

AMNESTY INTERNATIONAL PUBLIC STATEMENT

14 December 2010
AI Index: AFR 49/006/2010

SENEGAL: PRESIDENT WADE MUST KEEP UP HIS WORD AND THE JUDICIARY INVESTIGATE HISSÈNE HABRÉ

Amnesty International is dismayed by the statement made by Senegalese President Abdoulaye Wade on 11 December 2010 declaring that he would not permit the former Chadian President Hissène Habré to be tried before national courts in Senegal for war crimes, crimes against humanity and torture, as the African Union (AU) directed Senegal to do in 2006. President Wade also said that he intended to give this case back to the AU or send Hissène Habré to another country.

The organization is also very concerned by the fact that President Wade did not rule out sending Hissène Habré back to Chad, where he was sentenced to death *in absentia* in August 2008.

Amnesty International believes that the death penalty is the ultimate cruel, inhuman and degrading punishment and denies the right to life. Moreover, if Hissène Habré were to be sent back to Chad, he could in any case not expect being tried in accordance with international law and standards for fair trial.

President Wade's sudden overturn is in complete contradiction with all the commitments made publicly by the Senegalese authorities to comply with the African Union's directive to Senegal, made in 2006, to investigate the former Chadian president "*on behalf of Africa*", which President Abdoulaye Wade has officially accepted.

This commitment was reiterated before the International Court of Justice in 2009 where Senegal – in the *Belgium v. Senegal* case - solemnly stated that the country “will not allow Mr. Habré to leave Senegal while the present case is pending before the Court. Senegal has not the intention to allow Hissène Habré to leave the territory while the present case is pending before the Court.”

For the last two years, the Senegalese authorities have claimed that the sole reason they had not yet tried Hissène Habré was financial obstacles and have conditioned any commitment to begin judicial proceedings against the former Chadian president on payment of exorbitant sums from donors. This financial obstacle was lifted one month ago, in November 2010, when international donors in Dakar agreed to contribute 8.5 million euros to finance Hissène Habré's trial.

Senegal has now all the financial and political support from the international community to investigate Hissène Habré and, if there is sufficient admissible evidence, prosecute him and, if found guilty, the duty to punish him. Therefore, Senegal has no more excuse to postpone - let alone to rule out – a trial of the former Chadian President.

Senegal continues to be under legal obligations pursuant to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) and is required by the African Union request to investigate Hissène Habré and calls President Wade to

confirm publicly that his country is willing to do so. If Senegal continues to refuse submit the case of Hissène Habré to its prosecuting authorities it must extradite him to a country willing and able to do so according to international law and standards for fair trial and without recourse to the death penalty.

President Wade's statement is not only a rebuff of the international community's willingness to see Habré being investigated in Senegal. It demonstrates contempt towards the African victims of Hissène Habré who lodged a complaint in Dakar ten years ago. Some of these victims already died and the victims that are still alive have put all their hopes into Senegalese justice. Besides its legal obligation to try or extradite Hissène Habré, Senegal has a moral responsibility towards these victims who believed in their pledges and commitments.

BACKGROUND INFORMATION

Ten years after a complaint was lodged against the former Chadian president, who sought refuge in Senegal, the aborted judicial proceedings have not yet resumed 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 AU, which required Senegal to try the former Chadian president.

Under international pressure, Senegal amended its criminal and procedural legislation in 2007 to permit its courts to try persons suspected of crimes under international law, even if they had been committed outside the national territory in order to be able to try Hissène Habré.

In 2009 Belgium instituted proceedings against Senegal before the International Court of Justice on the ground that Senegal had violated its obligations under both the Convention against Torture and customary international law to submit the case of Hissène Habré to its prosecuting authorities or extradite him to Belgium, which is the only country so far to seek his extradition. Based on the solemn promise by Senegal that it would not permit him to leave the country while the case was pending the Court decided not to grant a request for provisional measures made by Belgium requiring Senegal not to let him leave. The case is still pending.