

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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SENEGAL: THE PRETEXT OF A LACK OF MONEY MUST NOT DELAY REOPENING THE INVESTIGATION INTO HISSÈNE HABRÉ

As a donors' meeting to discuss the financing of the trial of the former Chad president, Hissène Habré, is being organized today in Dakar, Amnesty International calls on Senegal to immediately launch judicial proceedings against Hissène Habré, independently of any subsequent funding.

While taking no position on the sum of money required to prosecute Hissène Habré, Amnesty International believes that the financial arguments made by the Senegalese authorities are no more than a delaying tactic to justify the sine die adjournment of all judicial proceedings against the former Chad president.

Reopening the investigation does not involve any particular cost and would be a clear sign of the Senegalese authorities' willingness to finally comply with the African Union's request to Senegal, made in 2006, to try the former Chad president "*on behalf of Africa*", which President Abdoulaye Wade has officially accepted.

Amnesty International notes, in this respect, that, following the first complaints lodged against Hissène Habré in Senegal in 2000, an investigation was opened by the most senior examining magistrate in Dakar before the Senegalese government had raised the money to pay for judicial proceedings. At that time, the victims annexed to their complaints extensive information concerning crimes against humanity, war crimes and torture committed in Chad when Hissène Habré was President, including numerous testimonies of victims and witnesses and official documents. This information should still be on file in the court in Dakar.

Now that the donors are going to discuss Senegal's request for funding, Amnesty International is convinced that the appointment of an examining magistrate and the reopening, without delay and without preconditions, of the investigation into the very serious crimes of which the former Chad president is accused, can only encourage donors to participate in funding the trial of Hissène Habré.

In addition to the fact that financial arguments cannot justify the adjournment of judicial proceedings, the delay is an insult to the suffering of the thousands of victims of the atrocities committed in Chad under the presidency of Hissène Habré between 1982 and 1990. Now that several of the victims who lodged complaints in 2000 have died, it is impossible to wait any longer. As Clément Abaifouta, who has continued to seek justice

ever since he became one of Hissène Habré's victims, has stated: "Senegal says it will not prosecute Habré until the money for the trial is being raised. Pain cannot be quantified in terms of money. To make money a prerequisite for the prosecution of Habré is like subjecting us to another form of torture."

Whatever the donors decide at their meeting, Senegal has a duty to announce as quickly as possible and publicly, this month, a timetable setting out the main stages of the investigation and trial of Hissène Habré. It is also essential to ensure the protection of witnesses so that the victims of the former Chad president can give evidence in complete safety.

However, if the Senegalese authorities continue to adjourn the reopening of judicial proceedings against Hissène Habré, under one pretext or another, the international community must conclude that they are unwilling to try the former Chad president. In this case, Amnesty International notes that international law requires Senegal to extradite Hissène Habré to a country able and willing to do so.

Senegal's obligation under international law and the African Union decision requiring it to try Hissène Habré remains unchanged by the reported decision by the Court of Justice of the Economic Community of West Africa (ECOWAS) that he must be tried by a court with international elements. This decision is, of course, completely wrong as a matter of international law, as well as contrary to Senegal's obligations under the African Union decision requiring it to try him in the name of Africa. As the United Kingdom House of Lords found in its 1999 decision in the case of Augusto Pinochet Ugarte, the former President of Chile, international law permits any national court to try a former head of state for crimes under international law.

Establishing an international criminal court like those established for the former Yugoslavia and for Rwanda, as well as an internationalized court like that for Sierra Leone would be far more expensive than trial in national court and lead to considerable delay, further denying victims their day in court. If, however, Senegal chooses to follow the incorrect ECOWAS Court of Justice decision instead of the African Union decision, then it should promptly enact a law providing for non-Senegalese judges and prosecutors to participate in the proceedings. Should such a reform entail any further delay, Senegal should extradite Hissène Habré immediately to a state not a member of ECOWAS.

Ten years after a complaint was lodged against the former Chadian president, who sought refuge in Senegal, no judicial proceedings have yet begun and the Senegalese government has consistently acted in a dilatory manner in order to avoid bringing him to justice. The Senegalese courts initially declared they were not competent to examine the case. President Abdoulaye Wade then asked Hissène Habré to leave the country. In response to the reaction of the international community, the Senegalese Head of State referred the case to the African Union, which reminded Senegal of its obligation to try the former Chadian president. No longer able to oppose legal arguments to Hissène Habré's trial, the Senegalese authorities have for the last two years claimed financial obstacles and have conditioned any commitment to begin judicial proceedings against the former Chadian president on payment of exorbitant sums from donors.