

# AMNESTY INTERNATIONAL PUBLIC STATEMENT

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## **Democratic Republic of Congo: Laurent Nkunda and Bosco Ntaganda must face justice**

The arrest of Laurent Nkunda should be followed by swift steps to prosecute him on charges that he committed war crimes and crimes against humanity committed in the Democratic Republic of Congo (DRC), Amnesty International said today. Any trial must be fair and exclude the death penalty. If states fail to do so, then the Prosecutor of the International Criminal Court has jurisdiction to seek to prosecute him. Since 2004, the ICC Prosecutor has been investigating war crimes and crimes against humanity in the DRC, particularly in the Ituri region, and has sought and obtained arrest warrants.

Laurent Nkunda, former leader of the National Congress for the Defence of the People (CNDP) armed group, was arrested on 22 January and is detained at an undisclosed location in Rwanda. The Government of Rwanda must immediately clarify on what charges and in what circumstances it is holding Laurent Nkunda, announce what course it intends to pursue to ensure that he is prosecuted in a fair trial where witnesses are effectively protected, and guarantee that his rights are fully respected.

Members of the CNDP and previous armed groups led by Laurent Nkunda have been accused of war crimes and other serious human rights abuses by the UN, national and international human rights organizations, including Amnesty International. These allegations include the recruitment and use of children as soldiers, unlawful killings and systematic rape of women and girls. He is the subject of an international arrest warrant issued by the DRC authorities in September 2005 for war crimes and crimes against humanity as well as insurrection. Despite these multiple accusations, Laurent Nkunda was for many years able to move freely between his base in eastern DRC, Rwanda and Uganda.

Although the possibility exists that Laurent Nkunda may be extradited from Rwanda to the DRC, he is unlikely to receive a fair trial in the DRC. The DRC criminal justice system is characterized by a lack of independence of the judiciary, particularly in its military courts before which Laurent Nkunda would be prosecuted, routine torture and ill-treatment in detention, inhumane prison conditions and prolonged detention without trial. Witnesses and lawyers do not receive adequate protection and are routinely threatened and attacked. The DRC retains the death penalty. The DRC government must address the longstanding failures of its judicial system that prevent the effective prosecution of suspected war criminals before domestic courts.

Laurent Nkunda's sudden downfall contrasts with the rise of Bosco Ntaganda, the new leader of the CNDP and Laurent Nkunda's former Chief-of-Staff, who now appears to enjoy the full confidence of the DRC and Rwandan governments. Bosco Ntaganda is the subject of an International Criminal Court arrest warrant issued under seal in August 2006 and made public on 28 April 2008 for the war crime of recruiting and using children as soldiers in the Ituri region of eastern DRC between July 2002 and December 2003. He also reportedly commanded CNDP fighters who unlawfully killed scores of civilians in Kiwanja, North Kivu province, eastern DRC, on 4/5 November 2008.

The DRC government is under a legal obligation to arrest and surrender anyone named in arrest warrants issued by the International Criminal Court. However, on 16 January, shortly after he

had announced that he had deposed Laurent Nkunda as head of the CNDP, Bosco Ntaganda appeared publicly in Goma alongside the DRC Minister of Interior, Célestin Mbuyu Kabango, and senior DRC army officers to declare an end to the CNDP rebellion and commit his forces to the joint DRC and Rwandan government military operation against the Democratic Liberation Forces of Rwanda (FDLR) armed group. James Kabarehe, the Rwandan army Chief of Staff, attended the same event.

Time and again, justice has been sacrificed to the interests of political and military expediency in the DRC. A number of other persons suspected of committing war crimes and crimes against humanity now occupy senior positions in the DRC's army and police. Persistent impunity is one the major reasons why war crimes and crimes against humanity continue to be committed on a large scale in the DRC. They will not end until regional governments and the international community demonstrate an unequivocal commitment to bring all those responsible for war crimes or crimes against humanity to justice.

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