



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: 3 June 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:** 3 June 2002

**PROSECUTOR**

v.

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

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**DECISION ON THE ADMISSION OF EXHIBITS  
TENDERED THROUGH WITNESS NB**

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**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) “Accused Naletilić Exhibits Tendered Through Witness NB on 17 April 2002”, filed confidentially on 17 April 2002 (“the Naletilić List”);
- 2) “Prosecutor’s Submission of Exhibits Tendered Through the Cross-examination of Witness NB, Witness ND and Damir Zorić”, filed confidentially on 13 May 2002 (“the Prosecutor’s List”);
- 3) “Prosecutor’s Objections to Defence Exhibits Tendered Through Witness NB, Witness NC and Witness ND”, filed on 29 May 2002 (“the Prosecutor’s Objection”);

**NOTING** that the parties put forward the lists of the exhibits submitted through the testimony of Witness NB that they seek to have admitted;

**NOTING** that Witness NB finished testifying on the 17 April 2002; that the Defence has not filed any objection to the Prosecutor’s List and that the Prosecutor’s Objection was filed on 29 May 2002, that is more than a month after the Naletilić List was submitted;

**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 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>1</sup>

**CONSIDERING**, however, that in accordance with the jurisprudence of the Tribunal, it is required that the evidence presents “sufficient indicia of reliability”;<sup>2</sup>

<sup>1</sup> *Prosecutor v. Delalić et al.*, “Decision on Application of Defendant Zejnir 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>2</sup> *Ibid.*, at para. 17; See also, *Prosecutor v. Aleksovki*, 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. Brđanin and Talić*, Order on the Standards Governing the Admission of Evidence, Case No. IT-99-36-T, 15 February 2002, at para. 18;

**CONSIDERING** that the party conducting the direct examination of a witness must lay the source of the document it wishes to submit through 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 through 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>3</sup>

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

**CONSIDERING** that the Chamber already admitted Exhibit P661.01 in its Decision dated 15 May 2002;<sup>4</sup>

**CONSIDERING** that Exhibits D1/105, D1/107, D1/111, D1/112, D1/113, D1/123 and D1/134 have not been discussed at any stage of the proceedings;

**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 Witness NB:

1. that the following Defence exhibits are admitted:

D1/50; D1/106; D1/109; D1/110; D1/114; D1/115; D1/116; D1/117; D1/118; D1/119; D1/120; D1/121; D1/122; D1/125; D1/127; D1/128; D1/129; D1/130; D1/132; D1/133;

2. that the following Prosecution exhibits are admitted:

P11.18/13; P301.2; P388.3; P488.1;

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

D1/108; D1/124; D1/126;

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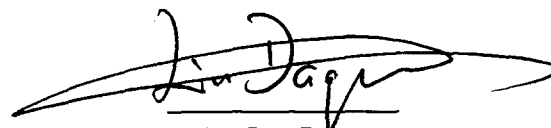
<sup>3</sup> *Ibid.*

<sup>4</sup> *Prosecutor v. Martinović and Naletilić*, Decision on the admission of exhibits, Case No. IT-98-34-T, 15 May 2002, at p. 4.

**ORDERS** that in the future, any objection to the list of exhibits submitted by the other party must be filed within seven (7) days of the date of the filing of the said list.

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

Dated this third of June 2002,  
At The Hague,  
The Netherlands



Judge Liu Daqun  
Presiding Judge

[Seal of the Tribunal]