



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: 12 March 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

**Decision of:** 12 March 2002

**PROSECUTOR**

**v.**

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

**DECISION ON DEFENCE'S MOTION FOR  
PRELIMINARY PROTECTIVE MEASURES**

**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 SEISED OF** “Naletilić Defense’s Reply to Prosecution’s Response to Defense Rule 65 *ter* Filing and Defense’s Motion for Preliminary Protective Measures”, filed on 7 March 2002 (“the Motion”), whereby Counsel for Naletilić requests the Chamber to “enter an Order enjoining the OTP from disclosing the names, identities, locations or whereabouts of Defence witnesses to any person or entity outside the OTP” and further argues that such a measure is reasonable in order to ensure “that the names of prospective Defence witnesses do not become known to AID, the Muslim Secret Service”;

**NOTING** the “Prosecutor’s Reply to Naletilić Defense’s Response to Prosecution’s Response to Defence Rule 65 *ter* Filings and Motion for Preliminary Protective Measures” filed on 8 March 2002 (“the Prosecution Reply”);

**NOTING** the Chamber’s “Order in Respect of Pre-Defence Filings”, issued on 12 March 2002;

**CONSIDERING** that the Prosecution in the Prosecution Reply agrees to the imposition of protective measures that are identical to the protective measures that applied to the Defence, but objects to the imposition of any stricter measures;

**CONSIDERING** that the Chamber deems that the concerns expressed in the Motion by Counsel for Naletilić as to the safety of defence witnesses are legitimate and that it is incumbent upon the Chamber to take appropriate measures necessary to ensure their protection whilst enabling the Prosecution to prepare for the defence case;

**FOR THE FOREGOING REASONS**

**PURSUANT TO** Rules 54 and 75 of the Rules of Procedure and Evidence;

**ORDERS** that:

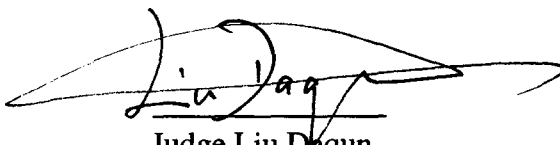
1. the Prosecution may not disclose any non-public documents provided by the Defence;
2. unless it is directly necessary in order to prepare for the Defence case, the Prosecution shall not disclose:

- (a) any name or information enabling the witness to be identified or the whereabouts of the confirmed or potential witnesses disclosed by the Defence;
  - (b) any evidence (including documentary, physical or other evidence) or any written statement of a witness or potential witness, or the substance, in whole or part, of any such non-public evidence, statement or prior statement;
3. if the Prosecution deems it necessary to disclose such information in order to prepare and present its case, it informs each recipient of the information, that he or she is forbidden to copy, reproduce or publicise it, in whole or in part, or to disclose or show it to any other person; that person who has been provided with such information be required to return it to the Prosecution as soon as it is no longer needed for preparing and presenting the case;
4. the Prosecution shall keep a log of the name, address and function of any person or entity receiving the information in question as well as the date of disclosure;

**REMINDS** the parties of the Chamber's "Decision on Prosecution Motion for Additional Protective Measures", issued on 4 February 2000;

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

Dated this twelfth day of March 2002,  
At The Hague,  
The Netherlands



Judge Liu Daqun  
Presiding Judge

**[Seal of the Tribunal]**