The fact that a breach [1] was committed by a subordinate does not absolve his superiors from penal or disciplinary responsibility. Superiors can be responsible if they knew or had information which should have enabled them to conclude, in the circumstances and at the time, the subordinate was committing or going to commit a breach [1]; and the superior did not take all feasible measures within their power to prevent or repress the breach [1].

See Orders [2]; Superiors [3]; Commanders [4]; Criminal repression [5];
CIHL, 152 [12], 153 [13]

**DOCUMENT**

ICC Statute (Art. 28) [14]


UN, Statute of the ICTY [18] (C. Art. 7 [19])

**CASES**

The International Criminal Court (A. Art. 28) [20]

Germany, International Criminal Code (Paras. 4 and 13) [21]

Canada, Crimes against Humanity and War Crimes Act (Section 5) [22]

The Tokyo War Crimes Trial [23]

In re Yamashita [24]

Canada, Sivakumar v. Canada [25]

UN, Statute of the ICTY (C. Art. 7)

ICTY, The Prosecutor v. Rajic, Rule 61 Decision (Paras. 58-61)

ICTY, The Prosecutor v. Galic (Paras. 173-177)

ICTY, The Prosecutor v. Strugar (Paras. 361-444)

ICTY, The Prosecutor v. Slivancanin

ICTR, The Prosecutor v. Akayesu

Switzerland, The Niyontese Case

European Court of Human Rights, Kononov v. Latvia

ICTY, The Prosecutor v. Radovan Karadzic

USA, Al-Shimari v. CACI Premier Technology, Inc.

ICC, Confirmation of Charges against LRA Leaders

Colombia Peace Agreement

International Criminal Court, Trial Judgment in the Case of the Prosecutor V. Jean-Pierre Bemba Gombo

BIBLIOGRAPHIC RESOURCES

SUGGESTED READING:


HENZELIN Marc, “Les ‘raisons de savoir’ du supérieur hiérarchique qu’un crime va être commis ou a été commis par un subordonné. Examen de la jurisprudence des Tribunaux pénaux internationaux pour l’ex-Yougoslavie et le Rwanda”, in TAVERNIER Paul, Actualité de la jurisprudence pénale internationale à l’heure de la mise en place de la Cour pénale internationale


**FURTHER READING:**


Source URL: https://casebook.icrc.org/glossary/command-responsibility

Links
[1] https://casebook.icrc.org/glossary/breach
[12] https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule152