



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: 10 July 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: 10 July 2002

PROSECUTOR

v.

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

**DECISION ON THE ADMISSION OF EXHIBITS
TENDERED THROUGH IVIĆ PAŠALIĆ**

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 Cross-examination Exhibits Concerning Witness Ivić Pašalić”, filed confidentially on 18 June 2002;
- 2) “Accuseds Naletilić’s Objections to Documents Tendered by the Prosecution Through Cross-examination of Ivić Pašalić”, filed on 19 June 2002;

NOTING that the Prosecution put forward the list of the exhibits submitted through the testimony of Ivić Pašalić that it seeks to have admitted; that the Naletilić Defence filed its objections to the said exhibits;

NOTING that the Naletilić Defence did not submit any new exhibit through the testimony of Ivić Pašalić;

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

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;

¹ *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.

² *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.

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;

NOTING that Exhibits IAC-82 and PT-14 were previously admitted into evidence;

NOTING that Exhibit P868.1 does not bear a translation into BCS;⁴

NOTING that Exhibit P654.2 has been renumbered P654.3;

FOR THE FOREGOING REASONS,

PURSUANT to Rules 54 and 89 of the Rules,

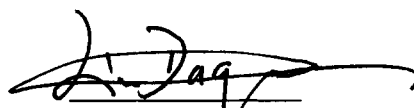
HEREBY ORDERS, in respect to the exhibits submitted in the course of the testimony of Ivić Pašalić, that the following exhibits are admitted: P654.3; P666.2; P793.01; P851.01; P876.001; P876.002; P930;

DENIES the admission of the following exhibit: P868.1;

REMINDS the parties that, unless otherwise ordered, 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 tenth of July 2002,
At The Hague,
The Netherlands


Judge Liu Daqun
Presiding Judge

[Seal of the Tribunal]

³ *Ibid.*

⁴ See *Prosecutor v. Martinović and Naletilić*, Decision on Defence's Motion Concerning Translation of All Documents, Case No. IT-98-34-T, 18 October 2001. This decision was clarified by an oral order of the Chamber dated 12 November 2001.