

**THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

Case No. IT-95-12-PT

**THE PROSECUTOR
OF THE TRIBUNAL**

v.

**IVICA RAJIĆ aka
VIKTOR ANDRIĆ**

FACTUAL BASIS¹

1. Ivica RAJIĆ was born on 5 May 1958 in the village of Jehovac, Kiseljak Municipality, in Bosnia and Herzegovina.
2. Ivica RAJIĆ graduated from the military academy of the former Yugoslavia. He was a captain (first class) in the former Yugoslav People's Army.
3. At all times relevant to the amended indictment, Ivica RAJIĆ was required to abide by the laws and customs of war and governing the conduct of armed conflict, including the Geneva Conventions of 1949 and the additional protocols thereto.
4. At all times relevant to the amended indictment, Tihomir Blaškić was Commander of the HVO's Central Bosnia Operative Zone ("CBOZ"). The CBOZ and Tihomir Blaškić were under the command of, and subordinate to the HVO Main Staff. From about April 1992 to approximately 24 July 1993, Milivoj Petković was head of the HVO Main Staff. From approximately 24 July 1993 to 9 November 1993, Slobodan Praljak was head of the HVO Main Staff. During the time that Slobodan Praljak was head of the HVO Main Staff, Milivoj Petković was deputy head of the HVO armed forces.
5. On 1 November 1992, Tihomir Blaškić organized the CBOZ into three operational groups, including the Second Operational Group. The Second Operational Group's area of responsibility included the municipalities of Kiseljak, Kreševo, Vareš and Kakanj.

¹ A Croatian language translation of this document has been prepared and reviewed with the Accused and his counsel. In all respects, however, the English version of this document shall be authoritative.

6. At all times relevant to the amended indictment, including from 12 May 1993 to at least 22 November 1993, Ivica RAJIĆ, on his appointment by Tihomir Blaškić, was Commander of the Second Operational Group, based in Kiseljak.
7. As Commander of the Second Operational Group, Ivica RAJIĆ's command included the Bobovac Brigade in Vareš, the Kostromanić Brigade in Kakanj and the Ban Josip Jelačić Brigade in Kiseljak. At all times relevant to the amended indictment, all of the commanders and members of these brigades were under the command of, and subordinate to Ivica RAJIĆ.
8. The "Maturice" was an HVO special purposes unit ("PPN"), which was part of the Ban Josip Jelačić Brigade, based in Kiseljak. The immediate commander of the Ban Josip Jelačić Brigade, including the Maturice special unit, was Mario Bradara, who was in turn under the command of, and subordinate to, Ivica RAJIĆ. The "Apostoli" was another HVO special purposes unit, which was originally based in Travnik. In June 1993, part of the HVO Travnik Brigade and the Apostoli special unit moved to Kiseljak and were placed under the command of, and were subordinate to Mario Bradara, who was in turn under the command of, and subordinate to Ivica RAJIĆ.
9. At all times relevant to the amended indictment, the commanders and members of the Maturice and Apostoli special units included Dominik Ilijašević also known as ("aka") "Como," Miroslav Anić aka "Firga," Marinko Kepić, Marinko Ljoljo, Marinko Šunjić, Marinko Jurišić aka "Špiro," Zdravko Mihaljević aka "Pijuk," and Želko Bosnjak aka "Pajkan." All of these persons were under the command of, and subordinate to Mario Bradara, and in turn under the command of, and subordinate to Ivica RAJIĆ.
10. At all times relevant to the amended indictment, Ivica RAJIĆ, for purposes of ICTY Statute Article 7(3), had command or superior responsibility for all commanders and members of the Bobovac Brigade, Kostromanić Brigade and Ban Josip Jelačić Brigade, and the Maturice and Apostoli special units. At all times relevant to the indictment, Ivica RAJIĆ exercised operational and effective command and control over the commanders and members of these units.
11. In June 1993, following a military action, the Army of Bosnia and Hercegovina ("ABiH") took over part of Kakanj municipality. Following and because of this military action, around 13,000 Bosnian Croats (including HVO soldiers from the Kostromanić Brigade) left Kakanj municipality involuntarily and moved to the Vareš municipality.
12. In June 1993, the Vareš HVO issued an ultimatum to Bosnian Muslims in the villages of Daštansko and Stupni Do to surrender their weapons. The Daštansko villagers surrendered their weapons. In Stupni Do, before the expiration of the ultimatum, most of the villagers, fearing an attack, took refuge in neighbouring villages but returned home after several days. Knowing that the ABiH would retaliate if the HVO attacked Stupni Do to disarm the village, the HVO withdrew the ultimatum and the villagers were allowed to keep their weapons.

