



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: 5 April 2002
Original: English

BEFORE THE TRIAL CHAMBER

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

Registrar: Mr. Hans Holthuis

Order of: 5 April 2002

PROSECUTOR

v.

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

ORDER FOR ADDITIONAL INFORMATION

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 “Naletilić Request for Order for Disclosure by the Prosecution” (“the Request”), filed on 8 March 2002, whereby the accused Naletilić (“the Accused”) argued that there exist files from the High Court of Mostar alleging war crimes in the area of Sovici, Bosnia-Herzegovina, on or about 17 April 1993; that the files of that case, including supporting material, has been transmitted from the High Court of Mostar to the Office of the Prosecutor of the Tribunal; that the files have not been returned to the High Court of Mostar but are still in the possession of the Office of the Prosecutor; that the supporting material is expected to contain exculpatory evidence for the Accused, that the Defence has made two requests for disclosure pursuant to Rule 68 to the Prosecutor but has not succeeded in these requests, and wherein the Accused applied to the Chamber for an Order to the Prosecution to disclose to the Defence the files;

NOTING the “Prosecution’s Response to Accused Naletilić’s Request for Order for Disclosure by the Prosecution” (“the Response”), filed on 21 March 2002;

BEING SEIZED OF the “Motion of Accused Naletilic for an Order to Institute an Investigation Into the Matter of the ‘Missing Files’” (“the Motion”), filed on 22 March 2002, applying for an Order of the Chamber directed to the Registry to investigate “into the whereabouts and fate of these ‘lost files’ from the High Court Mostar” and for any further relief as the Chamber deems appropriate;

NOTING the discussions on the issue during the Pre-Defence Conference held on 20 March 2002¹;

NOTING the Chamber’s “Order to the Prosecution to Provide Definite Information on Their Alleged Possession of the Mostar Court Files” issued on 27 March 2002;

NOTING the “Prosecution’s Response Concerning So-called ‘Missing Files’”, filed on 4 April 2002, whereby the Prosecution states that “we have no such files” and that “there is nothing but the most generic allegations by counsel that the material, in any event, presents any *bona fide* issue”;

¹ Transcript pp. 8732-8736.

CONSIDERING that the Request and the Motion only generally states that, *inter alia*, "the Defence verily believes, that the OTP has received the entire file from the High Court of Mostar and this file includes witness statements";

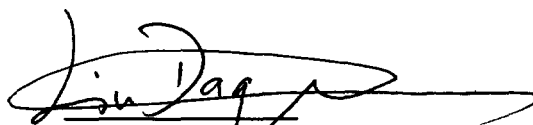
CONSIDERING that the Chamber, in order to make a decision on the Request and the Motion, would require more specific and detailed information as well as confirmation from the High Court of Mostar;

FOR THE FOREGOING REASONS

ORDERS the Accused to provide additional information to the Chamber on the files from the High Court of Mostar.

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

Dated this fifth day of April 2002,
At The Hague,
The Netherlands



Judge Liu Daqun
Presiding Judge

[Seal of the Tribunal]