



# Questions and Answers

## Questions and Answers on the case *The Prosecutor v. Laurent Koudou Gbagbo*



### Who is Laurent Koudou Gbagbo?

Laurent Koudou Gbagbo was born on 31 May 1945 in the Mama village of the Ouragahio sous-préfecture, Gagnoa department in Côte d'Ivoire. He is an Ivorian national and former President of Côte d'Ivoire.

### What crimes is Mr Gbagbo alleged to have committed?

Pre-Trial Chamber III of the International Criminal Court (ICC) found that there are reasonable grounds to believe that, in the aftermath of the presidential elections in Côte d'Ivoire, pro-Gbagbo forces attacked the civilian population in Abidjan and in the West of the country, from 28 November 2010 onwards, targeting civilians who they believed were supporters of the opponent candidate Alassane Ouattara. Allegedly, the attacks were widespread and systematic, were committed over an extended time period and over large geographic areas, and followed a similar general pattern. The attacks were allegedly often directed at specific ethnic or religious communities and left a high number of reported victims.

The Chamber also found that there are reasonable grounds to believe that a plan existed between Mr Gbagbo and his inner circle, and that they were aware that implementing it would lead to the commission of the alleged crimes. They allegedly exercised joint control over the crimes, and made a coordinated and essential contribution to the realisation of the plan.

Mr Gbagbo allegedly bears individual criminal responsibility, as indirect co-perpetrator, for four counts of crimes against humanity, namely murder, rape and other sexual violence, persecution and other inhuman acts, allegedly committed in the context of post-electoral violence in the territory of Côte d'Ivoire between 16 December 2010 and 12 April 2011.

### Why did the ICC issue a warrant of arrest against Mr Gbagbo?

Based on the Prosecution's request and on the evidence submitted to Pre-Trial Chamber III, the Judges found that there are reasonable grounds to believe that Mr Gbagbo is responsible for four counts of crimes against humanity.

The Chamber also found that his arrest is necessary to ensure his appearance before the Court, to ensure that he does not use his political or economic resources to obstruct and endanger the investigation, and to prevent the commission of further crimes.

### What will happen after Mr Gbagbo arrives at the ICC detention centre?

Within a reasonable time after the suspect's surrender and arrival at the ICC detention centre, Pre-Trial Chamber III will hold an initial appearance hearing to verify the identity of the suspect and to ensure that he was clearly informed of the charges brought against him and of his rights under the Rome Statute. At the end of this first appearance, the Pre-Trial Chamber will set the date of the next step in the pre-trial proceedings: the hearing on the confirmation of charges.



## What is a hearing on the confirmation of charges?

A confirmation of charges hearing is not a trial or a mini-trial. It is a public, pre-trial hearing during which the ICC's Pre-Trial Chamber will decide whether or not to confirm all or any of the charges brought against the suspect by the Prosecutor and, if confirmed, to commit the case to trial before a Trial Chamber.

The Prosecution is required to support each of the charges with sufficient evidence to establish substantial grounds to believe that the suspect committed the crimes with which he is charged.

In addition to the Prosecution and the Defence, the legal representatives of the victims may attend the hearing and may make an oral presentation.

## What are the rights of the suspect before the ICC?

All suspects are presumed innocent until proven guilty beyond reasonable doubt. Like all suspects before the ICC, Mr Gbagbo has the right to a public, fair and impartial hearing of his case. To this end, a series of guarantees are set out in the Court's legal documents, including the following rights, to mention but a few:

- to be defended by the counsel (lawyer) of his choice, to present evidence and witnesses of his own and to use a language which he fully understands and speaks;
- to be informed in detail of the charges against him in a language which he fully understands and speaks;
- to have adequate time and facilities for the preparation of his defence and to communicate freely and in confidence with counsel;
- to be tried without undue delay;
- not to be compelled to testify or to confess guilt, and to remain silent, without such silence being a consideration in the determination of guilt or innocence;
- to have the Prosecutor disclose to the Defence evidence in his possession or control which he believes shows or tends to show the innocence of the defendant, or to mitigate the guilt of the defendant, or which may affect the credibility of the Prosecution's evidence.

## What are the conditions of the detention of Mr Gbagbo at the ICC detention centre?

The ICC detention centre operates in conformity with the highest international human rights standards for the treatment of detainees, such as the United Nations Standard Minimum Rules. At the ICC detention centre, the daily schedule affords the detainees the opportunity to take walks in the courtyard, exercise, receive medical care, take part in manual activities and have access to the facilities at their disposal for the preparation of their defence. ICC detainees also have access to computers, a TV, books and magazines. Each 10m<sup>2</sup> cell is designed to hold one person only. A standard cell contains a bed, desk, shelving, cupboard, toilet, hand basin, TV and an intercom system to contact the guards when the cell is locked.

Persons convicted of crimes under the jurisdiction of the ICC do not serve their sentence at the ICC detention centre in The Hague, as the facility is not designed for long-term imprisonment. Convicted persons are therefore transferred to a prison outside the Netherlands, in a State designated by the Court from a list of States which have indicated their willingness to allow convicted persons to serve their sentence there.

