

**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**

CONFIDENTIAL

PLEA AGREEMENT

Introduction

1. This document constitutes the entire Plea Agreement (hereinafter "Agreement") between the Accused, IVICA RAJIĆ, also known as VIKTOR ANDRIĆ (hereafter the "Accused" or "RAJIĆ"), and the Prosecutor. The purpose of this Agreement is to set forth the parties' entire understanding concerning the terms of the Agreement and the possible consequences of the Accused's guilty plea; and to assist the Trial Chamber in ensuring, pursuant to Rule 62 *bis* of the Tribunal's Rules of Procedure and Evidence (hereinafter "Rules" or "Rule"), that the plea is voluntary and informed and has a factual basis.

2. The terms of the Agreement are as follows:

Waiver of Rights

3. In entering this Agreement and pleading guilty, the Accused IVICA RAJIĆ understands that he has waived, is waiving and will waive the following rights:

- (a) the right to remain silent;
- (b) the right to plead not guilty and require the Prosecution to prove the charges against him beyond a reasonable doubt, at a public trial;

- (c) the right to prepare and put forward a defence to such charges, at a public trial;
- (d) the right to be tried without undue delay;
- (e) the right to be tried in his presence, and to defend himself in person at trial or through legal assistance of his own choosing;
- (f) the right to examine at his trial, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf at a trial under the same conditions as witnesses against him; and
- (g) the right not to be compelled to testify against himself.

Plea to Count 1, 3, 7 and 9 of the Amended Indictment

4. The Accused IVICA RAJIĆ agrees to plead guilty to Counts 1, 3, 7 and 9 of the Amended Indictment filed on 14 January 2004, alleging in Count 1, Willful Killing, a Grave Breach of the Geneva Conventions of 1949 punishable under Article 2(a) of the Tribunal Statute; in Count 3, Inhuman Treatment, a Grave Breach of the Geneva Conventions of 1949 punishable under Article 2(b) of the Statute; Count 7, appropriation of property, a Grave Breach of the Geneva Conventions of 1949 punishable under Article 2(d) of the Statute; and in 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 Article 2(d) of the Statute.

5. A written "Factual Basis" concerning the crimes charged and supporting the Accused's conviction for such crimes is attached to this Agreement. The Accused IVICA RAJIĆ fully agrees with, adopts and endorses the Factual Basis and agrees that he is pleading guilty to the charges because he is guilty and accepts responsibility for his actions and omissions in connection with these crimes.

6. To the extent that any part of a guilty plea or conviction is based on Statute Article 7(1), the Prosecutor would be required to prove, beyond a reasonable doubt, that the Accused IVICA RAJIĆ planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation and/or execution of the crime charged, and that he acted with the state of mind required to commit the crime, or was aware of the substantial likelihood that the carrying out of his plans and orders, and/or the carrying out of the acts and conduct which he promoted, instigated, encouraged or facilitated, would involve or result in the crime being committed.

7. Concerning Count 1, Willful Killing, the Accused IVICA RAJIĆ understands that if a trial were held, the Prosecutor would be required to prove the following elements of Article 2(a), beyond a reasonable doubt:

- (a) That an international armed conflict existed at all times relevant to the charge;
- (b) That there was a nexus between the alleged crimes and the international armed conflict;
- (c) That the offence was committed against a person or persons protected by any of the four Geneva Conventions of 1949;
- (d) That each victim is dead;
- (e) That the death of each victim was caused by an act or omission of the accused, or of a person or persons for whose acts or omissions the accused bears criminal responsibility; and
- (f) That the act was done, or the omission was made, by the accused, or a person or persons for whose acts or omissions he bears criminal responsibility, with the intention to kill or inflict serious injury in reckless disregard of human life.

