cross-examination by Ms. Rowan

1 A. They did not at that time, no.

2 Q. Thank you. So just to conclude, Mr. Goodwin, with my questions
3 for today, it's right that what you've done is assisted this Court to
4 the best of your ability to answer all of the questions that you were
5 specifically asked to answer?

6 A. I have tried my best to do that.

7 Q. And you have had a dataset that's been provided to you that you
8 would agree was somewhat limited?

9 A. Yes.

10 Q. And all of the answers you've given are based upon the data as
11 you see it with all the limitations that come with that?

12 A. Yes.

13 Q. Through no fault of your own that dataset is limited. But if we
14 could summarise it in this way: Because of the limitations, as we've
15 gone through over the course of the morning, on the lack of
16 information and the resultant inability of you to re-test or examine,
17 the position simply is, would you agree, that you cannot confirm any
18 of the conclusions in any of the reports that you have seen to be, in
19 fact, accurate or reliable?

20 A. I cannot compare them to the original data in order to do that.
21 Based on the data provided, I would stand by the sort of general
22 conclusions that I've made in terms of what -- this is making the
23 assumption that what the ICMP have provided is correct.

24 Q. Yes. You're in a position to look at the reports on their face?

25 A. Yes.

Witness: William Goodwin (Open Session)

Page 23664

Cross-examination by Ms. Rowan

1 Q. And assume that they may well be correct?

2 A. Yes.

3 Q. But you cannot test that underlying data to confirm for your own
4 purposes that it is, in fact, correct?

5 MR. PACE: Objection, Your Honour. Asked and answered now,
6 before the break, multiple times at that stage.

7 PRESIDING JUDGE SMITH: Overruled.

8 Please move on if you don't have any other questions.

9 MS. ROWAN: Perhaps if we could just have the answer first?

10 PRESIDING JUDGE SMITH: What?

11 MS. ROWAN: If Your Honour has overruled the objection, perhaps
12 we could have the answer.

13 PRESIDING JUDGE SMITH: He can answer the question.

14 MS. ROWAN: Would you like me to repeat it?

15 THE WITNESS: Please do.

16 MS. ROWAN:

17 Q. You cannot test the underlying -- no, I'll read the full
18 question. You're in a position to look at the reports on their face,
19 which you confirmed you're in a position to do, and you've also
20 confirmed you can assume them to be correct. But the question that
21 was objected to was you cannot test the underlying data to confirm
22 for your own purposes --

23 A. Yeah.

24 Q. -- that it is, in fact, correct, that being distinct from
25 assuming it to be?

Witness: William Goodwin (Open Session)

Page 23665

Cross-examination by Mr. Ellis

1 A. Yeah. I would say I cannot evaluate the underlying DNA profiles
2 that have made up the reports.

3 Q. And as such, you're not in a position to adopt those conclusions
4 as your own?

5 A. No, I can only comment on those as belonging to ICMP.

6 Q. Thank you, Mr. Goodwin.

7 PRESIDING JUDGE SMITH: Ms. Tavakoli.

8 MS. TAVAKOLI: I have nothing to add. I simply adopt the
9 cross-examination of my learned friend.

10 MR. TULLY: And the same for us, Your Honour. Thank you very
11 much.

12 PRESIDING JUDGE SMITH: All right.

13 Mr. Ellis.

14 MR. ELLIS: Your Honour, just a moment if I may.

15 Cross-examination by Mr. Ellis:

16 Q. Good afternoon, Mr. Goodwin.

17 A. Good afternoon.

18 Q. My name is Aidan Ellis and I'm representing the fourth
19 defendant, Mr. Jakup Krasniqi. I don't want to go over topics
20 yourself already explained in the course of the day. I did want to
21 ask you a small number of questions about just two topics. The first
22 is prior probabilities --

23 A. Yeah.

24 Q. -- and the second would be the adjustments for population
25 substructure.

Witness: William Goodwin (Open Session)

Page 23666

Cross-examination by Mr. Ellis

1 A. Okay.

2 Q. In terms of prior probabilities, have I understood correctly
3 that in the DNA reports, where we see a conclusion expressed as a
4 percentage, that reflects a combination of the likelihood ratio with
5 a prior probability?

6 A. That is correct.

7 Q. And so you've explained, I think in your first report, that if
8 you had a hundred people killed in, say, an air crash, then the prior
9 probability that any specific remains match a particular person would
10 be 1 in 100?

