

**UNITED
NATIONS**



International Tribunal for the Prosecution of
Persons Responsible for Serious Violations of
International Humanitarian Law Committed in
the Territory of Former Yugoslavia since 1991

Case No. IT-04-81-T

Date: 26 August 2009

Original: English

IN TRIAL CHAMBER I

Before: Judge Bakone Justice Moloto, Presiding
Judge Pedro David
Judge Michèle Picard

Registrar: Mr. John Hocking

Decision of: 26 August 2009

PROSECUTOR

v.

MOMČILO PERIŠIĆ

PUBLIC

**DECISION ON UNCONTESTED SREBRENICA EXPERT
REPORTS**

The Office of the Prosecutor

Mr. Mark Harmon
Mr. Daniel Saxon

Counsel for the Accused

Mr. Novak Lukić
Mr. Gregor Guy-Smith

TRIAL CHAMBER I (“Trial Chamber”) of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991 (“Tribunal”) is seized of the Prosecution’s “Submission of Uncontested Srebrenica Expert Reports with Annexes A through YY” filed publicly on 10 July 2009 (“Motion”)¹ and hereby renders its Decision.

I. SUBMISSIONS

1. In its Motion, the Prosecution seeks admission into evidence of 43 expert reports authored by the following individuals: Jose Pablo Baraybar, Anthony Brown, John Clark, Peter De Bruyn, William Haglund, Christopher Lawrence, Fredy Peccerelli, Richard Wright, A. D. Kloosterman, S.E. Maljaars, Michael Maloney and Michael Brown (“Expert Reports” and “Experts”, respectively). The Prosecution also submits the Experts’ *curricula vitae* (“Experts’ CVs”).²

2. In support of its Motion, the Prosecution submits that none of the Expert Reports is challenged by the Defence. Moreover, the Defence does not seek to cross-examine any of the Experts, nor does it challenge their qualifications.³

3. The Prosecution further submits that the Expert Reports are relevant to the charges in the Indictment as well as of probative value and that all the Experts possess sufficient expertise to act as experts within the meaning of Rule 94 *bis* of the Tribunal’s Rules of Procedure and Evidence (“Rules”).⁴

4. The Defence did not file a response to the Motion.

II. APPLICABLE LAW

5. Rule 94 *bis* of the Rules reads as follows:

Rule 94 *bis*
Testimony of Expert Witnesses

(A) The full statement and/or report of any expert witness to be called by a party shall be disclosed within the time-limit prescribed by the Trial Chamber or by the pre-trial Judge.

¹ On 29 July 2009, the Prosecution filed its “Supplemental Submission Regarding Uncontested Srebrenica Expert Reports with Annexes 1-24” (“Supplemental Submission”), containing replacements for the materials previously submitted in the illegible format in the Motion as well as several missing *curricula vitae*.

² Motion, paras 1, 4, 27.

³ Motion, paras 2-3, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26.

⁴ Motion, paras 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26.

- (B) Within thirty days of disclosure of the statement and/or report of the expert witness, or such other time prescribed by the Trial Chamber or pre-trial Judge, the opposing party shall file a notice indicating whether:
- (i) it accepts the expert witness statement and/or report; or
 - (ii) it wishes to cross-examine the expert witness; and
 - (iii) it challenges the qualifications of the witness as an expert or the relevance of all or parts of the statement and/or report and, if so, which parts.
- (C) If the opposing party accepts the statement and/or report of the expert witness, the statement and/or report may be admitted into evidence by the Trial Chamber without calling the witness to testify in person.

6. The jurisprudence of the Tribunal has established a number of requirements which must be met before an expert statement or report is admissible in evidence. They include:

- 1) the proposed witness is classified as an expert;
- 2) the expert statements or reports meet the minimum standard of reliability;
- 3) the expert statements or reports are relevant and of probative value; and
- 4) the content of the expert statements or reports falls within the accepted expertise of the witness.⁵

7. The term “expert” has been defined by the jurisprudence of the Tribunal as “a person whom [sic] by virtue of some specialised knowledge, skill or training can assist the trier of fact to understand or determine an issue in dispute”⁶. In determining whether a particular witness meets these criteria, the Trial Chamber should take into account the witness’s former and present positions and professional experience through reference to the witness’s CV as well as the witness’ scholarly articles, other publications or any other pertinent information about the witness.⁷