8. Concerning Count 3, Inhuman Treatment, the Accused IVICA RAJIĆ understands that if a trial were held, the Prosecutor would be required to prove the following elements of Article 2(b), beyond a reasonable doubt:

- (a) That an international armed conflict existed at all times relevant to the charge;
- (b) That there was a nexus between the alleged crimes and the international armed conflict;
- (c) That the offence was committed against a person or persons protected by any of the four Geneva Conventions of 1949; and
- (d) That an intentional act or omission was committed which caused serious mental harm or physical suffering or injury to the victim or constituted a serious attack on human dignity;
- (e) That the act was done, or the omission was made, by the accused, or a person or persons for whose acts or omissions he bears criminal responsibility, intentionally which caused serious mental harm or physical suffering or injury to the victim or constituted serious attack on human dignity;

9. Concerning Count 7, appropriation of property, the Accused IVICA RAJIĆ understands that if a trial were held, the Prosecutor would be required to prove the following elements of Article 2(d), beyond a reasonable doubt:

- (a) That an international armed conflict existed at all times relevant to the charge;
- (b) That there was a nexus between the alleged crimes and the international armed conflict;
- (c) That there was an extensive appropriation of property protected by the Geneva Conventions of 1949;
- (d) That the appropriation was not justified by military necessity; and
- (e) That the appropriation of property was committed by the accused, or a person or persons for whose acts or omissions he bears criminal responsibility, unlawfully and wantonly.

10. Concerning Count 9, Extensive Destruction not justified by military necessity and carried out unlawfully and wantonly, the Accused IVICA RAJIĆ understands that if a trial were held, the Prosecutor would be required to prove the following elements of Article 2(d), beyond a reasonable doubt:

- (a) That an international armed conflict existed at all times relevant to the charge;
- (b) That there was a nexus between the alleged crimes and the international armed conflict;
- (c) That there was extensive destruction of property protected by the Geneva Conventions of 1949;
- (d) That the destruction was not justified by military necessity; and
- (e) That the destruction was committed by the accused, or a person or persons for whose acts or omissions he bears criminal responsibility, unlawfully and wantonly.

11. To the extent that any part of a guilty plea or conviction is based on Statute Article 7(3), the Prosecutor would be required to prove, beyond a reasonable doubt, that the Accused IVICA RAJIĆ was criminally responsible as a superior officer for the criminal acts and/or omissions of subordinates over whom he had effective control; that he knew or had reason to know that such persons were about to commit or had committed such acts or omissions which constituted or involved the crime; and that he failed to take necessary and reasonable measures to prevent such acts or omissions or punish such persons.

Penalty and Sentencing

12. The Accused IVICA RAJIĆ understands that the maximum lawful sentence that the Trial Chamber can impose on a conviction for the charges in Counts 1, 3, 7 and 9 is a term of imprisonment up to and including the remainder of the Accused's life, as set out in Rule 101(A).

13. The Prosecutor and the Accused IVICA RAJIĆ agree and will recommend, in connection with the Accused's pleas of guilty to Counts 1, 3, 7 and 9, a single combined sentence in the range of twelve to fifteen years' imprisonment, with the Accused able to argue for a sentence at the bottom of this range (twelve years) and the Prosecutor able to argue for a sentence at the top of this range (fifteen years).

14. The Prosecutor and the Accused IVICA RAJIĆ understand that the Trial Chamber, based on Rule 62 *ter* (B), shall not be bound by any sentencing recommendation or agreement by the parties.

15. In determining the sentence, the Trial Chamber shall, pursuant to Statute Article 24(2), take into consideration such factors as the gravity of the offence and the individual circumstances of the convicted person, as well those factors described in Rule 101(B), such as: any aggravating circumstances; any mitigating circumstances, including the substantial co-operation with the Prosecutor before or after conviction and the general practice regarding prison sentences in the courts of the former Yugoslavia.

16. Pursuant to Rule 101(C), the Accused IVICA RAJIĆ shall be given credit for the period during which he was detained in custody pending surrender to the Tribunal.

Co-operation

17. The Accused IVICA RAJIĆ agrees to full and substantial co-operation with the Prosecutor as to all matters about which the Prosecutor requests his co-operation, without reservation or evasion. He agrees to meet with the Prosecutor on request and to answer truthfully and completely all questions put to him. He agrees to provide to the Prosecutor all evidence (including documents, photographs, etc.) in his possession, under his control or available to him, on request. He will give truthful testimony in any proceedings in connection with which the Prosecutor requests his testimony. Nothing in this Agreement protects the Accused from

prosecution for perjury, obstruction of justice or contempt, should he give false or misleading testimony or obstruct or interfere with any proceedings.

