

IT-98-34-T  
D5725 -D5723  
04 OCTOBER 2002.

5725  
AT

**UNITED  
NATIONS**



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: 4 October 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:** 4 October 2002

**PROSECUTOR**

v.

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

**DECISION ON THE SUBMISSIONS OF THE DEFENCE CONCERNING  
EXHIBITS TENDERED THROUGH WITNESSES MC, ME AND MH**

**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’s Joint Objection to Prosecution Exhibits P609.3 and P612.3”, filed jointly by the Naletilić and the Martinović Defence on 24 July 2002;
2. “Accuseds Naletilić’s Objection To Prosecution Exhibit P664.1”, filed by the Naletilić Defence on 24 July 2002;
3. “Objection to the Inclusion of Evidence P401.1”, filed by the Martinović Defence on 26 July 2002;
4. “Accused Naletilić’s Objection to Prosecution Exhibit P401.1”, filed by the Naletilić Defence on 29 July 2002;

**NOTING** the oral arguments of the parties during the hearings on 19, 22 and 23 July 2002;

**CONSIDERING** that in principle, exhibits should be submitted 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”;<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>

**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;

<sup>1</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>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 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;

**NOTING** that the Prosecution was asked to provide further information as to the source of exhibit P401.1,<sup>4</sup> but has not filed any submission on this matter;

**FOR THE FOREGOING REASONS,**

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

**HEREBY ORDERS** that the following exhibits are admitted into evidence:

P609.3; P612.3; P664.1;

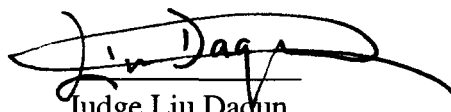
**DENIES** the admission of exhibit:

P401.1;

**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 fourth day of October 2002,  
At The Hague,  
The Netherlands.

  
Judge Liu Daqun  
Presiding Judge

**[Seal of the Tribunal]**

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

<sup>4</sup> T. 14305.