



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

Case No.: IT-98-34-T
Date: 4 February 2002
Original: English

BEFORE TRIAL CHAMBER I SECTION A

Before: Judge Liu Daqun, Presiding
Judge Maureen Harding Clark
Judge Fatoumata Diarra

Registrar: Mr. Hans Holthuis

Order of: 4 February 2002

PROSECUTOR

v.

**MLADEN NALETILIĆ aka "TUTA"
and
VINKO MARTINOVIĆ aka "ŠTELA"**

**DECISION ON ADMISSION OF THE TWO BINDERS
OF DOCUMENTS TENDERED ON 24 JANUARY 2002**

The Office of the Prosecutor:

Mr. Kenneth Scott

Counsel for the Accused:

**Mr. Krešimir Krsnik, for Mladen Naletilić
Mr. Branko Šerić, for Vinko Martinović**

TRIAL CHAMBER I, SECTION A (“the 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 (“the Tribunal”):

BEING SEIZED OF the Prosecutor’s oral request on 24 January 2002 seeking the admission into evidence of two binders of documents (“the Request” and “the Two Binders” respectively);

NOTING the oral arguments of the Parties presented during the status conference held on 30 January 2002;

CONSIDERING that the working languages of the Tribunal are French and English and that the following documents have not been translated into either: P601.1, P601.2, P606.1, P645.1, P662.1, P680.1, P719.1;

NOTING that although the substance of the following documents is identical, two different English translations have been provided: P314.1, P314.2;

CONSIDERING that nothing in the Statute or the Rules requires the Prosecutor to tender exhibits at a particular stage of the proceedings;

CONSIDERING HOWEVER that the overriding principle is that the Chamber must consider the interests of justice, ensure the protection of the rights of the accused as guaranteed in Article 21 of the Statute of the Tribunal and provide for a fair trial;

CONSIDERING that the Prosecutor tendered the Two Binders during the last day of hearing testimony in its case, and that it was completely unable to satisfactorily explain to the Chamber when the Office of the Prosecution had come into possession of the documents contained in the Two Binders and presented no clear and compelling reasons for why the Two Binders were being tendered at this late stage of the proceedings;

CONSIDERING that to call further foundation witnesses at this stage would unduly delay the proceedings;

CONSIDERING THEREFORE that the manner in which the Two Binders were introduced raises concern with regard to the fairness of the trial and thus would not be compatible with the rights of the accused or the interests of justice, in particular, the right to both accused to consider the contents in relation to cross-examination of witnesses;

CONSIDERING FINALLY that the probative value, if any, of the documents concerned is “substantially outweighed by the need to ensure a fair trial”;

FOR THE FOREGOING REASONS

PURSUANT TO Rule 89 (D) of the Rules of Procedure and Evidence;

DENIES the Request, and;

DECIDES that the following documents submitted by the Prosecutor are not admitted into evidence: P236.1, P236.2, P314.1, P314.2, P388.2, P443.1, P520.1, P530.1, P551.1, P554.1, P560.1, P562.1, P562.2, P563.1, P564.1, P565.3, P566.2, P567.1, P573.1, P579.1, P599.1, P601.1, P601.2, P606.1, P607.3, P611.2, P612.1, P619.1, P620.2, P645.1, P661.1, P662.1, P663.1, P664.1, P680.1, P687.1, P700.1, P703.3, P705.1, P708.1, P712.1, P719.1, P729.1, P738.1, P745.2, P802.1, P896, P897;

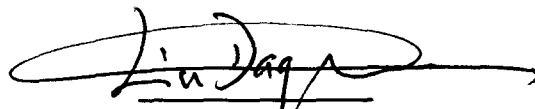
INFORMS the Parties that this decision concludes the Trial Chamber’s consideration of the exhibits tendered in the Prosecutor’s case;

NOTES that the Prosecutor has thus finally rested its case;

CONFIRMS the oral decision taken on 30 January 2002, that the Defense has seven days to file a motion for judgment of acquittal pursuant to Rule 98 *bis* of the Rules, meaning that such motion should be filed no later than 11 February 2002, and the Prosecutor has subsequently seven days from the day the Defense files its motion to file her response.

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

Dated this fourth day of February 2002,
At The Hague,
The Netherlands



Judge Liu Daqun
Presiding Judge

[Seal of the Tribunal]