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Democratic Republic of Congo: The Congolese government must arrest and surrender Bosco Ntaganda to the ICC.

Amnesty International is urging the Congolese government to hand over Bosco Ntaganda, the Congolese former leader of armed groups, to the International Criminal Court (ICC) to face trial.

Ntaganda is accused by the ICC of recruiting children under the age of 15 into the *Forces patriotiques pour la libération du Congo* (FPLC) and using them to participate in hostilities in Ituri between 2002 and 2003.

Despite an arrest warrant issued by the ICC in 2006, Bosco Ntaganda has been promoted into the rank of general in the Congolese army, a position that he is still occupying to date. His integration into the Congolese army has afforded him a safe haven from justice. Troops under his command in the eastern province of North Kivu continue to be involved in numerous human rights abuses.

In a public speech delivered in Goma last week, President Kabila declared: “We don’t need to arrest Bosco and bring him to the ICC... We ourselves can arrest him and we have more than a hundred reasons to do so and to try him here, and if that’s not possible, elsewhere, possibly in Kinshasa [the capital]. It is not reasons that we lack.”

As a state party to the ICC’s Rome Statute, the Democratic Republic of Congo (DRC) has a legal obligation to cooperate fully with the Court’s warrants by arresting suspects and surrendering them for trial. Kabila’s recent statement that Bosco Ntaganda will be tried in the DRC despite the fact that the ICC has issued an arrest warrant concerning him almost six years ago is outrageous. Amnesty International considers that it is high time for the DRC government to deliver on the promise of justice for victims by arresting and surrendering him for trial before the ICC. However, in order to ensure the safety of the civilian population, Amnesty International considers that such operation should be done with the support of the UN peacekeeping mission in DRC, MONUSCO, which has a mandate to protect civilians.

DRC’s national justice system

Bosco Ntaganda could only face trial nationally if the DRC could successfully demonstrate to the ICC judges that its courts are genuinely willing and able to prosecute the crimes he is charged with. It is highly unlikely that the weak national justice system in the DRC could conduct genuine proceedings against him at this time. Under current national law, he would have to be prosecuted before military courts, yet the military justice system has been unable to prosecute or arrest him to date due to lack of support from the Congolese government and persistent threats and intimidation towards judges and prosecutors.

Amnesty International has documented how decades of neglect, corruption, and political interference in the DRC has resulted in a domestic justice system that lacks trust and is unable to address the most serious crimes.

The 2011 report, *The Time for Justice is Now!: New Strategy Needed in the Democratic*

*Republic of the Congo*¹, described how the justice system is unable to protect witnesses and victims, enforce its own rulings or even keep convicted prisoners behind bars.

Eight years have passed since President Kabila asked the ICC Prosecutor to investigate crimes under international law being committed in the DRC. But since then the government has done little to rebuild its own national justice system to bring to justice those who have committed crimes against humanity and war crimes against civilians

Currently in the DRC, military courts have exclusive jurisdiction over genocide, crimes against humanity, and war crimes – including in cases with civilian defendants.

The Congolese authorities have failed to enact national laws to implement the ICC's Statute and DRC courts are still sentencing individuals to the death penalty. Amnesty International opposes the death penalty in all cases without exception as a violation of the right to life and the right to be free from cruel, inhuman or degrading punishment. Amnesty International is concerned by the fact that Bosco Ntaganda could stand trial for unspecified crimes before a military court in the DRC that could apply the death penalty, when the ICC has been building a case against him for years.

Impunity for other serious violations

Prior to his integration into the Congolese army, members of the armed group National Congress for the Defence of the People (CNDP) under Ntaganda's command allegedly committed unlawful killings, sexual violence, torture, and recruitment of child soldiers in North Kivu. One of the worst crimes occurred in November 2008 when the CNDP killed at least 150 civilians in Kiwanja (Rutshuru territory, North Kivu)². Most suspects, including those involved in the Kiwanja massacre, enjoy total impunity. This injustice must end.

The newly elected government in the DRC must cooperate with the ICC's cases and commit to comprehensive reform to rebuild the justice system. The international community must insist on this as well.

Related material:

Report: The Time for Justice is Now: New Strategy Needed in the Democratic Republic of the Congo.

Action: Support UN role in arresting International Criminal Court suspects - iny.cc/ICCfugitives

Video: Who will be next at the ICC after historic Lubanga verdict?

<http://www.youtube.com/watch?v=RdRbRzfHjOc>

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¹ AI report: The time for justice is now: New strategy needed in the Democratic Republic of the Congo, <http://www.amnesty.org/en/library/info/AFR62/007/2011/en>

² AI Public Statement: Democratic Republic of Congo: Crisis in North Kivu, 21 November 2008; Consolidated report on investigations conducted by the UN Joint Human Rights Office into grave human rights abuses committed in Kiwanja, North Kivu, in November 2008, www.ohchr.org