



Excerpt from the decision confirming the charges in the Laurent Gbagbo case of 12 June 2014: charges confirmed

SECTION 4. CONCLUSION: FACTS AND CIRCUMSTANCES AND THEIR LEGAL CHARACTERISATION CONFIRMED BY THE CHAMBER

266. In light of the above, the Chamber finds that there is sufficient evidence to establish substantial grounds to believe that Laurent Gbagbo, born on 31 May 1945 in Mama, Côte d'Ivoire, is criminally responsible for the crimes against humanity of murder, rape, other inhumane acts or – in the alternative – attempted murder, and persecution in Abidjan, Côte d'Ivoire, committed between 16 and 19 December 2010 during and after a pro-Ouattara march on the RTI headquarters, on 3 March 2011 at a women's demonstration in Abobo, on 17 March 2011 by shelling a densely populated area in Abobo, and on or around 12 April 2011 in Yopougon, under article 25(3)(a) of the Statute for committing these crimes, jointly with members of his inner circle and through members of the pro-Gbagbo forces, or, in the alternative, under article 25(3)(b) of the Statute or, in the alternative, under article 25(3)(d) of the Statute for contributing in any other way to the commission of these crimes.

I. Facts and circumstances described in the charges confirmed by the Chamber

267. The facts and circumstances described by the Prosecutor in the charges brought against Laurent Gbagbo (Section 9 of the Amended DCC) confirmed by the Chamber under article 61(7)(a) of the Statute are as follows:

268. In advance of the presidential election of 2010, Laurent Gbagbo and his inner circle jointly designed and implemented a common plan to maintain him as President by all necessary means, including by committing the crimes charged. By 27 November 2010, the implementation of the common plan had evolved to include a State or organisational policy to launch a widespread and systematic attack against civilians perceived to support Alassane Ouattara.

Pursuance of this common plan and policy was criminal in nature: implementation of the widespread or systematic attack comprised multiple criminal acts such as murder, rape, other inhumane acts and persecution of the civilian population. Hence, the crimes charged resulted from the implementation of the common plan.

269. At the relevant time, Laurent Gbagbo exercised command, control and authority over the Defence and Security Forces (FDS). At the relevant time, he also exercised control and authority, directly and through his inner circle, on pro-Gbagbo youth, militia members and mercenaries who lent their support to the FDS (jointly referred to as “pro-Gbagbo forces”).

270. The pro-Gbagbo forces constituted an organised and hierarchical apparatus of power. By virtue of their position of authority and the contributions they made to the common plan and the policy, Laurent Gbagbo and his inner circle could use these forces to implement the plan and the policy by committing the crimes charged.

271. Between 16 December 2010 and on or around 12 April 2011, pro-Gbagbo forces killed at least 160 persons in the following four incidents:

- (a) Between 16 and 19 December 2010, they killed at least 45 persons in Abidjan during and after a pro-Ouattara march on the RTI headquarters;
- (b) On 3 March 2011, they killed seven women who had participated in a pro-Ouattara women’s demonstration in Abobo commune in Abidjan;
- (c) On 17 March 2011, they killed at least 40 persons in or near Abobo market by shelling a densely populated area;
- (d) On or around 12 April 2011, in the Yopougon commune of Abidjan, they killed at least 68 persons hailing primarily from northern Côte d’Ivoire and neighbouring West African countries.

272. Between 16 December 2010 and on or around 12 April 2011, pro-Gbagbo forces raped at least 38 women and girls in the following two incidents:

- (a) Between 16 and 19 December 2010, pro-Gbagbo forces raped at least 16 women and girls in Abidjan during and after a pro-Ouattara march on the RTI headquarters;
- (b) On or around 12 April 2011, they raped at least 22 women in Yopougon.

273. Between 16 December 2010 and on or around 12 April 2011, pro-Gbagbo forces inflicted great suffering and serious injury to body on at least 118 persons in the following four incidents:

(a) Between 16 and 19 December 2010, they wounded at least 54 persons in Abidjan during and after a pro-Ouattara march on the RTI headquarters;

(b) On 3 March 2011, they wounded at least three persons who had participated in a pro-Ouattara women's demonstration in Abobo;

(c) On 17 March 2011, they wounded at least 60 persons in or near Abobo market by shelling a densely-populated area;

(d) On or around 12 April 2011, they wounded at least one person in Yopougon.

274. The crimes charged were committed on political, national, ethnic or religious grounds. The victims of these crimes were targeted because they were perceived to be members of Alassane Ouattara's political groups or his supporters or because they lived in neighbourhoods of Abidjan believed to be Ouattara strongholds. Often, they were also targeted on ethnic grounds (mainly the Dioula and Baoulé), religious grounds (Muslims), or national grounds (citizens of West African countries such as Mali, Burkina Faso and Nigeria and Ivorians of West African descent). Laurent Gbagbo and other members of the common plan perceived all members of the abovementioned political, ethnic, national and religious groups as supporters of Alassane Ouattara.