13. On 21 October 1993, while Ivica RAJIĆ and Milivoj Petković were in Kiseljak, the commander of the Bobovac Brigade, based in Vareš, asked for assistance in responding to an ABiH attack on HVO military positions in Vareš municipality. Milivoj Petković ordered Ivica RAJIĆ to take HVO forces and seize control of the situation in Vareš town and the surrounding area.
14. On 21 October 1993, Ivica RAJIĆ left Kiseljak town with approximately two hundred HVO soldiers, including commanders and soldiers of the Maturice and Apostoli units and HVO soldiers from Kiseljak and Kakanj. These forces passed through Bosnian Serb-controlled territory and reached Vareš town on 22 October 1993. The HVO commanders and members who travelled from Kiseljak to Vareš included Dominik Ilijašević aka "Como," Miroslav Anić aka "Firga," Marinko Kepić, Marinko Ljoljo, Marinko Šunjić and Marinko Jurišić aka "Špiro."
15. At all times relevant to the amended indictment, including on 21 October 1993 and following, Ivica RAJIĆ knew that HVO units under his command, including the Maturice and Ban Josip Jelačić Brigade, had participated in several earlier operations against Bosnian Muslims villages in Kiseljak municipality and committed crimes against Bosnian Muslims, including murder, rape, destruction of property, arbitrary arrest and physical assault. These units included, among their commanders and soldiers, Dominik Ilijašević aka "Como," Miroslav Anić aka "Firga," and Marinko Ljoljo. Ivica RAJIĆ knew, for example, that commanders and members of the Maturice, including Miroslav Anić aka "Firga," mutilated Bosnian Muslims and hung their heads in the "open market" in Kiseljak town. During this same time, Dominik Ilijašević aka "Como" drove around Kiseljak with a cut off Muslim ear attached to the antenna of his car.
16. On 23 October 1993, the head of the HVO Main Staff, Slobodan Praljak, ordered Ivica RAJIĆ and others to "Sort out the situation in Vareš showing no mercy towards anyone. Find people who are up to both the times and the tasks." (A true copy of Slobodan Praljak's written order is attached as Annex 1.) Slobodan Praljak's order was known by local HVO commanders and soldiers and further escalated the highly-charged and aggressive attitude against Bosnian Muslims in the Vareš area.
17. At all times relevant to the amended indictment, including on 21 October 1993 and following, Ivica RAJIĆ knew what the commanders and members of the Maturice and Apostoli units were capable of, in terms of their conduct and crimes against Bosnian Muslims, and ordered these units, including Dominik Ilijašević aka "Como," Miroslav Anić aka "Firga" and Marinko Ljoljo, to participate in the October 1993 HVO operations in the area of Vareš, including at Stupni Do and Bogos Hill.
18. At all times relevant to the amended indictment, including on 21 October 1993 and following, Ivica RAJIĆ knew that various HVO members under his command and control who had come from the area of Kakanj following the ABiH operation in June, had demonstrated extreme aggression toward the Bosnian Muslim population in Vareš and showed a strong desire to destroy everything that was not Croat. Ivica RAJIĆ ordered HVO forces including the Kakanj soldiers to attack Stupni

Do and Bogos Hill and to arrest and detain military-aged Muslim men in Vareš town.

19. Ivica RAJIĆ was aware that by ordering HVO commanders and soldiers under his command and subordinate to him to attack Stupni Do and Bogos Hill and to round up and detain military-aged Muslim men in Vareš town there was a substantial likelihood that the crimes charged in the amended indictment would be committed and nonetheless gave such orders, in violation of ICTY Statute Article 7(1).
20. Stupni Do was a village of about 60 houses, located approximately four kilometres southeast of Vareš, inhabited by about 250 persons who were almost exclusively Muslim. On 22 October 1993, the local Territorial Defence or ABiH defenders in Stupni Do consisted of approximately 35 persons, most of whom were residents of Stupni Do. They were armed with hunting rifles, some automatic weapons and hand grenades, a rocket launcher, one mortar and a limited amount of ammunition. Some trenches had been prepared in and around parts of the village during previous months. The Stupni Do defenders were in radio communication with ABiH commanders in Dabrovine and used codes in their communications.
21. On 22-23 October 1993, Ivica RAJIĆ planned and ordered HVO forces under his command and control to attack the village of Stupni Do and Bogos Hill. The HVO commanders and members involved in the attack on Stupni Do and Bogos Hill, all of whom were under the command of, and subordinate to Ivica RAJIĆ, included Marinko Ljoljo, Dominik Ilijašević aka "Como," Miroslav Anić aka "Firga," Marinko Kepić and Marinko Jurišić aka "Špiro."
22. On 23 October 1993, Ivica RAJIĆ ordered HVO forces under his command and control to search Muslims houses and round up military-aged Muslim men in Vareš town and detain them. Based on Ivica RAJIĆ's order, HVO forces rounded up and detained a large number of Muslim men in Vareš town.
23. On 23 October 1993, with the authorisation of his HVO superiors, Ivica RAJIĆ ordered that several local Bosnian Croat officials in Vareš who were interfering with his operations be detained, and, on such order, HVO forces detained several officials.
24. On 23 October 1993, Ivica RAJIĆ reported to Dario Kordić, Milivoj Petković, Tihomir Blaškić and Mario Bradara (commander of the Ban Josip Jelačić Brigade) (a true copy of the report is attached as Annex 2, including the letter from Emil Harah):

. . . I made an assessment and in the morning hours I carried out an attack on Stupni Do and Bogoš. The Bogoš feature was taken by our forces, and about twenty armed members of MOS and some civilians remained in the village of Stupni Do, which was completely surrounded. A large number of MOS and some civilians were killed, while our losses were two killed and seven wounded, all of them in stable condition.

The town of Vareš has been mopped up and all Muslims of military age placed under surveillance.

Because they attempted to obstruct the planned activities, I have placed into isolation Messrs. Anto Pejčinović, Zvonko Dužnović and Ivica Gavran. The [Bobovac] brigade commander is seriously depressed and unable to perform his duties. I enclose a letter I received two days ago from Commander Emil Harah.

As of today, Vareš is Croatian and we shall fight to keep it that way -- you must help me.

