

United Nations  
Nations UniesInternational Criminal Tribunal  
for the former Yugoslavia  
Tribunal Pénal International  
pour l'ex-Yougoslavie

“TUTA & ŠTELA” (IT-98-34)  
**NALETILIĆ  
 & MARTINOVIĆ**

**MLADEN NALETILIĆ**

*Convicted of torture; wilfully causing great suffering or serious injury to body or health; unlawful transfer of a civilian; unlawful labour; wanton destruction not justified by military necessity; plunder of public or private property; persecutions on political, racial and religious grounds*



Founder and commander of the Bosnian Croat “Kažnjenička Bojna” (Convicts’ Battalion), a 200 to 300-strong body of soldiers based around Mostar in south-eastern Bosnia and Herzegovina

- Sentenced to **20 years’ imprisonment**

*Crimes convicted of (examples):*

**Torture; wilfully causing great suffering or serious injury to body or health; unlawful transfer of a civilian** (grave breaches of the Geneva Conventions)

**Unlawful labour; wanton destruction not justified by military necessity; plunder of public or private property** (violations of laws or customs of war)

**Persecutions on political, racial and religious grounds; torture** (crimes against humanity)

- Naletilić repeatedly committed torture and cruel treatment, and wilfully caused great suffering, in Doljani, at the Tobacco Institute in Mostar and at the Heliodrom detention centre west of Mostar. For instance, on one occasion Naletilić personally beat a young man named Zilić on the genitals and the face, then allowed his men to further beat Zilić; in another instance, Naletilić tortured a 16-year old detainee by threatening to kill him if he did not provide information.
- He ordered the destruction of all Bosnian Muslim houses in Doljani on 21 April 1993.
- He forcibly removed approximately 400 Bosnian Muslim civilians from Sovići and Doljani on 4 May 1993.
- He used prisoners of war to dig a trench in the vicinity of his villa.
- Troops under Naletilić’s command looted private property of Bosnian Muslims in Mostar.

**VINKO MARTINOVIĆ**

*Convicted of Inhumane treatment; wilfully causing great suffering or serious injury to body or health; wilful killing; unlawful transfer of a civilian; unlawful labour; plunder of public or private property; persecutions on political, racial and religious grounds, inhumane acts, murder*



Commander of the "Mrmak" or "Vinko Škrobo" unit of the Convicts' Battalion and subordinate to Mladen Naletilić

- Sentenced to **18 years' imprisonment**

*Crimes convicted of (examples):*

**Inhumane treatment; wilfully causing great suffering or serious injury to body or health; wilful killing; unlawful transfer of a civilian** (grave breaches of the Geneva Conventions)

**Unlawful labour; plunder of public or private property** (violations of the laws or customs of war)

**Persecutions on political, racial and religious grounds, inhumane acts, murder** (crimes against humanity)

- Martinović participated in the murder of Nenad Harmandžić, who was taken from the Heliodrom detention centre to Martinović's base on 12 or 13 July 1993. Harmandžić was brutally beaten and mistreated before being killed by a gunshot through his cheek.
- Martinović was responsible for and was personally involved in rounding up the Muslim civilian population of Mostar and unlawfully transferring and detaining them at the Heliodrom detention centre. Women, children and the elderly were intimidated and forced out of their homes at gun point. Many of their apartments were subsequently looted.
- He used prisoners of war to dig trenches, build defences with sandbags and carry wounded or dead soldiers.
- On 17 September 1993, he forced four detainees to dress as soldiers, carry wooden rifles and stand in the line of hostile fire, thus making them human shields to Bosnian Croat soldiers.

**MLADEN NALETILIĆ**

<b>Born</b>	1 December 1946 in Široki Brijeg, Bosnia and Herzegovina
<b>Indictment</b>	Initial: 21 December 1998; amended: 28 November 2000; second amended: 16 October 2001
<b>Arrested</b>	18 October 1999 by Croatian authorities
<b>Transferred to ICTY</b>	21 March 2000
<b>Initial appearance</b>	24 March 2000, pleaded not guilty to all charges
<b>Trial Chamber judgement</b>	31 March 2003, sentenced to 20 years' imprisonment
<b>Appeals Chamber judgement</b>	3 May 2006, sentence affirmed
<b>Serving sentence</b>	24 April 2008, transferred to serve sentence in Italy; credit was given for time served since 18 October 1999

<b>VINKO MARTINOVIĆ</b>	
Born	21 September 1963 in Mostar, Bosnia and Herzegovina
Indictment	Initial: 21 December 1998; amended: 28 November 2000; second amended: 16 October 2001
Arrested	9 August 1999 by Croatian authorities
Transferred to ICTY	9 August 1999
Initial appearance	12 August 1999, pleaded not guilty to all charges
Trial Chamber judgement	31 March 2003, sentenced to 18 years' imprisonment
Appeals Chamber judgement	3 May 2006, sentence affirmed
Serving sentence	9 May 2008, transferred to serve sentence in Italy; credit was given for time served since 9 August 1999; early release granted on 16 December 2011