11 A. Simplistically, yes.

12 Q. And then your assumption would be in a post-conflict situation
13 that one might base the prior probabilities based on the approximate
14 number of missing people --

15 A. Yes.

16 Q. -- from the conflict; is that right?

17 A. That would be common practice.

18 Q. And in simple terms, the more missing people that you have, the
19 lower the prior probability becomes?

20 A. Yes.

21 Q. And --

22 A. That's correct.

23 Q. And that ultimately would result in a lower percentage
24 conclusion being expressed?

25 A. That is correct.

Witness: William Goodwin (Open Session)

Page 23667

Cross-examination by Mr. Ellis

1 Q. And so determining the prior probability is something that has
2 to be based on factual information about the conflict. It's not a
3 question of DNA expertise --

4 A. It's --

5 Q. -- as such?

6 A. -- not based on DNA expertise. And so, yeah, it is based on the
7 information known about the conflict or the scenario that you're
8 working with.

9 Q. Yeah. And so if we could have an example on screen, please,
10 which we've looked at a couple of times today already.

11 MR. ELLIS: And I think it's not to be broadcast outside. It's
12 U015-4164, please. And if we could scroll down a little so that the
13 conclusion can be read.

14 Q. What we see there is that it simply gives the percentage and
15 says "when using prior odds of 1/3000." Is that --

16 A. Yes.

17 Q. Do you see that?

18 A. That's correct.

19 Q. It doesn't tell us how that figure of 1/3000 has been arrived at
20 or indeed who has determined that that's the appropriate figure to
21 use, does it?

22 A. It does not on this report, no.

23 Q. Very well. Now, if we could go to a different report, please,
24 which would be SPOE00072678 at page SPOE00072691.

25 THE COURT OFFICER: Is it RED or RED2?

Witness: William Goodwin (Open Session)

Page 23668

Cross-examination by Mr. Ellis

1 MR. ELLIS: For these purposes, I think either could be used.

2 And, again, if we could scroll down so that the conclusion can be

3 read.

4 Q. Am I reading correctly, Mr. Goodwin, that we now have a report

5 using a -- using prior odds of 1/1300?

6 A. That is what is stated here, yes.

7 Q. And, again, there is no explanation here of how that 1/1300

8 figure has been arrived at, is there?

9 A. Not -- not that I can see, no.

10 Q. And, indeed, based on the information you've been provided with,

11 you wouldn't be able to tell why some of these reports use 1/3000 and

12 some use 1/1300?

13 A. I'm not sure on the chronology of the reports. It is, again,

14 accepted practice that the prior probabilities can change as the

15 identification programme proceeds and there are fewer missing people,

16 but it may be on -- I presume it's on updated information or being

17 more conservative with 3000.

18 Q. Quite. But without an explanation, that's an assumption --

19 A. Yeah.

20 Q. -- isn't it?

21 A. It's an assumption. Absolutely.

22 Q. Yeah. And, of course, if the 1/3000 figure had been used for

23 these reports, then the percentages would come down, wouldn't they?

24 A. Yes. I mean, the impact it would have on this particular case

25 is minimal because the likelihood is so high. It would probably not

1 change the percentage figure with the 99.99999 per cent. It may
2 change it slightly. It might take one 9 off it, but it wouldn't have
3 a -- in my opinion, a significant effect on it.

4 Q. I follow. Thank you. And if we could look at one more, please,
5 which is 110668 to 110674 at page 110671. Now, on this occasion, you
6 can see that a prior probability was left at the level of 0.5, and I
7 think you discussed this with the Prosecution in a preparation
8 session back in July 2023. And I'll just read to you one of the
9 things you said then.

10 A. Sure.

11 MR. ELLIS: For the record, it's at page 114018 at paragraph 6.

12 Q. You said:

13 "... 0.5, is a reasonable value in this context given the
14 circumstances of the exhumation of the remains from a named grave
15 (presumptive identification)."

16 Do you recall giving that explanation a year ago?

17 A. It sounds familiar.

18 Q. So in this case, the fact that a body has been exhumed from a
19 named grave has been used to reduce the prior probabilities to 0.5?

20 A. Yes. The 1/3000 prior probability would assume you have no
21 information about who the individual is and it's a completely random
22 chance. Whereas, in this case, where there has been an
23 identification carried out, you could argue whether it should be .5
24 or slightly different, but I would say it would be consistent with
25 normal practice.

Witness: William Goodwin (Open Session)

Page 23670

Cross-examination by Mr. Ellis

1 Q. But, of course, you would have no information about the factual
2 circumstances which led to a particular body being in a particular
3 grave?

4 A. No.

5 Q. No.

6 A. I do not.

7 Q. And so effectively what's happening with the prior probabilities
8 is that a factual assumption is being introduced into the
9 calculations. That's right, isn't it?

