

THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA

Case No. IT-95-12-PT

THE PROSECUTOR
OF THE TRIBUNAL

AGAINST

IVICA RAJI]
also known as VIKTOR ANDRI]

PROPOSED AMENDED INDICTMENT

The Prosecutor of the International Criminal Tribunal for the Former Yugoslavia, pursuant to her authority under Article 18 of the Statute of the International Criminal Tribunal for the Former Yugoslavia (the "Statute"), charges:

IVICA RAJI]
also known as VIKTOR ANDRI]

with Grave Breaches of the Geneva Conventions and Violations of the Laws and Customs of War, as follows:

THE ACCUSED AND SUPERIOR AUTHORITY

1. Ivica RAJI] , also known as Viktor Andri} , son of Ivan, was born on 5 May 1958 in the village of Johovac, in Kiseljak Municipality, in Bosnia-Herzegovina. He graduated from a military academy of the former Yugoslavia and was a captain (first class) in the former Yugoslav People's Army.

2. At all times relevant to the indictment, Ivica RAJI] , also known as Victor Andri} (sometimes hereafter "Ivica RAJI] "), was commander of the Croatian Defence Council's Second Operational Group in the Central Bosnia

Operative Zone, based in Kiseljak town, in Bosnia-Herzegovina. Ivica RAJI] was the commanding officer and had de jure and de facto command and control of various Croatian Defence Council units in his area of responsibility (including Kiseljak, Kakanj and Vare{ Municipalities), including the Ban Jelaci} Brigade, the Bobovac Brigade and units known as the "Maturice" and "Apostoli." At all material times, and as covered by Statute Article 7(3), Ivica RAJI] had superior responsibility for subordinate officers and soldiers in units under his command and control.

COUNTS 1 TO 10
(MURDER AND WILLFUL KILLING,
OUTRAGES UPON PERSONAL DIGNITY, UNLAWFUL
CONFINEMENT, INHUMAN AND CRUEL TREATMENT,
APPROPRIATION, PLUNDER AND DESTRUCTION
OF PROPERTY)

3. From on or about 1 October 1993 to on or about 30 December 1993 and thereafter, Ivica RAJI], also known as Viktor Andri}, planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation and execution of the crimes set out below, and, or in the alternative, is responsible for the commission of such crimes as the acts of subordinates subject to his control who he knew or had reason to know were about to commit such acts or had in fact committed them, and failed to take necessary and reasonable measures to prevent such acts or punish their commission, in violation of Article 7(1) and Article 7(3) of the Statute.

4. Vare{ Municipality is located in central Bosnia, north of Sarajevo, with a 1991 population of approximately 22,203 persons. According to the 1991 census, 40.60% of the population (or about 9,015 persons) declared themselves Croat, 30.23% (approximately 6,712 persons), as Muslim, 16.41% as Serb, and 12.73% as other.

5. Within Vare{ Municipality, some villages were exclusively or predominantly Muslim. Stupni Do was a village of about 60 houses, located approximately four kilometers southeast of Vare{, inhabited by about 250 persons who were almost exclusively Muslim. During late October 1993, the village was protected by rotating shifts of armed Muslim men, all or most of whom were local inhabitants.

6. On 18 November 1991, a group of Bosnian Croats led by Mate Boban and others, mostly from or associated with a political party known as the Croatian Democratic Union of Bosnia-Herzegovina, proclaimed the

existence of an entity and territory calling itself the Croatian Community of Herceg-Bosna. In August 1993, the Croatian Community of Herceg-Bosna proclaimed itself the Croatian Republic of Herceg-Bosna (both entities hereafter referenced as "Herceg-Bosna"). In 1992, the Herceg-Bosna government and armed forces were established, calling themselves the Croatian Defence Council (the "HVO").

7. The 18 November 1991 declaration included Vareš Municipality as part of the Croatian Community of Herceg-Bosna, and the municipality was also claimed as part of the Croatian Republic of Herceg-Bosna. As in other municipalities claimed to be part of Herceg-Bosna, the Herceg-Bosna/HVO authorities took steps in 1992 and 1993 to assert and consolidate their power and control in the municipality. When the HVO took over the Vareš municipal government on or about 1 July 1992, the Muslim members of the elected municipal government established a "War Presidency," first in Striježevu and then in Dabrovo. Even so, the Croats and Muslims in Vareš Municipality continued to live in relatively peaceful co-existence until mid-1993.

8. In June 1993, following a military action by the Army of the Republic of Bosnia-Herzegovina (the "ABiH") in neighboring Kakanj Municipality, around 13,000 Bosnian Croats (including HVO soldiers) moved to Vareš. Many of the HVO soldiers from Kakanj were hostile toward the Muslims in Vareš, and acts of intimidation were increasingly directed against the Muslims and their property.

