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Côte d'Ivoire. The transfer of Laurent Gbagbo marks the first significant steps towards addressing impunity

The transfer of former President Laurent Gbagbo to the International Criminal Court (ICC) marks the first significant step towards addressing impunity for crimes against humanity committed in the country, in particular between 2002 and 2011.

The transfer of Laurent Gbagbo gives hope to some of the thousands of victims of these crimes committed by all parties over nearly a decade. However, the ICC Prosecutor should not limit the investigation by focusing only on the crimes under international law committed since December 2010.

On 29 November 2011, Laurent Gbagbo was surrendered to the ICC by the national authorities of Côte d'Ivoire following a warrant of arrest issued under seal by the judges of the Pre-Trial Chamber III on 23 November 2011. The crimes included in the warrant of arrest are murder, rape and other forms of sexual violence, persecution and other inhumane acts.

Amnesty International has repeatedly called upon the Ivorian authorities and the ICC Prosecutor to investigate all crimes under international law committed by all parties. The organization has documented crimes against humanity, as well as war crimes, including murder, enforced disappearances, torture and crimes of sexual violence committed in the country, in particular between 2002 and May 2011. Upon the request of the Pre-Trial Chamber of the ICC, the Prosecutor submitted additional information concerning crimes throughout the nine-year period. Amnesty International urges the Office of the Prosecutor to investigate the full range of crimes committed against the Ivorian people since 2002 to ensure that impunity does not persist in Côte d'Ivoire.

Under the principle of complementarity, the Ivorian authorities must also respond by enacting without further delay legislation defining these crimes as crimes under national law, conducting prompt, thorough, independent and impartial investigations of crimes that are not being dealt with by the ICC and, where there is sufficient admissible evidence, to prosecute suspects in accordance with international fair trial standards.

The best way to ensure justice and full reparation for all victims of the nine-year crisis is to ensure that investigations and prosecutions cover this whole period of time and deal with *all* the crimes under international law regardless who committed them.

The ICC should ensure the proceedings comply with the provisions of the Rome Statute of the International Criminal Court (Rome Statute). According to information received by Amnesty International, the arrest and surrender procedures apparently did not respect Article 59 (2) of the

Rome Statute and, in particular, the requirement that Laurent Gbagbo receive a hearing after his arrest by a national court to determine whether he should have been transferred to The Hague does not seem to have happened. It is essential that both the ICC and the national authorities respect the requirements of the Rome Statute and national law and that they review any challenges to the arrest and surrender procedure promptly. A state that has made a declaration pursuant to Article 12 (3) of the Rome Statute is required to comply with the procedures in that Statute regarding arrest and surrender.

Background Information

Although Côte d'Ivoire is not yet a party to the Rome, on 18 April 2003 the country's then Minister of Foreign Affairs lodged a declaration with the Registrar of the ICC accepting the exercise of jurisdiction by the ICC with regard to crimes under international law committed in the territory of Côte d'Ivoire since 19 September 2002. The declaration expressly stated that it is not time limited and covers all war crimes and crimes against humanity.

On 14 December 2010, Alassane Ouattara officially confirmed the jurisdiction of the ICC and requested that the Prosecutor open an investigation into crimes committed within the competence of the ICC since 2002. In a second letter, dated 3 May 2011, President Ouattara once again confirmed the recognition of the ICC's jurisdiction, but suggested narrowing the scope of the investigation to crimes committed since 28 November 2010.

On 3 October 2011 the Pre-Trial Chamber III authorised an investigation in Côte d'Ivoire with respect to crimes within the jurisdiction of the Court committed since 28 November 2010. In accordance with Rule 50(4) of the Rules of Procedure and Evidence, it stated that the Prosecutor is to revert to the Chamber within one month with any additional information that is available to him on potentially relevant crimes committed between 2002 and 2010.

In accordance with Article 15 (5) of the Rome Statute the Prosecutor can request an investigation for crimes committed in Côte d'Ivoire before 28 November 2010 based on new facts or evidence.