10 A. That would be true, yes.

11 Q. And you're not in a position today to verify whether that
12 factual assumption is correct or not?

13 A. That is correct.

14 Q. Thank you. Could I then move to the second topic which was the
15 population substructure adjustment.

16 A. Yes.

17 Q. Now, the background to this is that you had explained in a
18 footnote to your first report that --

19 A. Yes.

20 Q. -- no corrections for population substructure had been made.

21 A. That's correct.

22 Q. And you then explained the position a little bit further in your
23 Preparation Note.

24 A. Yes.

25 Q. And I just want to read back to you part of what you said at

1 paragraph 6 of the preparation note. You said:

2 "Correction for population substructure would reduce the figure
3 a little. Generally, in an identification report, correction for
4 population substructure is not included. From a criminal prosecution
5 perspective, correction for population substructure would more
6 commonly be included, but this varies from jurisdiction to
7 jurisdiction."

8 Do you recall --

9 A. Yeah.

10 Q. -- saying that?

11 A. That is my understanding, yes.

12 Q. And can you explain why it is that from a criminal prosecution
13 perspective this correction would more commonly be applied?

14 A. It would be err to the side of caution and reduce the likelihood
15 ratio.

16 Q. And so far as we can tell from the face of these -- all of these
17 reports that have been provided, no such correction has been applied,
18 has it?

19 A. I do not believe a correction would have been applied at this
20 time, at the time that these reports were produced.

21 Q. Presumably --

22 A. I don't know that, but I don't believe they have been, and I
23 don't believe they would be for this type of work typically.

24 Q. Because these are identification reports. They're not criminal
25 reports.

Witness: William Goodwin (Open Session)

Page 23672

Cross-examination by Mr. Ellis

1 A. Exactly.

2 Q. Yeah, I understand. And you gave the example this morning, you
3 were speaking about one specific example with Mr. Pace for the
4 Prosecution, and on that example, you said, I think at transcript
5 page 20, that the effect would be to reduce the figure of 216.000 as
6 a likelihood ratio to around 15.000?

7 A. That's correct.

8 Q. And, of course, that correction has not been applied to all of
9 the other 25, or however many exactly it is, that you've looked at?

10 A. That's my understanding.

11 Q. Yeah. But if it were to be applied, we would probably see a
12 reduction in all of those cases?

13 A. Yeah, it would certainly -- if you applied it and it hadn't been
14 applied, it would lower the likelihood ratio.

15 Q. And without going through the exercise of applying the
16 calculation to each case, we don't know how much the reduction would
17 be in each case?

18 A. No. Typically, they're in the region of 10 to 20 fold, but it
19 depends on each -- on the specifics of the case.

20 Q. Thank you. Just a moment. Thank you very much.

21 A. Thank you.

22 Q. Those are my questions.

23 PRESIDING JUDGE SMITH: Redirect examination?

24 MR. PACE: Yes, thank you, Your Honour. We can take the
25 document that's on the screens down.

Witness: William Goodwin (Open Session)

Page 23673

Re-examination by Mr. Pace

1 Re-examination by Mr. Pace:

2 Q. And good afternoon this time, Mr. Goodwin.

3 A. Good afternoon.

4 Q. So, Witness, at pages 88 to 93 of today's transcript, so just
5 earlier during the Veseli cross-examination, you were taken to your
6 general comments in relation to a number of documents, and those
7 general comments are, and we can call it up, in your first expert
8 report that's now MFI P01951, pages 11, 12, and we'll start from page
9 11, which is page 103383.

10 Now, as that's being called up, Witness, the counsel summarised
11 or paraphrased in their question from one of these pages where you
12 elaborated on some of the aspects of the reports which are not
13 standard. Do you remember that question and answering?

14 A. I do, yes.

15 Q. Now, so if we turn first to page 103384, the next page, and we
16 look at the top. So there is the -- the three bullet points are what
17 counsel summarised to you. And if we go back to the immediately
18 preceding page at the bottom of that page - thank you - we see at the
19 bottom an excerpt that you were referred to but was not read out. So
20 here we see, I'm quoting:

21 "The key elements of a DNA report are present, but there are
22 some aspects which are not standard ..."

23 Now, Witness, you confirmed during cross-examination this second
24 part or the second clause of that sentence. And my question is
25 whether the first part is correct; that is, that the key elements of

Witness: William Goodwin (Open Session)

Page 23674

Re-examination by Mr. Pace

1 a DNA report are present in the multiple DNA reports to which you're
2 referring to in this excerpt from your report?