8. An expert is expected to make statements and draw conclusions independently and impartially. The fact that the witness has been involved in the investigation and preparation of the Prosecution or Defence case or is employed or paid by one party does not disqualify him or her as an expert witness or make the expert statement unreliable.⁸ Concerns relating to the witness’s independence or impartiality do not necessarily affect the admissibility of the witness’ statement or

⁵ Decision on Expert Reports of Ewa Tabeau, 23 April 2009, para. 7; *Prosecutor v. Lukić and Lukić*, IT-98-32/1-T, Decision on Second Prosecution Motion for the Admission of Evidence Pursuant to Rule 92bis (Two Expert Witnesses), 23 July 2008, para. 15.

⁶ *Prosecutor v. Stanislav Galić*, Case No. IT-98-29-T, Decision Concerning the Expert Witnesses Ewa Tabeau and Richard Philipps, 3 July 2002, p. 2. (“*Galić* Decision Experts Tabeau and Philipps”).

⁷ *Prosecutor v. Vojislav Šešelj*, Case No. IT-03-67-T, Decision on Expert Status of Reynaud Theunens, 12 February 2008, para. 28, with further references; *Prosecutor v. Dragomir Milošević*, Case No. IT-98-29/1-T, Decision on Defence Expert Witnesses, 21 August 2007, para. 6, with further references.

report pursuant to Rule 94 *bis* of the Rules, but may affect the weight to be given to the witness's evidence.⁹

9. The content of the statement or report must fall within the expert witness's area of expertise.¹⁰ This requirement ensures that the statements or reports of an expert witness will only be treated as expert evidence, insofar as they are based on the expert's specialised knowledge, skills or training. Statements that fall outside the area of expertise will be treated as personal opinions of the witness and will be weighted accordingly.¹¹

III. DISCUSSION

1. Position of the Defence

10. The Trial Chamber considers that the Defence accepted all the Expert Reports and did not submit any challenge as to the relevance of the Expert Reports or the qualifications of the Experts.¹² However, before admitting the Expert Reports into evidence, the Trial Chamber must be satisfied that they are relevant, of probative value and that their content falls within the field of expertise of their authors.

2. Jose Pablo Baraybar

11. Mr. Baraybar is the author of the following six reports:

- 1) "Report on the Anthropology Examination of Human Remains From Eastern Bosnia in 1999";¹³
- 2) "Report on the Exhumation of Mass Gravesites in Eastern Bosnia, August-October 1999";¹⁴
- 3) "Report on the Anthropology Examination of Human Remains from Eastern Bosnia in 2000";¹⁵

⁸ *Galić* Decision Experts Tabeau and Philipps pp 2-3.

⁹ *Prosecutor v Slobodan Milošević*, Case No. IT-02-54-T, Decision on Admissibility of Expert Report of Kosta Čavoški, 1 March 2006 p. 2; *but see Prosecutor v. Milan Milutinović et al.*, Case No. IT-05-87-T, Oral Ruling of 13 July 2006.

¹⁰ *Prosecutor v Milan Martić*, Case No. IT-95-11-T, Decision on Defence's Submission of the Expert Report of Professor Smilja Avramov Pursuant to Rule 94*bis*, 9 November 2006, ("*Martić*, Decision Expert Avramov") para. 12.

¹¹ *Ibid.*, para. 12.

¹² The Trial Chamber notes that the expert reports of José Pablo Baraybar; Anthony Brown, John Clark, Peter De Bruyn, William Haglund and Christopher Lawrence have been noted by the Chamber previously seized of the as accepted by the Defence, *see* Order on Defence Submissions Regarding Various Experts' Reports Disclosed by the Prosecution Pursuant to Rule 94*bis*, 2 February 2007. Moreover, the Defence did not challenge any of the remaining expert reports by Fredy Peccerelli, Richard Wright, A. D. Kloosterman, S.E. Maljaars, Michael Maloney, and Michael Brown. Likewise, the trial record does not contain any Defence challenge of the expertise of any of the Experts.