## Who are the Judges sitting in this case?

Pre-Trial Chamber I is composed of Judges Silvia Fernández de Gurmendi (presiding), Adrian Fulford and Elizabeth Odio Benito.

The ICC Judges are persons of high moral character, impartiality and integrity who possess the qualifications required in their respective States for appointment to the highest judicial offices. All have extensive experience relevant to the Court's judicial activity. The Judges are elected by the Assembly of States Parties on the basis of their established competence in criminal law and procedure and in relevant areas of international law such as international humanitarian law and the law of human rights.

## How and why can victims participate in the proceedings?

The Rome Statute, founding treaty of the Court, is innovative in several respects. One of the most significant points is that it grants victims rights never previously granted to victims before an international criminal court. Victims can become involved in proceedings before the ICC by sending information to the Prosecutor to ask him to open an investigation, by willingly testifying before the Court, or by participating in the proceedings through their legal representatives (i.e., their lawyers).

This voluntary participation enables victims to express an opinion independently of the parties and offers them the opportunity to voice their own concerns and interests. If the Court considers it appropriate, victims may present their point of view directly to the judges at various stages in the proceedings. Such participation is generally through a legal representative (that is, a lawyer) who presents their views and concerns to the Court, since criminal proceedings are quite complex.

Should victims wish to participate, they are required to fill out an application for participation form. Applications are free of charge. Victims may obtain a copy of the application forms from the Court's website or from the Victims Participation and Reparations



Section in The Hague. The forms must be returned to the Victims Participation and Reparations Section in The Hague by fax, e-mail or post, using the information provided below.

Victims who wish to be assisted in filling out the form and sending it to the Court may contact that same section.

The Victims Participation and Reparations Section at The Hague may be contacted at:

### **International Criminal Court**

Victims Participation and Reparations Section  
P.O. Box 19519  
2500 CM, The Hague  
The Netherlands  
Fax: +31 (0) 70 515 9100  
Email: [vprsapplications@icc-cpi.int](mailto:vprsapplications@icc-cpi.int)

## **Questions regarding the Situation in Côte d'Ivoire**

### **Does the ICC have jurisdiction over the situation in Côte d'Ivoire even though this State has not ratified the Rome Statute?**

Yes. Côte d'Ivoire is not party to the Rome Statute, but it **had accepted the jurisdiction** of the ICC on 18 April 2003, by a declaration made in accordance with article 12-3 of the Rome Statute; more recently, and on both 14 December 2010 and 3 May 2011, the Presidency of Côte d'Ivoire **reconfirmed the country's acceptance** of this jurisdiction.

### **Why is the ICC intervening in the situation in Côte d'Ivoire?**

The ICC is a court of last resort. It can intervene only under the principle of complementarity. It can investigate and, where warranted, prosecute and try individuals only if the State concerned does not, cannot or is unwilling genuinely to do so. This might occur where proceedings are unduly delayed or are intended to shield individuals from their criminal responsibility.

Following the declaration of Côte d'Ivoire accepting the jurisdiction of the Court, the ICC Prosecutor conducted a preliminary examination of the situation. He concluded that the criteria to open an investigation are met and submitted, on 23 June 2011, a request for authorisation to open investigations on his own initiative (called investigation *proprio motu*) into the situation in Côte d'Ivoire.

On 3 October 2011, Pre-Trial Chamber III granted the Prosecutor's request and **authorised him to open an investigation** with respect to alleged crimes within the jurisdiction of the Court committed in Côte d'Ivoire since 28 November 2010, as well as with regard to crimes that may be committed in the future in the context of the same situation in this country.

Pre-Trial Chamber III also requested the Prosecutor to revert to the Chamber with any additional information that is available to him on potentially relevant crimes committed between 2002 and 2010. The Prosecutor complied with this request on 3 November 2011. The Chamber is now considering whether or not to grant authorisation to the Prosecutor to investigate crimes committed between 2002 and 2010.

### **Is the ICC independent of the United Nations and the Security Council?**

Yes. The ICC is an independent body whose mission is to try individuals for crimes within its

jurisdiction, without the need for a special mandate from the United Nations. On 4 October 2004, the ICC and the United Nations signed an agreement governing their institutional relationship.

### **What are the crimes under investigation by the ICC Prosecutor?**

Based on the request submitted by the Prosecutor and the supporting material presented to the Chamber, the Judges authorised the Prosecutor to open an investigation in the situation of Côte d'Ivoire with regard to crimes against humanity and war crimes allegedly committed by pro-Gbagbo and pro-Ouattara forces, including murder, rape, enforced disappearance, imprisonment, pillage, torture and intentionally directed directing attacks against civilians.

These criminal acts were allegedly committed in several areas, including Abidjan and the west of Côte d'Ivoire, in the context of the violence that started in the aftermath of the 2010 presidential elections in Côte d'Ivoire.

### **Will the ICC prosecute other suspects in Côte d'Ivoire?**

The **Prosecutor's statement** makes clear that his Office's investigation continues, and, based solely on the evidence collected, he intends bring further cases before the Judges.

The policy adopted by the Prosecutor is to focus on those bearing the greatest responsibility for the most serious crimes.

Most importantly, the ICC does not replace national criminal justice systems; rather, it complements them. States retain the primary responsibility for trying the perpetrators of the most serious of crimes.

