

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/11

Date: 23 November 2011

PRE-TRIAL CHAMBER III

**Before: Judge Silvia Fernández de Gurmendi, Presiding Judge
Judge Elizabeth Odio Benito
Judge Adrian Fulford**

SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE

UNDER SEAL

Ex parte Prosecution and Registry only

URGENT

Warrant Of Arrest For Laurent Koudou Gbagbo

Decision to be notified, in accordance with regulation 31 of the Regulations of the Court, to:

Counsel for the Defence

The Office of the Prosecutor

Mr Luis Moreno-Ocampo

Ms Fatou Bensouda

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia, Registrar

Detention Section

Victims and Witnesses Unit

Others

**Victims Participation and
Reparations Section**

1. On 22 June 2011 the Presidency of the International Criminal Court ("Court") issued a *Decision Constituting Pre-Trial Chamber III and Re-assigning the Situation in the Republic of Côte d'Ivoire*.
2. On 3 October 2011, Pre-Trial Chamber III ("Chamber") issued a *Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Republic of Côte d'Ivoire*, in which it authorised an investigation.
3. On 25 October 2011, the Prosecutor filed an "*Application Pursuant to Article 58 as to Laurent Koudou Gbagbo*" for the issuance of a warrant of arrest for Laurent Koudou Gbagbo ("Mr Gbagbo") on four counts of crimes against humanity based on his individual responsibility for the crimes of murder, rape and other forms of sexual violence, persecution and inhumane acts committed during the post-election violence from 28 November 2010 onwards by the Ivorian Defence and Security Forces ("FDS"), reinforced by the pro-Gbagbo youth militia and mercenaries (hereafter referred to collectively as the "pro-Gbagbo forces"), in Abidjan, including around the Golf Hotel, and elsewhere in the country.
4. The Chamber notes Articles 19(1) and 58(1) of the Rome Statute ("the Statute") and observes that the analysis of the evidence and other information submitted by the Prosecutor will be set out in a decision to be issued hereafter.
5. The Chamber considers, on the basis of the evidence and information submitted by the Prosecutor, and without prejudice to its determination of any future challenge to the admissibility of the case under Articles 19(2)(a)

and (b) of the Statute, that the case against Mr Gbagbo falls within the jurisdiction of the Court and is admissible.

6. On the evidence, the Chamber concludes 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. They targeted civilians who they believed were supporters of Mr Ouattara, and the attacks were often directed at specific ethnic or religious communities.
7. The Chamber finds that there are reasonable grounds to believe that these attacks by pro-Gbagbo forces during the post electoral violence were committed pursuant to an organisational policy. Furthermore, they were widespread and systematic, as demonstrated, *inter alia*, by the extended time period during which crimes were committed (between 28 November 2010 and May 2011), their geographic spread (many of the neighbourhoods of Abidjan and the west of Côte d'Ivoire), the high number of reported victims and the general pattern of the way in which the offences were committed.
8. On the evidence, the Chamber finds that there are reasonable grounds to believe that the crimes against humanity of murder under Article 7(1)(a), rape and other forms of sexual violence under Article 7(1)(g), other inhumane acts under Article 7(1)(k) and persecution under Article 7(1)(h) of the Statute, were committed in Côte d'Ivoire during the period between 16 December 2010 and 12 April 2011.

9. Furthermore, the Chamber finds that there are reasonable grounds to believe that these acts occurred in the context of a widespread or systematic attack directed against the Côte d'Ivoire civilian population within the meaning of Article 7(1) of the Statute.
10. The Chamber finds that there are reasonable grounds to believe that Mr Gbagbo bears individual criminal responsibility for the crimes charged in this Application, as "an indirect co-perpetrator" pursuant to Article 25(3)(a) of the Statute. In particular, there are reasonable grounds to believe that a plan existed between Mr Gbagbo and his inner circle (his co-perpetrators), and that they were aware that implementing it would, in the ordinary course of events, lead to the commission of the offences set out above. Furthermore, by implementing the plan, the co-perpetrators exercised joint control over the crimes. Given the position of each member and their role as regards the plan, they made a coordinated and essential contribution to its realisation. There is a sufficient basis to conclude that the pro-Gbagbo forces that put the policy into effect did so by almost automatic compliance with the orders they received. Finally, there is sufficient evidence that Mr Gbagbo acted with the necessary degree of intent and knowledge.
11. Although the Chamber is satisfied that this substantial test (as proposed by the Prosecution), is made out, it is likely that this issue (*i.e.* Mr Gbagbo's suggested liability as an "indirect co-perpetrator" under Article 25(3)(a) of the Statute) may well need to be revisited in due course with the parties and participants.