- 4) "Report on Excavations at Glogova 2, Bosnia and Herzegovina 1999-2001";¹⁶
- 5) "Calculation of the Minimal Number of Individuals Exhumed by the International Criminal Tribunal for the former Yugoslavia between 1996 and 2001";¹⁷ and
- 6) "Report on Excavation at the Site of Zelani Jadar 6, Bosnia and Herzegovina, 2001";¹⁸ (collectively, "Baraybar Reports").

12. An analysis of Mr. Baraybar's CV shows that at the time he wrote his reports, he was an anthropologist employed at the Investigations Section of the Office of the Prosecution ("OTP"), of the Tribunal. Mr. Baraybar has also participated in numerous forensic missions, has done extensive laboratory works and has been published widely on the subject of forensic anthropology.¹⁹

13. Given Mr. Baraybar's work experience and scientific studies, the Trial Chamber is satisfied that he has gained specialised knowledge as an expert in the field of forensic anthropology. The Trial Chamber therefore finds that Mr. Baraybar is qualified as an expert within the meaning of Rule 94 *bis* of the Rules.

14. The Baraybar Reports present the results of the anthropological examination of human remains exhumed from mass graves in eastern Bosnia and Herzegovina ("BiH") between 1996 and 2001. The graves allegedly contain the victims from the Safe Area of Srebrenica who were killed in July 1995. The Trial Chamber is therefore satisfied that the Baraybar Reports fall within Mr. Baraybar's field of expertise.

15. The Trial Chamber further finds that the Baraybar Reports are relevant to the crimes committed in Srebrenica as alleged in Counts 9 to 13 of the Indictment. The Baraybar Reports also clearly set out the methodology used.²⁰ The Trial Chamber therefore finds that the Baraybar Reports contain information of relevance and probative value which may assist the Chamber in its determination of important issues in this case.

3. Anthony Brown

16. Mr. Brown is the author of the following two reports:

¹³ Motion, Annex A.

¹⁴ Motion, Annex B.

¹⁵ Motion, Annex C.

¹⁶ Motion, Annex D.

¹⁷ Motion, Annex E.

¹⁸ Motion, Annex F.

¹⁹ Motion, Annex G.

²⁰ Motion, Annex A, pp 6-7.

- 1) "Statement of Anthony Brown of 26 February 1999";²¹
- 2) "Statement of Anthony Brown of 29 November 1999";²² (collectively, "Brown Reports").

17. An analysis of Mr. Brown's CV shows that at the time he wrote his reports, he was a palynologist employed as a lecturer/reader/researcher at the Department of Geography of Exeter University since 1983 and was a member of the British Ecological Society.²³

18. Given Mr. Brown's working experience, the Trial Chamber is satisfied that he has gained specialised knowledge as an expert in the field of palynology. The Trial Chamber therefore finds that Mr. Brown is qualified as an expert within the meaning of Rule 94 *bis* of the Rules.

19. The Brown Reports present the results of a palynological examination of the soil samples collected from the various, both primary and secondary, exhumation sites in the wider area of Srebrenica. The Trial Chamber is therefore satisfied that the Brown Reports fall within Mr. Brown's field of expertise.

20. The Trial Chamber finds that the Brown Reports are relevant to the crimes committed in Srebrenica as alleged in Counts 9 to 13 of the Indictment. The Brown Reports also clearly set out the methodology used.²⁴ The Trial Chamber therefore finds that the Brown Reports contain information of relevance and probative value which may assist the Chamber in its determination of important issues in this case.

4. John Clark

21. Mr. Clark is the author of the following three reports:

- 1) "Pathology Reports on 1999 Exhumations";²⁵
- 2) "ICTY Operations in Bosnia-Herzegovina 2000 Season – Report of Chief Pathologist";²⁶
- 3) "ICTY Operations in Bosnia-Herzegovina 2001 Season – Report of Chief Pathologist"²⁷ (collectively, "Clark Reports").

²¹ Motion, Annex H.

²² Motion, Annex I.

²³ Motion, Annexes H and I; Supplemental Submission, Annex 22.

²⁴ Motion, Annex H, p. 2; Annex I, p. 1.

²⁵ Motion, Annex J.

²⁶ Motion, Annex K.