9. In June 1993, the Vareš HVO issued an ultimatum to the Muslim villagers in Stupni Do to surrender their weapons or else they would be attacked. The Muslims in Stupni Do refused to give up their weapons and on the expiration of the ultimatum and fearing an attack, the Stupni Do villagers fled to neighbouring villages. After several days when the HVO did not attack Stupni Do, the villagers returned home.

10. On 18 October 1993, the HVO arrested six local ABiH members at an HVO checkpoint in Pajtov Han. The prisoners were interrogated and beaten by HVO soldiers, who were seeking information on the strength (including numbers and weapons) of the armed Muslims in Stupni Do.

11. On 21-22 October 1993, the ABiH attacked the village of Kopjari in Vareš Municipality, with the village's Bosnian Croat residents moving to the village of Pogar.

12. On 21 October 1993, senior HVO authorities and HVO commander Ivica RAJI] decided to send HVO forces to take control of the situation in Vareš. On the same day, Ivica Raji• left Kiseljak with around 200 HVO soldiers, including soldiers from the HVO "Maturice" and "Apostoli" units, as well as HVO soldiers from Kiseljak and Kakanj. These forces passed through Bosnian Serb-controlled territory and reached Vare{ town on 22 October 1993.

13. On 23 October 1993, a senior HVO commander ordered that the HVO forces under Ivica RAJI] 's command in Kiseljak and Vare{ should "show no mercy to anyone." On the same day, Ivica Raji• ordered part of his HVO forces to round up the Muslim males in Vare{ town and detain them in two local schools, and another part to attack the village of Stupni Do and Bogos Hill.

14. On 23 October 1993, with authorisation of his HVO superiors, Ivica RAJI] arrested (or ordered the arrest of) several of the local Bosnian Croat officials in Vare{. On the same day, HVO forces under Ivica RAJI] 's command searched Vare{ town and arrested more than 250 Muslim males, regardless of their civilian or military status. During the process of arresting the Muslim males, HVO soldiers entered their houses, physically and mentally abused the inhabitants and persons present and robbed them of their valuables.

15. The arrested Muslim men were detained in two schools in Vare{, the "Ivan Goran Kova-i}" high school and the "Vladimir Nazor" elementary school. The conditions at the schools were horrible, with insufficient food and no sanitary facilities. Prisoners were forced to stand during the day with their hands behind their back and looking at the floor. HVO soldiers entered the schools and physically abused the prisoners. HVO soldiers forced prisoners to beat each other, often forcing family members to beat other family members. Some of the prisoners were transferred to the prison in Vareš Majdan, where they were severely beaten by HVO soldiers.

16. On the morning of 23 October 1993, HVO forces under Ivica RAJI] 's command attacked Stupni Do. After gaining control of various parts of the village, HVO soldiers forced the civilians out of their homes and hiding places, robbed them of their valuables, sexually assaulted Muslim women and willfully killed at least thirty-one Muslim men, women and children. Three Muslim girls were killed while hiding in a small cellar. After four Muslims in their group were first executed by being shot or having their throat cut, twelve other Muslim villagers were forced into a shed which

the HVO soldiers then set on fire, but were able to escape. (A list of the victims killed and the women sexually assaulted is attached as confidential Annex 1.) During and following the attack, almost the entire village was extensively and wantonly destroyed.

17. All together, the HVO attack on Stupni Do resulted in the deaths of at least thirty-seven Muslim men, women and children. By 25 October 1993, approximately 150 survivors found their way to safety with the United Nations Protection Force ("UNPROFOR"), after first hiding in the surrounding forests.

18. On 23 October 1993, Ivica RAJI] reported to his HVO superiors that the local Bosnian Croat authorities and Muslim males in Vare{ town had been arrested, and that civilians had been killed in the HVO attacks on Stupni Do and Bogos Hill.

19. Following the HVO attack on Stupni Do, HVO forces told Bosnian Croats living in Vare{ that they had to leave Vare{ or risk being killed by ABiH forces responding to the attack. Thousands of Bosnian Croats left Vare{ and went to Kiseljak.

20. During the time from 23 October to 3 November 1993, before leaving Vare{ town, HVO soldiers appropriated and looted Muslim property, robbed Muslims of their valuables and sexually assaulted Muslim women. (A list of the women sexually assaulted is attached as confidential Annex 2.) On about 3 November 1993, after the HVO forces guarding the two schools and the Vare{ Majdan prison left these areas, the Muslim prisoners were freed.

21. Following the HVO actions and as information began to reach international organisations in the area, UNPROFOR representatives attempted to enter Stupni Do and the two schools in Vare{ town, but were blocked and obstructed by HVO forces. On 24 October 1993, Ivica RAJI] requested that UNPROFOR units be warned to withdraw to their camp and HVO forces fired on UNPROFOR units in and about Vare{ town. UNPROFOR finally entered Stupni Do in armored vehicles on 26 October.