## STATISTICS

Trial days	161
Witnesses called by Prosecution	57
Witnesses called by Defence	Naletilić: 24 Martinović: 22
Witnesses called by Chambers	0
Prosecution exhibits	963
Defence exhibits	Naletilić: 441 Martinović: 81
Chambers exhibits	0

<b>TRIAL</b>	
Commenced	10 September 2001
Closing arguments	28 - 31 October 2002
Trial Chamber I	Judge Liu Daqun (presiding), Judge Maureen Harding Clark, Judge Fatoumata Diarra
Counsel for the Prosecution	Kenneth Scott, Douglas Stringer, Roeland Bos, Vassily Poriouvaev
Counsel for the Defence	For Mladen Naletilić: Krešimir Krsnik, Christopher Young Meek For Vinko Martinović: Branko Šerić, Želimir Par
Judgement	31 March 2003

<b>APPEALS</b>	
Appeals Chamber	Judge Fausto Pocar (presiding), Judge Wolfgang Schomburg, Judge Mohamed Shahabuddeen, Judge Mehmet Güney, Judge Andréia Vaz
Counsel for the Prosecution	Norman Farrell, Peter Kremer, Marie-Ursula Kind, Xavier Tracol, Steffen Wirth
Counsel for the Defence	For Mladen Naletilić: Matt Hennessy, Christopher Young Meek For Vinko Martinović: Kurt Kerns, Želimir Par
Judgement	3 May 2006

<b>RELATED CASES</b> <i>by geographical area</i>	
NO RELATED CASES	

## INDICTMENT AND CHARGES

The initial indictment against Naletilić, also known as Tuta, and Martinović, also known as Štela, was confirmed on 21 December 1998. The two men were arrested in Croatia on 26 February 1999. Martinović was transferred to The Hague on 9 August 1999 and Naletilić on 21 March 2000.

An amended indictment was confirmed on 28 November 2000, amending count 5 (violation of the laws or customs of law under Article 3 of the Statute) by adding a reference to Article 52 of the third Geneva Convention which prohibits dangerous and humiliating labour. The second amended indictment was confirmed on 16 October 2001, clarifying that Martinović was not charged in counts 9 (crimes against humanity), 10 (grave breaches of the Geneva Conventions), 19, 20 and 22 (grave breaches of the Geneva Conventions and violations of the laws or customs of war).

## THE TRIAL

The trial of Naletilić and Martinović commenced on 10 September 2001. The Defence began presenting its evidence on 25 March 2002. Closing arguments were heard between 28 and 31 October 2002.

## TRIAL CHAMBER JUDGEMENT

The Trial Chamber rendered its judgement on 31 March 2003.

The judgement covered the period April 1993 to January 1994 and the conflict that existed during this time between Bosnian Croats and Bosnian Muslims. These two ethnic groups had previously cooperated and fought jointly in 1992 under the command of the Croatian Defence Council (HVO) against the Serb-Montenegrin forces, sometimes referred to as the Serb forces or Yugoslav People's Army (JNA).

The Chamber found that there had been a widespread and systematic attack against the Muslim civilian population in Mostar, Sovići and Doljani at the time relevant to the indictment. Bosnian Muslim houses in the area were burnt and mosques systematically destroyed in order to prevent Muslims from returning. Detention centres were established all over the area to detain both Muslim civilians and soldiers, who were often subjected to humiliating and brutal mistreatment.

The campaign against the Bosnian Muslim population in the area reached a climax following the attack on Mostar in early May 1993. Groups of soldiers forced the Bosnian Muslim civilian population out of west Mostar by evicting families from their homes during the night and forcing them to leave everything behind. Large numbers of Bosnian Muslims crossed over to the eastern side of Mostar, where living conditions substantially deteriorated due to the swelling number of expelled civilians. Moreover, water and electricity services were cut off and humanitarian organisations were denied access for weeks. Crucial public services, such as the hospital, were inaccessible because they were situated in west Mostar.

The Trial Chamber concluded that Naletilić and Martinović intended to discriminate against the Muslim population. Naletilić was found responsible for the forcible removal of approximately 400 Muslim civilians from Sovići and Doljani on 4 May. Following an operation planned and conducted by Naletilić, and involving KB soldiers also known as "Tuta's men", the civilians were detained in houses in the hamlet of Junuzovići for approximately two weeks before they were transferred to Gornji Vakuf, an area under control of the ABiH. Martinović was responsible for and personally involved in the rounding up of the Muslim civilian population of Mostar on 9 May and unlawfully transferring them to the Heliudrom and detaining them there. Women, children and the elderly were intimidated and forced out of their homes at gun point. Many of their apartments were subsequently looted.

With regard to unlawful labour, the Trial Chamber was satisfied that Martinović used prisoners of war to dig trenches, build defences with sandbags and carry wounded or dead soldiers. On 17 September 1993, Martinović forced four detainees to dress as soldiers, carry wooden rifles and stand in the line of hostile fire, thus making them human shields for HVO soldiers. Doing this type of work caused serious mental harm and physical suffering or injury to the prisoners, and the charges of inhumane acts, inhuman treatment and cruel treatment were therefore proven. Naletilić was found guilty of using prisoners to dig

a trench in the vicinity of his villa. The workers dug by hand from morning to dusk for two months and were given very little food or water.

