



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-95-12-S
Date: 4 May 2006
Original: English

IN TRIAL CHAMBER I

Before: Judge Christine Van Den Wyngaert, Presiding
Judge Janet Nosworthy
Judge Frank Höpfel

Registrar: Mr. Hans Holthuis

Decision of: 4 May 2006

THE PROSECUTOR

v.

IVICA RAJIĆ aka VIKTOR ANDRIĆ

**DECISION ON THE MOTION PURSUANT TO RULES 51 AND 73 TO WITHDRAW
COUNTS IN THE AMENDED INDICTMENT AGAINST IVICA RAJIĆ aka VIKTOR
ANDRIĆ**

The Office of the Prosecutor:

Mr. Kenneth Scott

Counsel for the Accused:

Ms. Doris Košta

TRIAL CHAMBER I 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;

NOTING the Prosecution's Motion of 27 April 2006, pursuant to Rules 51 and 73 of the Rules of Procedure and Evidence of the Tribunal ("Rules"), to withdraw counts in the Amended Indictment against Ivica Rajić filed on 14 January 2004 ("Amended Indictment");

NOTING the Amended Indictment which charged Ivica Rajić with five Grave breaches of the Geneva Conventions of 1949 – wilful killing (count 1), inhuman treatment (count 3), unlawful confinement of a civilian (count 5), appropriation of property (count 7) and extensive destruction not justified by military necessity and carried out unlawfully and wantonly (count 9) – as well as five Violations of the laws or customs of war – murder (count 2), outrages upon personal dignity, in particular humiliating and degrading treatment (count 4), cruel treatment (count 6), plunder of public or private property (count 8) and wanton destruction of a city or devastation not justified by military necessity (count 10);

NOTING the Plea Agreement of 25 October 2005 ("Plea Agreement") according to which Ivica Rajić agreed to plead guilty to four of the ten charges in the Amended Indictment, pursuant to Article 2 of the Statute (Grave breaches of the Geneva Conventions of 1949);

NOTING paragraph 18(b) of the Plea Agreement according to which the Prosecution agreed that "[a]t the time of the Trial Chamber's acceptance of the guilty plea and sentence, the Prosecution will move to dismiss without prejudice the remaining charges against the Accused, as set out in the Amended Indictment";

NOTING that on 26 October 2005, being satisfied that the plea was voluntary, informed and unequivocal and that there was a sufficient factual basis for the crimes, the Trial Chamber entered a finding of guilt for the following four counts: count 1 (wilful killing), count 3 (inhuman treatment), count 7 (appropriation of property) and count 9 (extensive destruction not justified by military necessity and carried out unlawfully and wantonly);

NOTING that the Prosecution then moved to withdraw counts 2, 4, 5, 6, 8 and 10 of the Amended Indictment without prejudice (meaning that should the Judgement or the sentence be reversed or modified for any reason, the Prosecution will be entitled to renew or once again assert these charges);

PURSUANT TO Rules 51 and 73 of the Rules;

HEREBY ORDERS that counts 2, 4, 5, 6, 8 and 10 be withdrawn without prejudice.



Judge Christine Van Den Wyngaert,
Presiding

Done in English and French, the English text being authoritative.
Dated this fourth day of May 2006
At The Hague, The Netherlands

[Seal of the Tribunal]