3 A. The -- when we're talking about the key elements here, we are
4 looking at a DNA profile. For the ones where they are available,
5 that would apply. The biggest non-consistency with the standard
6 report is the encryption aspect.

7 Q. And other than that biggest inconsistency, is what you said here
8 correct today as well, that the key elements of the DNA report are,
9 in fact, present?

10 A. The -- it depends. These are -- like, these are streamlined
11 report, so they are a report, obviously, where the ICMP have been
12 commissioned to do the work, and they are providing information as I
13 had expected them to work. So the profiles are there, whether they
14 are encrypted or not. The summary is there, whether encrypted or
15 not. The names are there and the relationships are there. So most
16 of the key information is there but with the caveat with the
17 encryption it makes it hard to interpret that without de-encrypting
18 it.

19 MR. PACE: And we can this document down.

20 Q. At page 114 of today's transcript, still during the Veseli
21 cross-examination, you were asked about a document which I'd like to
22 call up.

23 MR. PACE: And that is SPOE00068661-00068678, that's going to be
24 from the Veseli presentation queue. And we'll go to the first page
25 of that document that was shown to you. Now if we scroll down a

1 little bit to the bottom of the page.

2 Q. Do you recall counsel noting that the person signing off on this
3 particular document is a forensic anthropologist?

4 A. I do, yes.

5 MR. PACE: And if we can zoom in on the signature block, please.

6 Q. Do you see that he is here signing off as the Head of the Office
7 on Missing Persons and Forensics?

8 A. I do, yes.

9 Q. Now if we read the paragraph immediately preceding the signature
10 block, we see that this reads:

11 "The Office on Missing Persons and Forensics has compared the
12 Antemortem and Postmortem information and the results collaborate the
13 above."

14 Now, would you agree with me that it seems to be saying rather
15 than "collaborate," perhaps "corroborate" would be more logical --

16 A. "Corroborate" would be a better word.

17 Q. And when reference is here being made to "the above," we can see
18 if we just zoom back out a little bit or from recollection, that the
19 above is the DNA analysis that is summarised or referred to; is that
20 correct?

21 A. The DNA and also the -- I believe the anthropology. Yeah, the
22 antemortem/post-mortem data in general.

23 Q. Now, in your capacity as an expert on forensic genetics, to your
24 knowledge is such a comparison, the one noted here, between
25 ante-mortem, post-mortem information, and DNA results, something that

Witness: William Goodwin (Open Session)

Page 23676

Questioned by the Trial Panel

1 is to be expected in an identification report?

2 A. In an ideal situation, all the information available should be
3 used to form the opinion of identification. So this would include
4 ante-mortem/post-mortem data, circumstantial data, any information
5 which is a -- considered a line of evidence would be in an ideal
6 situation included in the evaluation.

7 Q. Thank you. No further questions.

8 PRESIDING JUDGE SMITH: Thank you.

9 Judge Barthe.

10 JUDGE BARTHE: Yes, thank you, Judge Smith.

11 Questioned by the Trial Panel:

12 JUDGE BARTHE: And good afternoon, Mr. Goodwin.

13 A. Good afternoon.

14 JUDGE BARTHE: The Panel has a few more questions for you that
15 we believe are necessary to better understand your evidence.

16 A. Okay.

17 JUDGE BARTHE: And my first question is this: I assume you're
18 familiar with the work of the International Commission on Missing
19 Persons, or ICMP; is that right?

20 A. I am, yes.

21 JUDGE BARTHE: So may I ask you to comment in general on the
22 work of ICMP in the field of DNA analysis, and in particular on the
23 standards and methodology applied?

24 A. Yes. They have been -- they were established in late 1990s in
25 response to the conflict in the Balkans and became operational at the

Witness: William Goodwin (Open Session)

Page 23677

Questioned by the Trial Panel

1 end of that period early 2000s. They have -- they pioneered the use
2 of DNA-led identification in this type of work. Prior to this, it
3 was only using DNA to test and -- presumptive identification. So as
4 such, they have pioneered the use of the DNA-led approach to human
5 identification in particular in post-conflict contexts but also in
6 DVI, disaster victim identification, which has the same -- many of
7 the same challenges.

8 So they are -- they're a highly respected organisation. They
9 have published a lot of the papers which the rest of us follow now
10 when extracting DNA from bone samples and carrying out comparisons of
11 DNA profiles from bone samples and reference samples.

12 JUDGE BARTHE: Thank you, Mr. Goodwin. We understand the
13 reservations you made with regard to what you can and what you cannot
14 say about the individual DNA examinations. But when preparing your
15 reports, did you have and/or do you have any doubts as to the
16 standards and methods used by ICMP in their respective reports?

