



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: 14 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: 14 June 2002

PROSECUTOR

v.

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

**DECISION ON THE ADMISSION OF EXHIBITS
TENDERED THROUGH WITNESS ND AND DAMIR ZORIĆ**

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’s List of Exhibits Tendered Through Witness ND”, filed on 9 May 2002;
- 2) “Accused Naletilić Document Tendered Through Witness Damir Zorić”, filed on 14 May 2002;
- 3) “Prosecutor’s Submission of Exhibits Tendered Through the Cross-examination of Witness NB, Witness ND and Damir Zorić”, filed confidentially on 13 May 2002;
- 4) “Prosecutor’s Objections to Defence Exhibits Tendered Through Witness NB, Witness NC and Witness ND”, filed on 29 May 2002;

NOTING that the parties put forward the lists of the exhibits submitted through the testimony of Witness ND and Damir Zorić that they seek to have admitted;

NOTING that Witness ND finished testifying on the 7 May 2002 and that the Defence has not filed any objection to the list submitted by the Prosecutor;

NOTING that Damir Zorić finished testifying on the 8 May 2002; that both the Defence and the Prosecution have not filed any objection to the list submitted by the other party;

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”;¹

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

¹ *Prosecutor v. Delalić et al.*, Case No. IT-96-21-AR73.2, “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”, 4 March 1998, at para. 25.

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

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 there is a typographic error in the list filed by Naletilić Defence regarding the exhibits submitted through Witness ND; that Exhibit D1/138 is in fact designated under the number D1/318;

CONSIDERING that Exhibits P173.1,⁴ P370,⁵ P444,⁶ P243⁷ were already admitted;

CONSIDERING that a translation into English of Exhibit D1/326 has not yet been provided;

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 ND and Damir Zorić:

1. that the following Defence exhibits are admitted:

D1/320; D1/318; D1/319; D1/325; D1/322; D1/198;

2. that the following Prosecution exhibits are admitted:

P11.18/14; P173.2;

³ *Ibid.*

⁴ *Prosecutor v. Naletilić and Martinović*, Case No. IT-98-34-T, Second Decision on Admission of Exhibits, 13 December 2001.

⁵ *Prosecutor v. Naletilić and Martinović*, Case No. IT-98-34-T, Decision on Admission of Exhibits, 9 November 2001.

⁶ *Prosecutor v. Naletilić and Martinović*, Case No. IT-98-34-T, Third Decision on Admission of Exhibits, 31 January 2002.

⁷ *Ibid.*

DENIES the admission of the following exhibits:

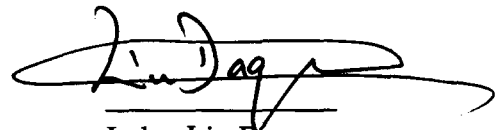
D1/327; P286.1; P566.3;

RESERVES its decision on the admission of Exhibit D1/326 until a translation into English is provided;

REMINDS the parties that 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 fourteenth of June 2002,
At The Hague,
The Netherlands



Judge Liu Daqun
Presiding Judge

[Seal of the Tribunal]