²⁷ Motion, Annex L.

22. An analysis of Mr. Clark's CV shows that at the time he wrote his reports he was a forensic pathologist and senior lecturer in forensic pathology at the University of Glasgow as well as a member of several professional associations which include the British Association in Forensic Medicine. Mr. Clark also completed several international forensic missions and published extensively on the subject of forensic pathology.²⁸

23. Given Mr. Clark's working experience, the Trial Chamber is satisfied that he has gained specialised knowledge as an expert in the field of forensic pathology. The Trial Chamber therefore finds that Mr. Clark is qualified as an expert within the meaning of Rule 94 *bis* of the Rules.

24. The Clark Reports relate to the work of a team that carried out post mortem examinations on remains recovered in graves in BiH reported to be in relation to the killings occurring in Srebrenica in 1995.²⁹ The Trial Chamber is therefore satisfied that the Clark Reports fall within Mr. Clark's field of expertise.

25. The Trial Chamber finds that the Clark Reports are relevant to the crimes committed in Srebrenica as alleged in Counts 9 to 13 of the Indictment. The Clark Reports also clearly set out the methodology used.³⁰ The Trial Chamber therefore finds that the Clark Reports contain information of relevance and probative value which may assist the Chamber in its determination of important issues in this case.

5. Peter De Bruyn

26. Mr. De Bruyn is the author of the "Report on Forensic Explosive Analysis on Samples from Different Sites in Srebrenica, 2 March 2000" ("De Bruyn Report").³¹

27. An analysis of Mr. De Bruyn's CV shows that he studied analytical chemistry at Eindhoven University of Technology and specialised in high-performance liquid chromatography. At the time he wrote his report, he had acquired significant experience studying explosives, gunshot residues and general criminalistics while working as a case officer at the Forensic Science Laboratory in Rijswijk and later at the Netherlands Forensic Institute.³²

28. Given Mr. De Bruyn's work experience, the Trial Chamber is satisfied that he has gained specialised knowledge as an expert in the field of forensic chemistry. The Trial Chamber therefore finds that Mr. De Bruyn is qualified as an expert within the meaning of Rule 94 *bis* of the Rules.

²⁸ Motion, Annex M.

²⁹ Motion, Annex J, p. 1; Annex K, p. 1; Annex L, p. 1.

³⁰ Motion, Annex J, pp 1-4; Annex L, p. 1.

29. De Bruyn Report presents the results of a chemical examination which analysed the presence of any explosive residues from samples collected at the Pilica Dom and the Kravica warehouse. The Trial Chamber is therefore satisfied that De Bruyn Report falls within his field of expertise.

30. The Trial Chamber finds that De Bruyn Report is relevant to the crimes committed in Srebrenica as alleged in Counts 9 to 13 of the Indictment. De Bruyn Report also clearly sets out the methodology used.³³ The Trial Chamber therefore finds that De Bruyn Report contains information of relevance and probative value which may assist the Chamber in its determination of important issues in this case.

6. William Haglund

31. Mr. Haglund is the author of the following fourteen reports:

- 1) "Forensic Investigation of the Lazete 2 Grave Site, 15 June 1998– Volume I";³⁴
- 2) "Forensic Investigation of the Lazete 2 Grave Site – Volume II";³⁵
- 3) "Forensic Investigation of the Lazete 2 Grave Site – Volume III";³⁶
- 4) "Forensic Investigation of the Lazete 2 Grave Site – Volume IV";³⁷
- 5) "Forensic Investigation of the Lazete 2 Grave Site – Volume V";³⁸
- 6) "Forensic Investigation of the Cerska Grave Site, 15 June 1998 – Volume I";³⁹
- 7) "Forensic Investigation of the Cerska Grave Site – Volume II";⁴⁰
- 8) "Forensic Investigation of the Cerska Grave Site – Volume III";⁴¹
- 9) "Forensic Investigation of the Cerska Grave Site – Volume IV";⁴²

³¹ Motion, Annex N.

³² Supplemental Submission, Annex 23.

³³ Motion, Annex N, p. 4.

³⁴ Motion, Annex O.

³⁵ Motion, Annex P.

³⁶ Motion, Annex Q.

³⁷ Motion, Annex R.