The Trial Chamber found that Naletilić repeatedly committed torture, cruel treatment and wilfully caused great suffering in Doljani, at the Tobacco Institute in Mostar and at the Heliodrom. Many incidents involved death threats issued in a context of brutal beatings. For instance, Naletilić inflicted torture on a 16-year old detainee by threatening to kill him if he did not provide the information Naletilić demanded. This threat was issued in the context of systematic violent interrogations conducted by Naletilić and violent beatings conducted by his men. On another occasion, Naletilić personally beat a young man named Zilić on the genitals and the face, then allowed his men to further beat Zilić.

The Chamber convicted Martinović for his participation in the murder of Nenad Harmandžić. Harmandžić was taken from the Heliodrom to Martinović's base on 12 or 13 July 1993, where he was brutally beaten and mistreated before being killed by a gunshot through his cheek.

Both Martinović and Naletilić were convicted for the looting of private property of Bosnian Muslims in Mostar committed by troops under their command.

Finally, the Chamber convicted Naletilić for ordering the destruction of all Bosnian Muslim houses in Doljani on 21 April 1993.

Beyond establishing the actual crimes of the accused, the Trial Chamber established the elements of unlawful labour and unlawful transfer as grave breaches of Geneva Conventions. The Trial Chamber noted that their judgement was the first to deal with unlawful transfer as a grave breach of the Geneva Conventions. Article 49 of the Geneva Conventions prohibits persons in the hands of an occupying power being transferred from occupied territory or within occupied territory, unless evacuations are necessary for the safety of the population or the person chooses to leave on his "own wish". If a person is physically or morally coerced into leaving, then that action is unlawful. Therefore, Naletilić and Martinović violated this law.

On 31 March 2003, the Trial Chamber rendered its judgement, convicting Naletilić on the basis of individual and command responsibility (Article 7 (1) and 7 (3) of the Statute of the Tribunal) for:

- Persecutions on political, racial and religious grounds (crimes against humanity, Article 5),
- Unlawful labour (violation of laws or customs of war, Article 3),
- Torture (grave breaches of the Geneva conventions, Article 2 and crime against humanity, Article 5),
- Wilfully causing great suffering or serious injury to body or health (grave breaches of Geneva conventions, Article 2),
- Unlawful transfer of a civilian (grave breaches of Geneva conventions, Article 2),
- Wanton destruction not justified by military necessity (violation of laws or customs of war, Article 3),
- Plunder of public or private property (violation of the laws or customs of war, Article 3).

Sentence: 20 years' imprisonment.

On 31 March 2003, the Trial Chamber rendered its judgement, convicting Martinović on the basis of individual and command responsibility (Article 7 (1) and 7 (3) of the Statute of the Tribunal) for:

- Persecutions on political, racial and religious grounds (crimes against humanity, Article 5),
- Inhumane acts (crimes against humanity, Article 5),
- Inhumane treatment (grave breaches of Geneva conventions, Article 2),
- Unlawful labour (violations of laws or customs of war, Article 3),
- Wilfully causing great suffering or serious injury to body or health (grave breaches of Geneva conventions, Article 2),
- Murder (crimes against humanity, Article 5),
- Wilful killing (grave breaches of Geneva conventions, Article 2),
- Unlawful transfer of a civilian (grave breaches of Geneva conventions, Article 2),
- Plunder of public or private property (violations of the laws or customs of war, Article 3).

Sentence: 18 years' imprisonment.

## APPEALS CHAMBER JUDGEMENT

Naletilić and Martinović filed their appeals against the judgement and sentences on 29 April 2003. The Prosecution filed its appeal on 1 May 2003. On 3 May 2006, the Appeals Chamber rendered its judgement affirming the sentences handed down by the Trial Chamber.

The various grounds of appeal addressed issues regarding due process of law, including vagueness of the indictment and alternative charging, the international character of the armed conflict, elements of the crimes, various factual findings made by the Trial Chamber, and cumulative convictions. Naletilić and Martinović also appealed their sentences.

In its judgement, the Appeals Chamber dismissed the vast majority of the grounds of appeal raised by both sides.

The Appeals Chamber did set aside, in part, some of the convictions entered by the Trial Chamber against Naletilić and Martinović. However, taking into account the particular circumstances of the case, the form and degree of participation of the accused in the crimes affirmed on appeal, and the seriousness of those crimes, the Appeals Chamber found that the sentences imposed by the Trial Chamber the accused were within the range that a reasonable Chamber could have ordered.

On 24 April 2008, Naletilić was transferred to Italy to serve the remainder of his sentence.

On 9 May 2008, Martinović was transferred to Italy to serve the remainder of his sentence.

On 16 December 2011 (in a decision made public on 9 January 2012), Martinović was granted early release.