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

**No. IT-95-12-S**

**IN TRIAL CHAMBER I**

**Before: Judge Christine Van Den Wyngaert  
Judge Janet Nosworthy  
Judge Frank Höpfel**

**Registrar: Mr. Hans Holthuis**

**Date Filed: 27 April 2006**

**THE PROSECUTOR**

**v.**

**IVICA RAJIĆ aka VIKTOR ANDRIĆ**

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

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The Office of the Prosecutor:

Mr. Kenneth Scott  
Ms. Josée D'Aoust

Counsel for the Accused:

Ms. Doris Košta

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

**Case No. IT-95-12-S**

**THE PROSECUTOR  
OF THE TRIBUNAL**

**v.**

**IVICA RAJIĆ aka  
VIKTOR ANDRIĆ**

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

1. On 23 August 1995, the Accused Ivica Rajić was indicted on six counts of serious violations of international humanitarian law under the Statute of the International Criminal Tribunal for the former Yugoslavia (hereafter the "Statute"). The Accused was finally arrested in the Republic of Croatia on 5 April 2003, and transferred to the United Nations Detention Unit in The Hague on 24 June 2003. On 27 June 2003, the Accused appeared before the Tribunal and pleaded not guilty to all counts of the Indictment.

2. On 14 January 2004, the Prosecution filed an Amended Indictment. The Amended Indictment charges the Accused with ten counts of serious violations of international humanitarian law. On 29 January 2004, the Accused pleaded not guilty to all counts of the Amended Indictment.

3. On 25 October 2005, the Accused Ivica Rajić entered into a Plea Agreement with the Office of the Prosecutor. In the Plea Agreement, Ivica Rajić agreed to plead guilty to four charges in the Amended Indictment: Count 1, Wilful Killing, a Grave Breach of the Geneva Conventions of 1949 punishable under Article 7(1) and 7(3) of the Statute; Count 3, Inhuman Treatment, a Grave Breach of the Geneva Conventions of 1949 punishable under Article 7(1) and 7(3); Count 7, Appropriation of property, a Grave Breach of the Geneva Conventions of 1949 punishable under Article 7(1) and 7(3); and 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 7(1) and 7(3). The Accused signed a Factual Basis setting out the facts supporting his guilty plea to each count and all of the related conduct.

4. At the hearing on 26 October 2005, the Accused confirmed in all respects that his guilty pleas were informed and voluntary and that he was pleading guilty because he is guilty. The Trial Chamber, following deliberations on the same day, accepted the guilty pleas and entered a conviction on each of the four counts.

5. On 16 November 2005, the Trial Chamber made a ruling titled "Clarification on Convictions Entered," indicating that the convictions entered on 26 October 2005 were, and are pursuant to Article 7(1) of the Statute.

6. On 7 April 2006, after the filing of the sentencing briefs and other relevant submissions by the parties, the Trial Chamber held a sentencing hearing. Counsel for each party and Mr. Rajić personally made oral submissions to the Trial Chamber, and responded to questions from the Trial Chamber. At the conclusion of the hearing, the Trial Chamber took the parties' submissions under advisement and indicated that it would issue its written decision in the near future.

7. In paragraph 18(b) of the Plea Agreement, the Prosecutor agreed that "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."

8. The Prosecution therefore respectfully moves, pursuant to Rules 51 and 73 of the Rules of Procedure and Evidence and upon the Trial Chamber issuing its Judgement and sentence, to withdraw the remaining counts of the Amended Indictment -- Counts 2, 4, 5, 6, 8 and 10 -- without prejudice (meaning that should be Judgement or sentence be reversed or modified for any reason, the Prosecution will be entitled to renew or once again assert these charges).

Respectfully submitted,

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Kenneth Scott  
Senior Trial Attorney

Dated this 27 April 2006  
The Hague, The Netherlands