17 A. In general, no. In general, I would say they are -- they have
18 established the benchmark for the methodology to be used in this type
19 of work, not entirely alone. There's other laboratories around the
20 world like the American Armed Forces Identification Laboratory which
21 have also set precedent in how to go about using DNA for
22 identification. But certainly in terms of processes, I have no
23 reason to question what they're doing.

24 JUDGE BARTHE: Thank you. And do you have any indication that
25 there were flaws, shortcomings, or inconsistencies in the analysis of

Witness: William Goodwin (Open Session)
Questioned by the Trial Panel

Page 23678

1 the DNA samples that would affect the conclusions of ICMP; and if so,
2 could I ask you to summarise those flaws, shortcomings, or
3 inconsistencies again for us, if there are any?

4 A. Based on what I have seen and what I have knowledge of the ICMP,
5 I do not have any specific knowledge of flaws in their processes.

6 JUDGE BARTHE: Thank you. I have no further questions. Thank
7 you.

8 A. Thank you.

9 PRESIDING JUDGE SMITH: Judge Mettraux.
10 Judge Gaynor.

11 JUDGE GAYNOR: Thank you, Judge Smith.

12 Good afternoon, sir. I was wondering if you could help us
13 understand some of the evidence you gave about allelic values or
14 allelic designations.

15 A. Yeah.

16 JUDGE GAYNOR: I think you said that a value such as 4.9 is much
17 rarer than a value such as 4.0 or 4.1; is that right?

18 A. Yeah, 4.9 would not exist. 4.0 could exist, yes.

19 JUDGE GAYNOR: And just very briefly why is that?

20 A. Well, because we would -- if we had an allele of 4 and we added
21 one more base to it, it would be a 4.1. If we added two bases to it,
22 it would be a 4.2; three bases would be a 4.3. If we add four bases
23 to it, it becomes a 5.

24 JUDGE GAYNOR: Right.

25 A. And so we never get more than .3 unless we have these two Penta

Witness: William Goodwin (Open Session)
Questioned by the Trial Panel

Page 23679

1 repeats.

2 JUDGE GAYNOR: Now, in some of the tables of data that we saw
3 earlier --

4 A. Yes.

5 JUDGE GAYNOR: -- we saw, for example, a sample where both
6 allelic values 7.9 and 4.9 appeared.

7 A. Yes.

8 JUDGE GAYNOR: How likely is that to happen, or is it even
9 possible for that to happen?

10 A. These I believe are through encryption. I think this is where
11 the alleles have been encrypted and they're not the actual allele.

12 JUDGE GAYNOR: Okay. So perhaps it would help if we bring up a
13 document here.

14 A. Yeah.

15 JUDGE GAYNOR: Could I ask the Court Officer to bring up
16 SPOE00291803.

17 Now, I think we see in this sample, we see the value under ICMP
18 3, 7.9. And under ICMP 13, we see the value 4.9.

19 A. Yes.

20 JUDGE GAYNOR: So in this particular sample, we have both 7.9
21 and 4.9.

22 A. Yeah.

23 JUDGE GAYNOR: Now how -- well, am I to understand that that is
24 not possible?

25 A. No, this is an encrypted -- this is not the STR profile. This

Witness: William Goodwin (Open Session)
Questioned by the Trial Panel

Page 23680

1 is an encrypted profile. I am sure this is an encrypted profile.

2 JUDGE GAYNOR: Now, on the question of encryption, why would the
3 allelic values themselves be encrypted? I can understand that the
4 person's individual name or date of birth or personal information
5 might be encrypted, but why would the allelic value be encrypted?

6 A. Potentially to stop the DNA profile being used for a purpose
7 outside of its use in this identification. So, for example, looking
8 at paternity, non-paternity, in another related case, or relatedness
9 between individuals who are involved in the identification process.

10 JUDGE GAYNOR: Now, in the data that we're looking at, the top
11 row relates to the sample of the deceased; isn't that correct?

12 A. That's correct.

13 JUDGE GAYNOR: And then the relatives, those are all samples
14 which are taken from living persons; is that correct?

15 A. That is correct.

16 JUDGE GAYNOR: Now, among the samples taken from the living
17 persons, again we see the values 7.9 --

18 A. Yes.

19 JUDGE GAYNOR: -- for three of them, and 4.9 for four of them.

20 A. Yes.

21 JUDGE GAYNOR: Could you explain what's going on there?

22 A. I believe, and this is an assumption on my behalf, that when we
23 are looking at the -- the code for the STR allele remains the same.
24 So, for example, can I draw on with a pen? It might help.

