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Home > Command responsibility

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The fact that a **breach** <sup>[1]</sup> 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** <sup>[1]</sup>; and the superior did not take all feasible measures within their power to prevent or repress the **breach** <sup>[1]</sup>.

See **Orders** <sup>[2]</sup>; **Superiors** <sup>[3]</sup>; **Commanders** <sup>[4]</sup>; **Criminal repression** <sup>[5]</sup>;

## OUTLINE

Chapter 13, X. Violations by individuals, Introductory text <sup>[6]</sup>

Chapter 13, X. Violations by individuals, II. Participation in war crimes, <sup>[7]</sup>

b. Command responsibility <sup>[8]</sup>

Chapter 13, X. Violations by individuals <sup>[6]</sup>, <sup>[9]</sup> III. Defences <sup>[9]</sup>

## LEGAL SOURCE

PI, 86/2 <sup>[10]</sup>, 87/3 <sup>[11]</sup>

CIHL, 152 <sup>[12]</sup>, 153 <sup>[13]</sup>

## DOCUMENT

ICC Statute (Art. 28) <sup>[14]</sup>

US Military Tribunal at Nuremberg, US v. Wilhelm List <sup>[15]</sup> (3(x) <sup>[16]</sup> and 4 <sup>[17]</sup>)

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

## CASES

The International Criminal Court (A. Art. 28) <sup>[20]</sup>

Germany, International Criminal Code (Paras. 4 and 13) <sup>[21]</sup>

Canada, Crimes against Humanity and War Crimes Act (Section 5) <sup>[22]</sup>

The Tokyo War Crimes Trial <sup>[23]</sup>

In re Yamashita <sup>[24]</sup>

Canada, Sivakumar v. Canada <sup>[25]</sup>

Canada, R v. Boland <sup>[26]</sup> / R v. Seward <sup>[26]</sup>

UN, Statute of the ICTY <sup>[19]</sup> (C. Art. 7 <sup>[19]</sup>)

ICTY, The Prosecutor v. Rajic, Rule 61 Decision <sup>[27]</sup> (Paras. 58-61 <sup>[28]</sup>)

ICTY, The Prosecutor v. Galic <sup>[29]</sup> (Paras. 173 <sup>[30]</sup>-177 <sup>[31]</sup>)

ICTY, The Prosecutor v. Strugar (Paras. 361-444) <sup>[32]</sup>

ICTY, The Prosecutor v. Slijivancanin <sup>[33]</sup>

ICTR, The Prosecutor v. Akayesu <sup>[34]</sup>

Switzerland, The Niyontese Case <sup>[35]</sup>

European Court of Human Rights, Kononov v. Latvia <sup>[36]</sup>

ICTY, The Prosecutor v. Radovan Karadzic <sup>[37]</sup>

USA, Al-Shimari v. CACI Premier Technology, Inc. <sup>[38]</sup>

ICC, Confirmation of Charges against LRA Leaders <sup>[39]</sup>

Colombia Peace Agreement <sup>[40]</sup>

International Criminal Court, Trial Judgment in the Case of the Prosecutor V. Jean-Pierre Bemba Gombo <sup>[41]</sup>

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**Links**

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[2] <https://casebook.icrc.org/glossary/orders>

[3] <https://casebook.icrc.org/glossary/superiors>

[4] <https://casebook.icrc.org/glossary/commanders>

[5] <https://casebook.icrc.org/law/criminal-repression>

[6] <https://casebook.icrc.org/law/criminal-repression#chapter1>

[7] <https://casebook.icrc.org/law/criminal-repression#chapter3>

[8] [https://casebook.icrc.org/law/criminal-repression#ii\\_b](https://casebook.icrc.org/law/criminal-repression#ii_b)

[9] <https://casebook.icrc.org/law/criminal-repression#chapter4>

[10]

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[11] <https://www.icrc.org/applic/ihl/ihl.nsf/ART/470-750113?OpenDocument>

[12] [https://www.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule152](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule152)

[13] [https://www.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule153](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule153)

[14] <https://casebook.icrc.org/case-study/international-criminal-court>

[15] <https://casebook.icrc.org/case-study/united-states-military-tribunal-nuremberg-united-states-v-wilhelm-list>

[16] <https://casebook.icrc.org/case-study/united-states-military-tribunal-nuremberg-united-states-v-wilhelm-list#partx>

- [17] <https://casebook.icrc.org/case-study/united-states-military-tribunal-nuremberg-united-states-v-wilhelm-list#part4>
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- [19] <https://casebook.icrc.org/case-study/un-statute-icty#article7>
- [20] [https://casebook.icrc.org/case-study/international-criminal-court#part\\_a\\_art\\_28](https://casebook.icrc.org/case-study/international-criminal-court#part_a_art_28)
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