Consideration by the Prosecutor

18. In exchange for: (a) the Accused IVICA RAJIĆ's waiver of various rights as set out above; (b) the Accused's pleas of guilty to Counts 1, 3, 7 and 9 of the Amended Indictment dated 14 January 2004 and his admission and confirmation of the factual basis for such pleas; and (c) the Accused's complete co-operation as set out above, the Prosecutor agrees to the following:

- (a) As set out in Paragraph 12, the Prosecutor and the Accused IVICA RAJIĆ agree and will recommend, in connection with the Accused's pleas of guilty to Counts 1, 3, 7 and 9, a single combined sentence in the range of twelve to fifteen years' imprisonment, with the Accused able to argue for a sentence at the bottom of this range (twelve years) and the Prosecutor able to argue for a sentence at the top of this range (fifteen years).
- (b) At the time of the Trial Chamber's acceptance of the guilty plea and sentence, the Prosecutor will move to dismiss without prejudice the remaining charges against the Accused, as set out in the Amended Indictment.
- (c) The Prosecutor will not bring any other ICTY charges against IVICA RAJIĆ, except, as stated in Paragraph 16, he may be prosecuted for perjury, obstruction of justice or contempt, should he give false or misleading testimony or obstruct or interfere with any proceedings or witnesses.

Affirmations

19. In signing this Agreement, the Accused IVICA RAJIĆ agrees and affirms that:

- (a) His pleas of guilty to Counts 1, 3, 7 and 9 are made voluntarily;
- (b) The guilty pleas are informed, in that he understands his rights, has been informed of the procedures involved, and is fully informed of the nature and consequences of his guilty pleas;
- (c) His guilty pleas are not equivocal, and he is pleading guilty because he is guilty; and
- (d) There is a sufficient factual basis for the crimes to which he is pleading guilty and to his participation in them.


NO OTHER AGREEMENTS

20. The Agreement stated on the face of this document is the parties' entire agreement. There are no other agreements, promises or understandings, either express or implied.

21. 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.

DECLARATION OF IVICA RAJIĆ

I, IVICA RAJIĆ, have either read this Plea Agreement in a language which I understand or it has been read to me in a language I understand, or both. I have carefully discussed and reviewed every part of it with my counsel, Doris Košta. My counsel has advised me of my rights, possible defences and the consequences of entering into this Agreement. I understand the terms of this Agreement, and I voluntarily agree to each term. Except as stated on the face of this Agreement, no other promises or inducements have been made to me. No one has threatened me or forced me in any way to enter into this Agreement. I am of sound mind, and enter this Agreement freely and voluntarily.

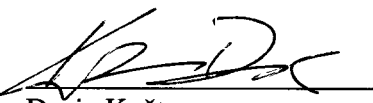


IVICA RAJIĆ

25 October 2005

DECLARATION OF COUNSEL

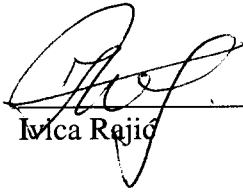
I, Doris Košta, am Counsel to the Accused IVICA RAJIĆ. I have carefully reviewed every part of this Agreement with my client. Further, I have fully advised my client of his rights, possible defences, the maximum possible sentence applicable to the crimes charged and the consequences of entering into this Agreement. To my knowledge, my client is of sound mind and his decision to enter into this Agreement is an informed and voluntary one.

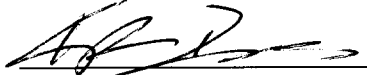


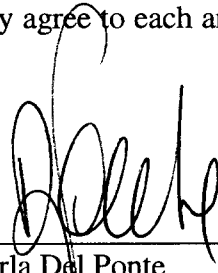
Doris Košta
Counsel for Ivica Rajić


25 October 2005

On this 25 October 2005, the undersigned parties fully agree to each and every term of this Plea Agreement:


Ivica Rajić


Doris Košta
Counsel for Ivica Rajić


Carla Del Ponte
Prosecutor


Kenneth Scott
Senior Trial Attorney
Office of the Prosecutor