³⁸ Motion, Annex S.

³⁹ Motion, Annex T.

⁴⁰ Motion, Annex U.

⁴¹ Motion, Annex V.

⁴² Motion, Annex W.

- 10) “Forensic Investigation of the Cerska Grave Site – Volume V”;⁴³
- 11) “Forensic Investigation of the Pilica (Branjevo Farm) Grave Site, 15 June 1998 – Volume I”;⁴⁴
- 12) “Forensic Investigation of the Pilica (Branjevo Farm) Grave Site – Volume II”;⁴⁵
- 13) “Forensic Investigation of the Pilica (Branjevo Farm) Grave Site – Volume III”;⁴⁶
- 14) “Forensic Investigation of the Pilica (Branjevo Farm) Grave Site – Volume IV”;⁴⁷
(collectively, “Haglund Reports”).

32. An analysis of Mr. Haglund’s CV shows that he obtained a Master’s and PhD degrees in Physical Anthropology from the University of Washington in Seattle. In 1996, he was serving as the Senior Forensic Advisor to the Tribunal and the International Criminal Tribunal for Rwanda. In 1998, he became the Director of the International Forensic Program at the Physicians for Human Rights. Prior to writing of his reports, Mr. Haglund completed several international forensic missions and published extensively on the subject of forensic anthropology.⁴⁸

33. Noting Mr. Haglund’s professional experience the Trial Chamber is satisfied that he has gained specialised knowledge as an expert in the field of forensic anthropology. The Trial Chamber therefore finds that Mr. Haglund is qualified as an expert within the meaning of Rule 94 *bis* of the Rules.

34. The Haglund Reports contain detailed forensic findings in relation to the investigation and exhumations performed on the human remains recovered from mass graves associated with the fall of Srebrenica of July 1995. The Trial Chamber is therefore satisfied that the Haglund Reports fall within his field of expertise.

35. The Trial Chamber finds that the Haglund Reports are relevant to the crimes committed in Srebrenica as alleged in Counts 9 to 13 of the Indictment. Haglund Reports also clearly describe the methodology and procedures followed during the autopsies.⁴⁹ The Trial Chamber therefore finds that the Haglund Reports contain information of relevance and probative value which may assist the Chamber in its determination of important issues in this case.

⁴³ Motion, Annex X.

⁴⁴ Motion, Annex Y.

⁴⁵ Motion, Annex Z.

⁴⁶ Motion, Annex AA.

⁴⁷ Motion, Annex BB.

⁴⁸ Motion, Annex CC.

⁴⁹ Motion, Annex O, pp 3-7, 28-40; Annex T, pp 2-5, 30-42; Annex Y, pp 3-5, 31-42.

7. Christopher Lawrence

36. Mr. Lawrence is the author of the following nine reports:

- 1) "Report on Bodies Recovered Near Kosluk in 1998";⁵⁰
- 2) "Report on Autopsies of Human Remains from the Dam Site June 1998";⁵¹
- 3) "Report on Autopsies of Human Remains form Cancari Road Site 12, August 1998";⁵²
- 4) "Report on Autopsies of Human Remains from Cancari Road Site 3, August-September 1998";⁵³
- 5) "Report on Autopsies of Human Remains from Hodzici Road Site 3, October 1998";⁵⁴
- 6) "Report on Autopsies of Human Remains from Hodzici Road Site 4, October 1998";⁵⁵
- 7) "Report on Autopsies of Human Remains from Hodzici Road Site 5, October 1998";⁵⁶
- 8) "Report on Autopsies of Human Remains from Zelani Jadar Site 5, October 1998";⁵⁷
- 9) "Report on Autopsies of Human Remains from Liplje Site 2, October 1998"; (collectively, "Lawrence Reports").⁵⁸

37. An analysis of Mr. Lawrence's CV shows that at the time he authored his reports, he was the Chief Forensic Pathologist for the Tribunal in BiH.⁵⁹ Mr. Lawrence has extensive professional experience in forensic and medical pathology.⁶⁰ He was appointed Clinical Lecturer in the Department of Pathology of the University of Sydney in Australia in August 1994.⁶¹ His CV also shows that he has carried out numerous researches in the field of forensic anthropology and is author of various publications on the subject.⁶²

⁵⁰ Motion, Annex DD.