25. By at least 25 October 1993, Ivica RAJIĆ was aware, based on his personal visits to the areas, that HVO commanders and soldiers under his command and subordinate to him had committed serious crimes in connection with these operations, by using excessive force, murdering Muslim civilians, engaging in inhuman treatment and causing extensive property destruction.
26. In Stupni Do, HVO commanders and soldiers under Ivica RAJIĆ's command forced Bosnian Muslim civilians out of their homes and hiding places, robbed them of their valuables, wilfully killed Muslim men, women and children and sexually assaulted Muslim women. Twelve Muslim villagers were forced into a shed which HVO soldiers then set on fire (but from which the villagers were able to escape). The HVO attack on Stupni Do commanded by Ivica RAJIĆ resulted in the deaths of at least thirty-seven Bosnian Muslim men, women, elderly and children (approximately six of whom were combatants). On 23-24 October 1993, most of the village was either wholly or partially destroyed.
27. In terms of the Bosnian Muslims who died in the attack, at least the following were murdered:
 - a. Three Muslim men and one woman were executed by being shot or having their throats cut.
 - b. One woman was taken into a house by an HVO soldier where she was executed.
 - c. Two elderly women, one of whom was an invalid, were found burned inside a house.
 - d. One Muslim man was shot several times at close range after he refused to give an HVO soldier his money.
 - e. When a group of Muslims (one man, nine women and three children) attempted to flee, the man was shot and killed (his half burned body was later found at the same location where he was shot), and two of the women and all three children were murdered in front of their house. Three of the young Muslim women who escaped the initial encounter with the HVO soldiers were

- then found hiding in a small cellar and murdered. (See photographs attached as confidential Annex 3.)
- f. In the same area where the events described in e. occurred, seven members of the same Muslim family (two men, three women and two children aged 2 and 3 years old) were found burned inside their shelter.
 - g. One Muslim man, who had been severely wounded in both legs, was carried into a house which was later set on fire by HVO soldiers. (The man's burned body, together with another burned body, was later found inside the house.)
 - h. One Muslim woman was taken into a room and shot, and the house then set on fire.
28. In Vareš town, HVO commanders and soldiers under Ivica RAJIĆ's command and control, including members of the Apostoli and military police units, rounded up more than two hundred and fifty Bosnian Muslim men (most, but not all of whom were of military age) and detained them in the "Ivan Goran Kovačić" and "Vladimir Nazor" schools. During the process of rounding up the above-mentioned Muslim men, the HVO commanders and soldiers entered houses and physically and mentally abused the inhabitants and persons present and robbed them of their valuables. Detained Bosnian Muslim men were beaten and abused by HVO soldiers.
 29. Between the evening of 23 October 1993 and 26 October 1993, Ivica RAJIĆ refused several requests by the United Nations Protection Force ("UNPROFOR") to enter Stupni Do and the two schools in Vareš town in order to investigate what had happened at these locations. On 24 October 1993, Ivica RAJIĆ asked his HVO superiors, including Slobodan Praljak, to warn UNPROFOR units to withdraw from the area or he would not be responsible for the consequences. (Ivica RAJIĆ contends that the reason that he blocked UNPROFOR from going into Stupni Do was his belief that the ABiH would attempt to use UNPROFOR's presence to gain a military advantage.) On 24 October 1993, a senior member of the HVO Main Staff ordered Ivica RAJIĆ to "Deploy anti-armoured artillery pieces around the UN (Nordic forces), warn them that, in case they prevent our operations against the MOS in any way, our forces shall destroy them." (A true copy of the document is attached as Annex 4.) On the night of 24 October 1993, HVO forces under the command of, and subordinate to Ivica RAJIĆ, fired at two UNPROFOR armoured personnel carriers serving as observation posts in and around Vareš town and at the UNPROFOR headquarters in Vareš municipality.
 30. Ivica RAJIĆ left Vareš town on 26 October 1993, leaving Boro Malbašić and Krešimir Božić in command. During the time from approximately 23 October to 3 November 1993, in Vareš town, HVO commanders and soldiers under Ivica RAJIĆ's command and control looted and appropriated Muslim property, robbed Muslims of their valuables and sexually assaulted Muslim women.
 31. None of the acts or omissions charged as crimes in the amended indictment were justified by military necessity.