12. Finally, the Chamber is satisfied that his arrest is necessary to: i) ensure his appearance before the Court; ii) ensure that he does not use his political or economic resources to obstruct or endanger the investigation; and iii) prevent the commission of further crimes.

FOR THESE REASONS, THE CHAMBER

HEREBY ISSUES a warrant of arrest against Laurent Koudou Gbagbo, who was born on 31 May 1945 in a village of the Ouragahio *sous-préfecture*, Gagnoa department, called Mama, in Côte d'Ivoire, an Ivorian national and a member of the Bété tribe, for his alleged criminal responsibility within the meaning of Article 25(3)(a) of the Statute for the crimes against humanity of (1) murder under Article 7(1)(a), (2) rape and other forms of sexual violence under Article 7(1)(g), (3) other inhumane acts under Article 7(1)(k) and (4) persecution under Article 7(1)(h) of the Statute committed in the territory of Côte d'Ivoire during the period between 16 December 2010 and 12 April 2011;

DECIDES that the warrant of arrest is to remain under seal, *ex parte* the Prosecution and the Registry only, but in order to effect Mr Gbagbo's transfer to the seat of the Court, it may be communicated as necessary to third parties (such as the authorities in Côte d'Ivoire and any other State or international organisation) in order to implement it. The Chamber will consider in due course the reclassification of the warrant of arrest, upon the surrender of Mr Gbagbo to the ICC;

DECIDES that, as soon as practicable, the Registry: (i) shall prepare a request for cooperation seeking the arrest and surrender of Laurent Koudou Gbagbo and containing the information and documents required by Articles 89(1) and 91 of the Statute, and by Rule 187 of the Rules; and (ii) shall transmit, in consultation and coordination with the Prosecutor, the request to the competent authorities in the Republic of Côte d'Ivoire in accordance with Rule 176(2) of the Rules;

FURTHER DIRECTS the Registrar, pursuant to Article 89(3) of the Statute, to prepare and transmit to any relevant State and international organisation any request for transit which may be necessary for the surrender of Laurent Koudou Gbagbo to the Court;

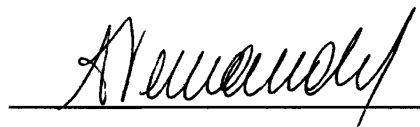
ORDERS the Prosecutor to transmit to the Registry, as far as his confidentiality obligations allow, and to the Chamber all information available to him that may assist in averting any risks to victims or witnesses associated with the transmission of the abovementioned cooperation request;

INVITES the Prosecutor to transmit to the Registry, as far as his confidentiality obligations allow, and to the Chamber all information available to him that, in his view, would facilitate the transmission and execution of the above-mentioned cooperation request;

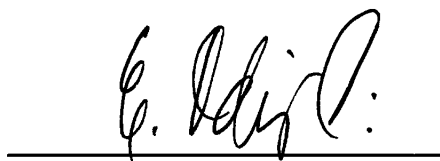
INSTRUCTS the Registry to liaise with the Prosecution in order to invite the Republic of Côte d'Ivoire and the Kingdom of The Netherlands to request an exemption from the travel ban imposed by the UN Security Council and the Council of the European Union to allow the surrender of Mr Gbagbo to the ICC and to enter the territory of the The Netherlands;

URGES the Registry to make all possible efforts for the immediate implementation of this warrant of arrest.

Done in both English and French, the English version being authoritative.



Judge Silvia Fernández de Gurmendi



Judge Elizabeth Odio Benito



Judge Adrian Fulford

Dated this 23 November 2011

At The Hague, The Netherlands