⁵¹ Motion, Annex EE; Supplemental Submission, Annex 5.

⁵² Motion, Annex FF; Supplemental Submission, Annex 6.

⁵³ Motion, Annex GG; Supplemental Submission, Annex 7.

⁵⁴ Motion, Annex HH; Supplemental Submission, Annex 8.

⁵⁵ Motion, Annex II; Supplemental Submission, Annex 9.

⁵⁶ Motion, Annex JJ; Supplemental Submission, Annex 10.

⁵⁷ Motion, Annex KK; Supplemental Submission, Annex 11.

⁵⁸ Motion, Annex LL; Supplemental Submission, Annex 12.

⁵⁹ Motion, Annex MM.

⁶⁰ Motion, Annex MM, pp 1-2.

⁶¹ Motion, Annex MM, p. 2.

⁶² Motion, Annex MM, pp 3-6.

38. Noting Mr. Lawrence's professional experience and academic background, as well as his teaching and research activities, the Trial Chamber is satisfied that he has gained specialised knowledge as an expert in the field of forensic anthropology. The Trial Chamber therefore finds that Mr. Lawrence is qualified as an expert within the meaning of Rule 94 *bis* of the Rules.

39. The Lawrence Reports set out the findings and conclusions of the anthropological examination and autopsies performed between June and October 1998 in BiH on the human remains recovered from mass graves associated with the fall of Srebrenica of July 1995. The Trial Chamber is therefore satisfied that the Lawrence Reports fall within Mr. Lawrence's field of expertise.

40. The Trial Chamber finds that the Lawrence Reports are relevant to the crimes committed in Srebrenica as alleged in Counts 9 to 13 of the Indictment. The Lawrence Reports also clearly describe the chain of custody of the human remains and set out the methodology and procedures followed during the autopsies.⁶³ The Trial Chamber therefore finds that the Lawrence Reports contain information of relevance and probative value which may assist the Chamber in its determination of important issues in this case.

8. Fredy Peccerelli

41. Mr. Peccerelli is the author of the "Lazete 1 Bosnia and Herzegovina Excavation and Exhumation Report" ("Peccerelli Report").⁶⁴

42. An analysis of Mr. Peccerelli's CV shows that he studied anthropology at the City University of New York and prior to writing of his report took part in various trainings in the field of forensic anthropology. Mr. Peccerelli worked as a forensic anthropologist at the Tribunal as well as a Director of the Guatemalan Forensic Anthropology Foundation.⁶⁵

43. Given Mr. Peccerelli's professional experience, the Trial Chamber is satisfied that he has gained specialised knowledge as an expert in the field of forensic anthropology. The Trial Chamber therefore finds that Mr. Peccerelli is qualified as an expert within the meaning of Rule 94 *bis* of the Rules.⁶⁶

⁶³ Motion, Annex DD; Annex EE, pp 3-4; Annex FF, pp 3-7; Annex GG, pp 3-6; Annex HH, pp 3-7; Annex II, pp 3-6; Annex JJ, pp 3-7; Annex KK, pp 4-8.

⁶⁴ Motion, Annex NN; Supplemental Submission, Annex 13.

⁶⁵ Motion, Annex OO.

⁶⁶ Motion, Annex OO.

44. Peccerelli Report relates to the work of a team that carried out an excavation and exhumation of a grave in BiH reported to be related to the killings occurring in Srebrenica in 1995. The Trial Chamber is therefore satisfied that Peccerelli Report falls within his field of expertise.

45. The Trial Chamber finds that Peccerelli Report is relevant to the crimes committed in Srebrenica as alleged in Counts 9 to 13 of the Indictment. Peccerelli Report also clearly sets out the methodology used.⁶⁷ The Trial Chamber therefore finds that Peccerelli Report contains information of relevance and probative value which may assist the Chamber in its determination of important issues in this case.

9. Richard Wright

46. Mr. Wright is the author of the following three reports:

- 1) "Report on Excavations and Exhumations at Kozluk in 1999; with Appendix on Visits to Konjevici and Potočari, 2 February 2000";⁶⁸
- 2) "Exhumations in Eastern Bosnia in 1998, 19 May 1999";⁶⁹
- 3) "Report on Excavations and Exhumations at the Glogova 1 Mass Grave in 2000, 9 February 2001"⁷⁰ (collectively, "Wright Reports").