32. On 26 October 1993, in response to media reports about HVO atrocities in Vareš and Stupni Do, Milivoj Petković issued a written order directing Ivica RAJIĆ and Emil Harah, who Ivica RAJIĆ had previously removed from command, to investigate what had happened. By at least the morning of 24 October 1993, Ivica RAJIĆ, with the approval or confirmation of his superior, Tihomir Blaškić, had relieved Emil Harah from command of the Bobovac Brigade. Harah was replaced by Krešimir Božić. (True copies of the documents are attached as Annex 5.)
33. On the same day, HVO authorities, including Milivoj Petković, informed Ivica RAJIĆ that the written order was meant to appease the international community and that Ivica RAJIĆ was not, in fact, to conduct an investigation. Milivoj Petković told Ivica RAJIĆ that the HVO Security and Information Service ("SIS") would conduct an investigation and that Ivan Bandić would be in charge of the investigation.
34. On the instructions of his HVO superiors, including Milivoj Petković, Ivica RAJIĆ participated in a cover-up concerning the crimes committed in and around Vareš town and at Stupni Do. The cover-up included a false investigation which was intended to conceal the true nature and extent of the crimes committed. Ivica RAJIĆ signed investigation reports prepared by SIS knowing that they included false information. As part of this cover-up, Milivoj Petković ordered Ivica RAJIĆ to change his name to "Viktor Andrić."
35. In fact, the HVO never conducted a *bona fide* investigation of what happened in Vareš town or at Stupni Do, and no HVO commander or soldier, including Ivica RAJIĆ, was ever punished, disciplined or removed for what happened at these locations.
36. At all times relevant to the amended indictment, including on 21 October 1993 and following, Ivica RAJIĆ knew and had reason to know that HVO commanders and soldiers who were subordinate to him and under his effective control were about to commit crimes charged in the amended indictment and failed to take necessary and reasonable measures to prevent such crimes, in violation of ICTY Statute Article 7(3).
37. At all times relevant to the amended indictment, including on 23 October 1993 and following, Ivica RAJIĆ knew and had reason to know that HVO commanders and soldiers who were subordinate to him and under his effective control had committed crimes charged in the amended indictment and failed to take necessary and reasonable measures to punish them, in violation of ICTY Statute Article 7(3).
38. On 1 November 1993, the HVO promoted Ivica RAJIĆ to the rank of active Colonel.
39. On 22 November 1993, following organizational changes in the Vitez Military District, the HVO Second Operational Group was renamed the Kiseljak Forward Command Post /IZM-1 of the Vitez Military District. On the same day, Tihomir Blaškić appointed Ivica RAJIĆ Commander of the Kiseljak Forward Command Post/IZM-1.

40. On 27 December 1993, Ivica RAJIĆ informed HVO authorities, including Milivoj Petković, that, as ordered, he was changing his name to "Viktor Andrić." (True copies of the documents are attached as Annex 6.)
41. On 30 December 1993, in an action meant to indicate to the international community that Ivica RAJIĆ had been punished and removed from command because of what had happened in Vareš and Stupni Do, the HVO removed "Ivica RAJIĆ" from command and "Viktor Andrić" was appointed to replace him. (True copies of the documents are attached as Annex 7.)
42. In fact, Ivica RAJIĆ (using the name "Viktor Andrić) at all relevant times remained the HVO commander and superior of the same subordinate HVO commanders and soldiers who committed the crimes in Vareš and Stupni Do, who were never punished or disciplined for the crimes committed.
43. As a further part of this factual basis, Ivica RAJIĆ agrees that the Prosecution evidence would prove beyond a reasonable doubt:
 - a. According to the 1991 census, the ethnic composition of the municipality of Vareš before the outbreak of the war was as follows: out of a population of 22,203 inhabitants, 40.60% declared themselves Croat (9,015), 30.23% declared themselves Muslim (6,712), 16.41% declared themselves Serb and 12.73% as other.
 - b. At all times relevant to the amended indictment, a state of international armed conflict 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. The crimes charged in the amended indictment were committed in the context of and with a connection to this conflict.
 - c. All acts and omissions alleged in the amended indictment 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.
 - d. All acts and omissions alleged in the amended indictment 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.



IVICA RAJIĆ

25 October 2005



Doris Košta
Counsel for Ivica Rajić

25 October 2005