25 JUDGE GAYNOR: Please go ahead.

Witness: William Goodwin (Open Session)
Questioned by the Trial Panel

Page 23681

1 A. So you said about 7.9. Okay. If we go to the -- oh, they're
2 7.9 and 7.6, so they are the two alleles. And we've got the son. We
3 would expect one of those two alleles to be inherited. And so here
4 we see a 7.6. Below there we see a 7.9. So for each one it could
5 have been either -- oh, that's the mother, sorry. I'm going to rub
6 this out. Let me just rub that out so it's easier.

7 So we would essentially -- what I think is happening with this,
8 and, again, it's an assumption, is that in each case where we have an
9 allele -- so ICMP 3, when that allele is coded 7.6, that coding
10 remains constant throughout this case, not necessarily between cases.
11 But within this case, every allele which is the same as 7.6 would be
12 coded as 7.6.

13 JUDGE GAYNOR: All right. So what you're saying is that the
14 true allelic value is not actually represented in this table either
15 for the deceased or for the living persons?

16 A. Correct.

17 JUDGE GAYNOR: I see. Then if we go to the conclusion section.
18 Perhaps, Madam Court Officer, could you just move the -- or
19 would you like to ...

20 [Trial Panel and Court Officer confers]

21 JUDGE GAYNOR: Yes, if we can save that, please, and give it an
22 MFI number perhaps.

23 [Trial Panel and Court Officer confers]

24 THE WITNESS: I mean, I would just add -- well, if we're doing
25 that, I would just add if we look at the wife's genotype, the wife

Witness: William Goodwin (Open Session)
Questioned by the Trial Panel

Page 23682

1 has got 8.7, and then both the son and the daughter also have 8.7,
2 which is what we would expect. We would expect the children to be
3 comprised of alleles of the two parents.

4 JUDGE GAYNOR: Yes. But even in that example, the value 8.7
5 would itself be extremely unusual, would it not?

6 A. 8.7 does not refer to an STR allele in its normal way, so this
7 is why we say -- I'm sure it's an encrypted value.

8 JUDGE GAYNOR: Okay. Now, further down in this document the
9 conclusion says, and we've seen it before, that:

10 "The probability of relatedness as described on this report is
11 greater than 99." and then I think it gives five 9s per cent.

12 A. Yes.

13 JUDGE GAYNOR: So it's an extremely high degree of probability.

14 A. Yes.

15 JUDGE GAYNOR: And just so that we are best able to understand
16 this, that conclusion of an extremely high degree of probability is
17 based on allelic values which are not, in fact, represented on this
18 piece of paper.

19 A. That is correct.

20 JUDGE GAYNOR: So, in essence, we are trusting the ICMP expert
21 to have carried out their work accurately --

22 A. Correct.

23 JUDGE GAYNOR: -- in reaching that conclusion.

24 A. Correct.

25 JUDGE GAYNOR: We're not actually relying on these figures; is

Witness: William Goodwin (Open Session)
Questioned by the Trial Panel

Page 23683

1 that right?

2 A. We are -- we have to take their conclusion, and we cannot -- we
3 cannot evaluate the data to see if we agree with it, so we have to
4 take it on trust that their conclusion is correct.

5 JUDGE GAYNOR: I believe that deals with most of my questions.
6 I just had one other and that is: Are allelic values in any way
7 affected by saponification or any kind of degradation of the
8 material?

9 A. The allelic value would not change. What might change is that
10 you are not able to ascertain what allele it is, but it would not
11 change the allelic value.

12 JUDGE GAYNOR: Do you happen to know if the ICMP staff involved
13 in these reports had previous experience in Bosnia themselves or in
14 other conflict areas?

15 A. Most of this work I understand was carried out in Bosnia. So
16 the laboratories of ICMP at this time were situated in Bosnia.

17 JUDGE GAYNOR: I understand. Thank you. No further questions.

18 A. Thank you.

19 PRESIDING JUDGE SMITH: Any follow-up questions? Oh, I'm sorry.

20 [Trial Panel and Court Officer confers]

21 PRESIDING JUDGE SMITH: Am I correct it's 00291803? It should
22 have an MFI assigned to it.

23 THE COURT OFFICER: Thank you, Your Honour. The markings made
24 by W4875, document SPOE00291803, will be registered with the Registry
25 number REG01198 and assigned MFI C00001. Classification is

Witness: William Goodwin (Open Session)

Page 23684

Further Cross-examination by Ms. Rowan

1 confidential.