47. An analysis of Mr. Wright's CV shows that at the time he wrote his reports he was Emeritus Professor of Anthropology at the University of Sydney, Australia. During his long career in the field of anthropology, he was *inter alia* supervising numerous projects involving excavations of mass graves. He also published extensively on the subject of anthropology.⁷¹

48. Given Mr. Wright's academic career and his professional experience, the Trial Chamber is satisfied that he has gained specialised knowledge as an expert in the field of anthropology. The Trial Chamber therefore finds that Mr. Wright is qualified as an expert within the meaning of Rule 94 *bis* of the Rules.

49. The Wright Reports relate to the work of his team carrying out an excavation and exhumation of the mass graves: a primary grave ("Red Dam") and several suspected secondary graves distributed along four roads in eastern BiH, primary grave site in Kozluk as well as the

⁶⁷ Motion, Annex NN, pp 7, 11-12, 19.

⁶⁸ Motion, Annex PP.

⁶⁹ Motion, Annex QQ.

⁷⁰ Motion, Annex RR.

⁷¹ Motion, Annex SS.

primary graves at “Glogova 1” site. The Trial Chamber is therefore satisfied that the Wright Reports fall within his field of expertise.

50. The Trial Chamber finds that the Wright Reports are relevant to the crimes committed in Srebrenica as alleged in Counts 9 to 13 of the Indictment. The Wright Reports also clearly set out the methodology used.⁷² The Trial Chamber therefore finds that the Wright Reports contain information of relevance and probative value which may assist the Chamber in its determination of important issues in this case.

10. A. D. Kloosterman

51. Mr. Kloosterman is the author of “A Report of the Examination and Recovery of Evidence from Kravica Warehouse, 20 December 1999” (“Kloosterman Report”).⁷³

52. An analysis of Mr. Kloosterman’s CV shows that at the moment of writing of his report, he held a Master’s degree in biochemistry from the University of Utrecht and was in the process of obtaining a PhD in biochemistry from the University of Santiago de Compostella, Spain. As of 1980, Mr. Kloosterman was also employed at the Serological and Biological Department of the Netherlands Forensic Institute.⁷⁴

53. Given Mr. Kloosterman’s working experience, the Trial Chamber is satisfied that he has gained specialised knowledge as an expert in the field of biochemistry. The Trial Chamber therefore finds that Mr. Kloosterman is qualified as an expert within the meaning of Rule 94 *bis* of the Rules.

54. Kloosterman Report consists of analysis of the samples taken from Grbavci School in BiH in 1996 for proof of presence of a human DNA. The Trial Chamber is therefore satisfied that Kloosterman Report falls within his field of expertise.

55. The Trial Chamber finds that Kloosterman Report is relevant to the crimes committed in Srebrenica as alleged in Counts 9 to 13 of the Indictment. Kloosterman Report also clearly sets out the methodology used.⁷⁵ The Trial Chamber therefore finds that Kloosterman Report contains information of relevance and probative value which may assist the Chamber in its determination of important issues in this case.

⁷² Motion, Annex PP, pp 5-12; Annex QQ, pp 11-17; Annex RR, pp 8-15.

⁷³ Motion, Annex TT.

⁷⁴ Motion, Annex UU.

⁷⁵ Motion, Annex TT, p. 11.

11. S.E. Maljaars

56. Ms. Maljaars is the author of the “Textile Investigation, 11 February 2000” (“Maljaars Report”).⁷⁶

57. An analysis of Ms. Maljaars’ CV shows that at the moment of writing this report she held a degree from Laboratory College at the Van Leeuwenhoek Institute in Delft. As of 1991, Ms. Maljaars was employed by the Netherlands Forensic Institute in Rijswijk specialising in forensic analysis of hair, fibres and textile.⁷⁷

58. Given Ms. Maljaars’ work experience, the Trial Chamber is satisfied that she has gained specialised knowledge as an expert in the field of forensic chemistry. The Trial Chamber therefore finds that Ms. Maljaars is qualified as an expert within the meaning of Rule 94 *bis* of the Rules.

