



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: 1 August 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: 1 August 2002

PROSECUTOR

v.

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

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

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) “List of Documents Tendered by Accused Naletilić Through Testimony of Witness NC”, filed on 6 May 2002 (“the Submission”);
- 2) “Prosecutor’s Submission of Cross-examination Exhibits Concerning Witness NC”, filed on 9 May 2002;
- 3) “Accused Naletilić’s Objections to Documents Tendered by Prosecution Through Witness NC”, filed on 15 May 2002;
- 4) “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 NC that they seek to have admitted and their objections to the said lists;

NOTING that in the Submission, the Naletilić Defence stated that it “reserves the right to tender, and it intends to do so, other documents through the testimony of ‘NC’ once the same are translated into a working language of the Tribunal”; that the Naletilić Defence has not filed any further submission on the matter;

CONSIDERING that in principle, exhibits should be introduced through a witness;

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.*, “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.

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 Exhibits P125.1; P173.1; P173.2; PT21; D1/125; D1/127 and D1/128 are already admitted into evidence;

NOTING that the Chamber has been informed by the Registrar that the translation of Exhibits D1/204, D1/205 and D1/285 into a working language of the Tribunal was pending;

NOTING that Exhibit P11 as marked by the witness has been renumbered D1/140 by the Registrar;

CONSIDERING that the last page of Exhibit D1/247 is illegible;

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 NC:

1. that the following Defence exhibits are admitted:

D1/50(1); D1/73; D1/108; D1/124; D1/126; D1/135; D1/140; D1/141; D1/142; D1/181; D1/183 (photo only); D1/202; D1/242; D1/245; D1/247 (first four pages); D1/263 (a to g); D1/264 (a to f); D1/265; D1/267 (a to g); D1/268 (a to f); D1/275; D1/290; D1/299; D1/311; D1/314; D1/315;

2. that the following Prosecution exhibits are admitted:

² *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

P200.21; P400.1; P802.11; P907; P908; P909; P909.1; P910; P911; P912; P914; P915; P916; P917;
P918;

DENIES the admission of the following exhibits:

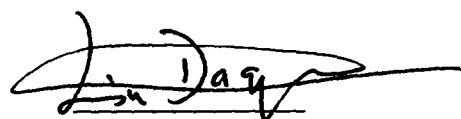
D1/247 (last page); P913;

DECIDES that Exhibits D1/204, D1/205 and D1/285 will be admitted into evidence once the Registrar receives a translation of those documents into a working language of the Tribunal;

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 first of August 2002,
At The Hague,
The Netherlands



Judge Liu Daqun
Presiding Judge

[Seal of the Tribunal]

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;

³ *Ibid.*