275. From 27 November 2010 until on or around 12 April 2011 in Abidjan, the pro-Gbagbo forces carried out a widespread and systematic attack on the civilian population perceived as supporting Alassane Ouattara, involving the multiple commission of criminal acts, pursuant to a policy of the pro-Gbagbo forces led by Laurent Gbagbo and his inner circle. The crimes charged were committed as part of this attack.

276. Laurent Gbagbo contributed to the commission of the crimes charged as follows:

(a) Laurent Gbagbo designed and implemented the common plan which resulted in the commission of the crimes;

(b) Laurent Gbagbo created a structure which enabled him to implement the common plan, which resulted in the commission of the crimes, by appointing or promoting persons loyal to him to key posts in the government and the FDS, by tasking his subordinates with the recruitment of additional members, including pro-Gbagbo youth and militia men, to the FDS and by supervising their recruitment;

(c) Laurent Gbagbo armed the forces loyal to him and which committed the crimes charged, by placing weapons which he controlled at their disposal, by tasking his subordinates with purchasing additional weapons, by providing the necessary funding and by ensuring that weapons and ammunition were supplied to these forces;

(d) Laurent Gbagbo coordinated the implementation of the common plan which resulted in the commission of the crimes, by holding frequent meetings and regular dialogue with his inner circle and other members of his support network on the subject in order to be briefed about the situation on the ground by his commanders and to issue them with operational instructions. Laurent Gbagbo, either directly or through members of his inner circle, tasked his subordinates with implementing, or incited them to implement, the common plan which resulted in the commission of the crimes, and (i) ordered the deployment of armed forces against demonstrators opposed to his politics; (ii) instructed the forces loyal to him to stop the pro-Ouattara march on the RTI headquarters on 16 December 2010; (iii) ordered these forces to lay siege to the Golf Hotel and its residents; (iv) directed these forces to stand fast and not to lose Abobo; (v) used pejorative and hate language against political opponents, *inter alia*, referring to them as “bandits”, “enemies” and “terrorists”; and (vi) incited the Yopougon pro-Gbagbo youth and militia members, either directly or through Charles Blé Goudé, to fight to protect the nation and not to let it fall into the hands of the enemy, and called on his supporters to continue to resist and to fight Alassane Ouattara and his “terrorists”;

(e) Laurent Gbagbo incited the forces loyal to him to commit crimes: (i) by ordering them not to question the lawfulness of the orders they had received, by making it clear to them that they would not be punished for the crimes committed; (ii) by failing to take the measures within his power to prevent or halt the commission of these crimes during the post-election crisis or to punish the perpetrators; and (iii) by failing to refer the matter to the competent authorities for investigation and prosecution.

277. In performing these actions and omissions, Laurent Gbagbo had the requisite intent and knowledge in relation to the crimes charged. He also knew that his conduct was, or intended it to be, part of a widespread or systematic attack against a civilian population pursuant to or in furtherance of the policy.

II. Legal characterisation of the facts

278. The legal characterisation of the facts described by the Prosecutor in the charges brought against Laurent Gbagbo (Section 9 of the Amended DCC) confirmed by the Chamber under article 61(7)(a) of the Statute is as follows:

Count 1 – Murder constituting a crime against humanity

In light of the facts and circumstances set forth above, Laurent Gbagbo is liable under article 7(1)(a) and article 25(3)(a), (b) or (d) of the Statute, in the alternative, for the crime against humanity of murder of at least 160 persons, committed by pro-Gbagbo forces.

Count 2 – Rape constituting a crime against humanity

In light of the facts and circumstances set forth above, Laurent Gbagbo is liable under article 7(1)(g) and article 25(3)(a), (b) or (d), of the Statute, in the alternative, for the crime against humanity of rape of at least 38 persons committed by pro-Gbagbo forces.

Count 3 – Other inhumane acts or attempted murder constituting a crime against humanity

In light of the facts and circumstances set forth above Laurent Gbagbo is liable under article 7(1)(k) and article 25(3)(a), (b) or (d) of the Statute, in the alternative, for the crime against humanity of other inhumane acts, that is, acts causing great suffering and serious injury to body against at least 118 persons, committed by pro-Gbagbo forces, or, in the alternative, liable under articles 7(1)(a) and 25(3)(f) and article 25(3)(a), (b) or (d) of the Statute, in the alternative, for the crime against humanity of attempted murder committed by pro-Gbagbo forces.

Count 4 – Persecution constituting a crime against humanity

In light of the facts and circumstances set forth above, Laurent Gbagbo is liable under articles 7(1)(h) and article 25(3)(a), (b) or (d) of the Statute, in the alternative, for the crime against humanity of persecution on political, national, ethnic and religious grounds, against at least 316 persons, committed by pro-Gbagbo forces.