2 PRESIDING JUDGE SMITH: Thank you.

3 Any follow-up questions, Mr. Pace?

4 MS. ROWAN: I'm grateful, Your Honour.

5 Further Cross-examination by Ms. Rowan:

6 Q. Mr. Goodwin, just two short questions arising from the Judges'
7 questions.

8 A. Yeah.

9 Q. The first one was in relation to a question that you were asked
10 by His Honour Judge Barthe at the outset, and it was in relation to
11 whether or not you could see any flaws, shortcomings, or
12 inconsistencies in the work that was done. Do you recall that
13 question?

14 A. I do, yes.

15 Q. Would you agree that in the absence of the EPGs, you are unable
16 to confirm that the results and conclusions are absent any flaws,
17 shortcoming, and inconsistencies for these reports because you
18 can't --

19 A. Yeah.

20 Q. -- check the existence of such?

21 A. No, absolutely. I mean, for what I can -- there's nothing that
22 flags as wrong, but I cannot, as you have pointed out, go back to the
23 EPGs and verify that what is in those reports is correct.

24 Q. I'm grateful. So no red flags but they can't be confirmed?

25 A. Not from the data I've been given, no.

Witness: William Goodwin (Open Session)
Further Cross-examination by Ms. Rowan

Page 23685

1 Q. And, secondly, you were asked a series of questions by His
2 Honour Judge Gaynor as well in relation to one of the reports that we
3 have put up on the screen.

4 A. Yes.

5 Q. And I just want to deal with an answer that you had given to the
6 Judge, which was that you stated that you are sure that the profiles
7 are encrypted. Now, just --

8 A. Yeah.

9 Q. -- dealing with that. What you can be sure of, and, of course,
10 "sure" as a term obviously carries significant weight when we're
11 dealing with criminal proceedings.

12 A. Yes.

13 Q. What you can be sure of is that the numbers that we see
14 reflected in those reports can't be allelic designations. Of that
15 you can be sure; is that right?

16 A. That is a fair point.

17 Q. Yes. So there we have certainty. A 4.9 is not an allelic
18 designation; correct?

19 A. Correct.

20 Q. You believe that the explanation for that is that this must be
21 encrypted.

22 A. That is correct.

23 Q. But you cannot be sure it is encrypted, but you believe that to
24 be the most likely explanation for what you can be sure of, which is
25 that it's not an allelic designation.

1 A. I would accept that.

2 Q. I'm grateful. Thank you.

3 PRESIDING JUDGE SMITH: Ms. Tavakoli, anything?

4 MS. TAVAKOLI: No, thank you.

5 PRESIDING JUDGE SMITH: Mr. Tully.

6 MR. TULLY: No, thank you, Your Honour.

7 PRESIDING JUDGE SMITH: Mr. Ellis.

8 MR. ELLIS: No, thank you, Your Honour.

9 PRESIDING JUDGE SMITH: Witness, your testimony is completed.

10 We thank you for being with us and sharing your information. You may
11 leave the courtroom now with the Court Usher. We wish you our best.

12 THE WITNESS: Thank you, Your Honours. Thank you, counsel.

13 [The witness withdrew]

14 PRESIDING JUDGE SMITH: Mr. Pace, I believe that on the prep
15 note you listed all of the exhibits that you intended to submit. Is
16 that correct?

17 MR. PACE: Yes, correct, Your Honour. Annex 1 of the prep note
18 contains all the exhibits we intend to admit, which includes also the
19 ones MFI'd today. And just to highlight the -- also the page numbers
20 from certain exhibits, since some of them are not tendered in full.

21 PRESIDING JUDGE SMITH: So, objections?

22 MS. ROWAN: Your Honour, yes, multiple. And Your Honour will
23 also be aware of various legal arguments raised by the Defence
24 collectively in writing previously.

25 We would ask Your Honours for an opportunity to respond to each

1 item individually in writing and invite the Panel to set a timetable
2 for us to do so. In light of the evidence we've heard today, we
3 would appreciate the opportunity to consider the testimony and
4 respond fully in writing. Of course, this evidence doesn't impact on
5 any upcoming testimony, so any delay in any decision should have no
6 impact on the speed or efficiency of proceedings.

7 PRESIDING JUDGE SMITH: [Microphone not activated].

8 MR. PACE: Yes, Your Honour. Just to note that, as the Panel
9 knows, the Defence has already been given the opportunity to comment
10 on the appropriateness of the admissibility of these items, and the
11 decision of the Panel didn't say until after the Defence makes even
12 further submissions. It said until after the questioning is
13 conducted. If there was any information that counsel wanted to
14 elicit from the witness in terms of admissibility of these items or
15 otherwise, the Defence had every opportunity to do so thus far.