59. Maljaars Report consists of an analysis of the samples of textiles including blindfolds and ligatures originating from different exhumation sites. The Trial Chamber therefore finds that Maljaars Report falls within her field of expertise.

60. The Trial Chamber finds that Maljaars Report is relevant to the crimes committed in Srebrenica as alleged in Counts 9 to 13 of the Indictment. Maljaars Report also clearly sets out the methodology used.⁷⁸ The Trial Chamber is therefore satisfied that Maljaars Report contains information of relevance and probative value which may assist the Chamber in its determination of important issues in this case.

12. Michael Maloney and Michael Brown

61. Mr. Maloney and Mr. Brown are the authors of the following two reports:

- 1) “Kravica Warehouse – Investigative Narrative: Results of Forensic Investigation, September-October 1996”;⁷⁹
- 2) “Pilica Dom – Investigative Narrative: Results of Forensic Investigation, September-October 1996”;⁸⁰ (collectively, “Maloney/Brown Reports”).

⁷⁶ Motion, Annex TT; Supplemental Submission, Annex 17.

⁷⁷ Motion, Annex VV.

⁷⁸ Motion, Annex VV, p. 11.

⁷⁹ Motion, Annex XX.

⁸⁰ Motion, Annex YY.

62. An analysis of Mr. Maloney's CV shows that at the time he co-wrote the reports he held a Master's degree in Forensic Sciences from the George Washington University in Washington and as of 1991, he was a forensic analyst employed in the U.S. Naval Criminal Investigative Service.⁸¹

63. Given Mr. Maloney's work experience, the Trial Chamber is satisfied that he has gained specialised knowledge as an expert in the field of forensics. The Trial Chamber therefore finds that Mr. Maloney is qualified as an expert within the meaning of Rule 94 *bis* of the Rules.

64. The Trial Chamber notes that the Prosecution has not submitted Mr. Brown's CV. However, from the Maloney/Brown Reports it is clear that at the moment of writing the said reports, he was employed by the U.S. Naval Criminal Investigative Service as an investigator. Due to the fact that Mr. Brown is only a co-author of the Maloney/Brown Reports and that the Defence does not challenge Mr. Brown's expertise, the Trial Chamber is of the opinion that accepting the expertise of Mr. Brown for the purpose of Rule 94 *bis* of the Rules will not encroach upon the rights of the Accused.

65. The Maloney/Brown Reports present the results of secondary investigation carried out in the Kravica warehouse and in Pilica Dom from 30 September 1996 to 1 October 1996. The Reports detail the exterior and interior of the buildings, describe the impact areas in the walls and note the contiguous blood spatter and tissue deposits associated with the impact areas. The Trial Chamber is therefore satisfied that the Maloney/Brown Reports fall within their authors' field of expertise.

66. The Trial Chamber finds that the Maloney/Brown Reports are relevant to the crimes committed in Srebrenica as alleged in Counts 9 to 13 of the Indictment. The Maloney/Brown Reports also clearly set out the methodology used.⁸² The Trial Chamber therefore finds that the Maloney/Brown Reports contain information of relevance and probative value which may assist the Chamber in its determination of important issues in this case.

IV. DISPOSITION

FOR THE FOREGOING REASONS and **PURSUANT TO** Rules 54 and 94 *bis* of the Rules, the Trial Chamber

GRANTS the Motion;

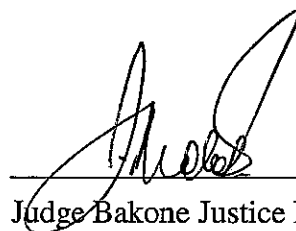
ADMITS the Expert Reports and the Experts' CVs into evidence;

⁸¹ Supplemental Submission, Annex 24.

⁸² Motion, Annex XX, p. 1.

REQUESTS the Registry to assign separate exhibit numbers to each of the Expert Reports and the Experts' CVs.

Done in English and French, the English version being authoritative.



Judge Bakone Justice Moloto
Presiding Judge

Dated this twenty-sixth day of August 2009

At The Hague

The Netherlands

[Seal of the Tribunal]