22. On 26 October 1993, in response to media allegations of HVO atrocities in Vare{ and Stupni Do, HVO authorities ordered Ivica RAJI] to investigate what had happened. On 30-31 October 1993, HVO authorities, when questioned about the events in Stupni Do, informed international representatives that any crimes committed were unacceptable, that an investigation had been requested and that all of the commanders involved

had been suspended. In fact, as of 30-31 October 1993, none of the HVO commanders -- including Ivica RAJI] -- had been suspended.

23. On 10 November 1993, in a meeting involving the President of the Republic of Croatia, Franjo Tudjman, in Zagreb, it was decided, because of the events in Stupni Do and the repercussions for the Republic of Croatia, that Ivica RAJI] should be replaced and assigned to another area and that a public statement should be issued indicating that a judicial inquiry had been initiated. In fact, no HVO commander or soldier -- including Ivica RAJI] -- was ever punished or disciplined for the crimes committed in Vare{ or Stupni Do.

24. On 27 December 1993, Ivica RAJI] informed HVO authorities that he was changing his name to "Viktor Andri}." On 30 December 1993, "Ivica Raji}" was discharged from his HVO command and "Viktor Andri}" was appointed to replace him. In fact, Ivica RAJI] , also known as "Viktor Andri}," continued to operate and report through his previous chain of command.

25. Unless otherwise specifically stated, all acts and omissions alleged in this indictment occurred on the territory of the former Yugoslavia.

26. At all times relevant to this indictment, a state of armed conflict, international armed conflict and partial occupation existed in Bosnia and Herzegovina, involving the independent State of the Republic of Croatia and its government, armed forces and representatives in an armed conflict against Bosnian Muslims on the territory of the independent State of Bosnia and Herzegovina.

27. At all times relevant to this indictment, Ivica RAJI] , also known as Viktor Andri}, was required to abide by the laws and customs governing the conduct of armed conflict, including the Geneva Conventions of 1949 and the additional protocols thereto.

28. All acts and omissions charged as crimes against persons were committed against or involved persons protected under the Geneva Conventions of 1949 (and the additional protocols thereto) and the laws and customs of war.

29. All acts and omissions charged as crimes against property were committed against or involved property protected under the Geneva

Conventions of 1949 (and the additional protocols thereto) and the laws and customs of war.

30. None of the acts or omissions charged as crimes were justified by military necessity.

By the acts and omissions charged above, Ivica RAJI], also known as Viktor Andri}, committed:

- Count 1: willful killing, a GRAVE BREACH OF THE GENEVA CONVENTIONS OF 1949, punishable under Statute Articles 2(a), 7(1) and 7(3) (as described in Paragraphs 13, 16)
- Count 2: murder, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, as recognised by Article 3(1)(a) of the Geneva Conventions, punishable under Statute Articles 3, 7(1) and 7(3) (as described in Paragraphs 13, 16)
- Count 3: inhuman treatment (including sexual assault), a GRAVE BREACH OF THE GENEVA CONVENTIONS OF 1949, punishable under Statute Articles 2(b), 7(1) and 7(3) (as described in Paragraphs 13, 14, 15, 16, 20)
- Count 4: outrages upon personal dignity, in particular humiliating and degrading treatment (including sexual assault), a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, as recognized by Article 3(1)(c) of the Geneva Conventions, punishable under Statute Articles 3, 7(1) and 7(3) (as described in Paragraphs 13, 14, 15, 16, 20)
- Count 5: unlawful confinement of a civilian, a GRAVE BREACH OF THE GENEVA CONVENTIONS OF 1949, punishable under Statute Articles 2(g), 7(1) and 7(3) (as described in Paragraphs 13, 14, 15)
- Count 6: cruel treatment, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, as recognised by Article 3(1)(a) of the Geneva Conventions, and punishable under Statute Articles 3, 7(1) and 7(3) (as described in Paragraphs 13, 14, 15, 16, 20)

- Count 7: appropriation of property, a GRAVE BREACH OF THE GENEVA CONVENTIONS OF 1949, punishable under Statute Articles 2(d), 7(1) and 7(3) (as described in Paragraphs 14, 16, 20)
- Count 8: plunder of public or private property, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, punishable under Statute Articles 3(e), 7(1) and 7(3) (as described in Paragraph 14, 16, 20)
- Count 9: extensive destruction not justified by military necessity and carried out unlawfully and wantonly, a GRAVE BREACH OF THE GENEVA CONVENTIONS OF 1949, punishable under Statute Articles 2(d), 7(1) and 7(3) (as described in Paragraph 16)
- Count 10: wanton destruction of a city or devastation not justified by military necessity, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, punishable under Statute Articles 3(b), 7(1) and 7(3) (as described in Paragraph 16)

Carla Del Ponte
Prosecutor

DATED this _____, 2003
At The Hague
The Netherlands