16 So in our submissions, that ship has sailed, and now it's just
17 time for the ruling of the Panel.

18 MS. ROWAN: Your Honour, if I may briefly. Counsel are
19 expressly prohibited from making submissions or comment while asking
20 a witness about a document. So, therefore, until this point we have
21 been in no position to make comment on documents. What we've been in
22 a position to do today is to establish a factual -- establish the
23 facts as per this witness's evidence, and what in our submission we
24 are entitled to do is the opportunity to comment on the facts and the
25 evidence that are now before the Court.

1 We are entitled to comment upon the admissibility of this
2 evidence in light of the evidence that we have now heard that has
3 been subject to the questioning of both parties and to the Panel, and
4 there is no reason - expedition, fairness, or otherwise - to deprive
5 the Defence of the opportunity to properly respond to the only DNA
6 expert evidence in this case properly. There is no reason for
7 additional expedition.

8 MR. PACE: Your Honour, if I may very briefly. Just so the
9 record is clear, counsel seems to be forgetting an annex that they
10 filed with detailed objections as to each item tendered and a code
11 used for each of those objections, which code is later explained in
12 an annex and written submissions. That is certainly the comment and
13 the submissions I was referring to. I, of course, was not suggesting
14 they can elicit or make comment in court with the witness.

15 PRESIDING JUDGE SMITH: [Microphone not activated].

16 MR. ELLIS: Your Honour, can I simply add our weight to joining
17 Ms. Rowan's submission. Given the number of different documents
18 being tendered, and to take into account the oral evidence that we've
19 heard this morning and the early part of this afternoon, we would say
20 the efficient way of dealing with this, given that there are mixed
21 factual and legal issues, some of which will be common to many of the
22 documents but some of which will need to be tailored to each specific
23 document, it's likely to be more efficient, in our submission, and
24 more just, if I can put it that way, for us to develop the points in
25 writing.

1 MS. ROWAN: Your Honour, I'm also reminded helpfully from my
2 left that when DNA expertise was heard in this Tribunal in a
3 different case, the Defence in that case was afforded the opportunity
4 to respond in writing. So in my submission, that is the practice of
5 this Tribunal, and there is no reason to depart from that for this
6 case and to deprive us of the opportunity that the Defence in the
7 Shala case were afforded to respond in writing.

8 MS. TAVAKOLI: Your Honour, if I may add our support to the
9 submissions of our learned friends. And in my view, there must have
10 been a reason why Your Honours didn't rule on the admissibility of
11 these exhibits pending the testimony from the live expert witness.
12 And for the reasons outlined by Ms. Rowan, we would submit that now
13 is the time to make submissions as she's outlined to enable
14 Your Honours to make -- to reach a decision.

15 PRESIDING JUDGE SMITH: We're going to take a short break and
16 we'll come back and give you an answer.

17 We're adjourned for 15 minutes.

18 --- Break taken at 3.16 p.m.

19 --- On resuming at 3.28 p.m.

20 PRESIDING JUDGE SMITH: We will allow the Veseli Defence to file
21 a brief supplemental to their previous statement by Friday, not to be
22 repeating any of the information that was already in, just focused on
23 any new information that you had here. SPO can respond by Monday.
24 There'll be nothing else beyond that.

25 That's the ruling.

1 We're adjourned until tomorrow at 9.00.

2 MR. ELLIS: Your Honour, can I just check, please, that applies
3 to all the Defence? I think [Overlapping speakers] ...

4 PRESIDING JUDGE SMITH: I'm sorry, I couldn't hear you.

5 MR. ELLIS: -- the Veseli Defence to respond. I think your
6 order literally allowed the Veseli Defence to file on Friday. We may
7 wish to file as well. So I assume it applies to all Defence?

8 PRESIDING JUDGE SMITH: [Microphone not activated].

9 MR. ELLIS: I apologise, Your Honour. Reading your order
10 literally, Your Honour, it allowed the Veseli Defence to file on
11 Friday.

12 PRESIDING JUDGE SMITH: [Microphone not activated].

13 MR. ELLIS: We will. We will.

14 MR. PACE: And, Your Honour, if I may, just in terms of
15 logistics, could the deadline be set for 4.00 on Friday to ensure
16 that we're served with it on Friday itself.

17 PRESIDING JUDGE SMITH: [Microphone not activated].

18 Nothing further. We're adjourned till tomorrow.

19 --- Whereupon the hearing adjourned at 3.30 p.m.

20

21

22

23

24

25