



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: 15 May 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:** 15 May 2002

**PROSECUTOR**

**v.**

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

**DECISION ON THE ADMISSION OF EXHIBITS**

**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** the following submissions:

- 1) “Prosecutor’s Submission of Exhibits Tendered Through the Cross-examination of the First Four Witnesses”, filed on 16 April 2002;
- 2) “Prosecution’s Response to Admission of Defence Exhibits Tendered to This Date”, filed on 16 April 2002 (“the Response”);
- 3) “Accused Naletilić’s List of Exhibits Tendered Through First Four Witnesses”, filed confidentially on 17 April 2002 (“the Defence Submission”);
- 4) “Accused Naletilić’s Objections to Documents Tendered During Cross-Examination of NA”, filed on 22 April 2002;
- 5) “Accused Naletilić’s Objections to Documents Tendered During Cross-Examination of Praljak”, filed on 22 April 2002;
- 6) “Accused Naletilić’s Objections to Documents Tendered During Cross-Examination of Božo Rajić”, filed on 22 April 2002;
- 7) “Accused Naletilić’s Objections to Documents Tendered During Cross-Examination of Jozo Marić”, filed on 22 April 2002;

**NOTING** that in the Response, the Prosecution objects to the admission of all defence exhibits that have not been translated into English, and “concerning which no authentication or foundation has been provided”, other than photographs and exhibits selected or used from Prosecution exhibits;

**NOTING** that in its various submissions relating to the first four witnesses, the Naletilić Defence objects to the exhibits submitted by the Prosecution, on the grounds that no foundation was laid, or that the documents do not accurately portray the statements of the witnesses;

**NOTING FURTHER** that the Prosecution asked the Chamber to provide guidance on this matter;<sup>1</sup>

**CONSIDERING** that a majority of the exhibits submitted during the testimony of the first four witnesses are now translated;

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<sup>1</sup> T. 10727.

**CONSIDERING** that, pursuant to Rule 89 (C) of the Rules of Procedure and Evidence (“the Rules”), “[a] Chamber may admit any relevant evidence which it deems to have probative value”;

**CONSIDERING** that in principle, exhibits should be submitted through the testimony of a witness;

**CONSIDERING** that the Appeals Chamber has held that “[t]here is no legal basis ... that proof of authenticity is a separate threshold requirement for the admissibility of documentary evidence”;<sup>2</sup>

**CONSIDERING**, however, that in accordance with the jurisprudence of the Tribunal, it is required that the evidence presents “sufficient indicia of reliability”;<sup>3</sup>

**CONSIDERING** that the party conducting the direct examination of a witness must lay the source (provider) of the document it wishes to submit to the witness, in order for that document to meet the required degree of reliability;

**CONSIDERING** that the party conducting the cross-examination of a witness must lay the background and the source of the documents it wishes to submit to the witness, in order to allow the witness to recognise or reject the document;

**CONSIDERING** furthermore that the mere admission of a document does not necessarily mean that the document gives an accurate portrayal of the facts;<sup>4</sup>

**RECALLING** that the decision to authorise the admission of one or several documents is without prejudice to the value or weight which will be accorded to the documents at the final stage of the trial;

**FOR THE FOREGOING REASONS,**

**PURSUANT** to Rules 54 and 89 of the Rules,

**HEREBY ORDERS**, in respect to the exhibits submitted in the course of the testimony of the first four Defence witnesses;

1. that the following Defence exhibits are admitted:

<sup>2</sup> *Prosecutor v. Delalić et al.*, “Decision on Application of Defendant Zejnil Delalić for Leave to Appeal against the Decision of the Trial Chamber of 19 January 1998 for the Admissibility of Evidence”, Case No. IT-96-21-AR73.2, 4 March 1998, at para. 25.

<sup>3</sup> *Ibid.*, at para. 17; See also, *Prosecutor v. Aleksovski*, Decision on Prosecutor’s Appeal on Admissibility of Evidence, Case No. IT-95-14/1-A, 16 February 1999; *Prosecutor v. Kordić and Čerkez*, Decision on Appeal Regarding Statement of a Deceased Witness, Case No. IT-95-14/2-A, 21 July 2000; *Prosecutor v. Brdanin and Talić*, Order on the Standards Governing the Admission of Evidence, Case No. IT-99-36-T, 15 February 2002, at para. 18;

<sup>4</sup> *Ibid.*

D1/48, D1/49, D1/50, D1/51, D1/52, D1/53, D1/59, D1/60, D1/61, D1/63, D1/64, D1/65, D1/66, D1/67, D1/68, D1/69, D1/70, D1/71, D1/72, D1/74, D1/76, D1/77, D1/82, D1/84, D1/86, D1/87, D1/88, D1/89, D1/90, D1/91, D1/92, D1/93;

2. that the following Prosecution exhibits are admitted:

P3.4, P899, P136.1, P555.3, P654.1, P898, P121.1, P172.1, P458.2, P534.1, P654.2, P662.01, P662.02, P415.1, P559.3, P559.1, P592.1, P661.1, P230.1, P272.1, P584.1, P587.2, P559.2, P902, P903, P904, P192.1, P159.1, P207.1, P236.8, P905, P578.2, P157.3, P198.2, P244.1, P802.2, P906;

**DENIES** the admission of the following exhibits:

P578.1, P124.1, P587.1, P111.1, P172.2, P399.2, P564.1, P463.1, P463.2, P186.1, P380.1, P469.1, P542.1, P200.2;

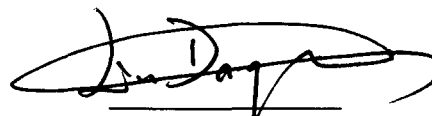
**FURTHER DENIES** the admission of the following exhibits on the ground that they have not been submitted in court:

P808.1, P390.1, P654.1;

**RESERVES** its decision on all exhibits that are not enumerated in the present Decision.

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

Dated this fifteenth day of May 2002,  
At The Hague,  
The Netherlands



Judge Liu Daqun  
Presiding Judge

**[Seal of the Tribunal]**