

Questions & Answers on the Acceptance of ICC jurisdiction by Côte d'Ivoire

How did this situation get before the ICC?

Côte d'Ivoire (also known as the Ivory Coast) signed the Rome Statute of the International Criminal Court on November 30, 1998, but has not yet ratified the instrument. Therefore, it is not a State Party to the ICC and crimes committed on its territory would not ordinarily be within the jurisdiction of the Court. However, in February 2005, the Ivorian Government became the first non-state party to accept the exercise of jurisdiction by the Court over crimes committed there since September 19, 2002. In accordance with Article 12(3) of the Rome Statute, the Government lodged a declaration of this acceptance with the Registrar of the Court.

How did this conflict originate?

On September 19, 2002, the *Mouvement Patriotique de la Côte d'Ivoire* (Patriotic Movement of Côte d'Ivoire, MPC) attempted to overthrow President Laurent Gbagbo's government, sparking months of civil war and intense fighting. Though the coup failed and the rebels did not succeed in taking Abidjan, the commercial capital, they seized much of the north as well as key western towns, constituting about fifty percent of the country. Côte d'Ivoire has now effectively been split in two, with the *Forces Nouvelles* holding the land-locked north and the Government controlling the south. The report of the UN mission of inquiry outlined examples of death squads, mass executions, torture, and rape. Human Rights Watch has reported summary executions, political assassinations, rape and other sexual violence, the wanton destruction of civilian property, and the use of child soldiers. Many of these crimes fall within the jurisdiction of the Court.

When can we expect action by the Court on this situation?

According to Article 53 of the Rome Statute, the Prosecutor must assess the gravity of the alleged crimes and the capacity of relevant domestic courts to determine whether he should undertake a formal investigation. In accordance with Article 54 of the Rome Statute, the Prosecutor cannot limit an investigation to atrocities allegedly committed by the rebel groups, which were referred to in the Government's acceptance of jurisdiction. On January 28, 2005, the Prosecutor announced that the ICC was sending a team to Côte d'Ivoire to prepare for a possible investigation of crimes committed during the conflict. The mission will determine whether there is enough evidence to open a formal investigation into the situation.

Who are the perpetrators of the atrocities that have been committed in this conflict?

Horrific crimes have been perpetrated by all parties to the conflict: the Government, the *Forces Nouvelles* (New Forces Rebels, FN), as well as other actors within these alignments, overtly or covertly linked in leadership and action to the two main groups.

What is the current security situation?

While there has been no return to full-scale war since the conflict officially ended with the French-brokered Linas-Marcoussis peace agreement in 2003, atrocities continue and the country remains divided, unstable and insecure. Scheduled disarmament has not taken place and militias continue to pose a grave security risk throughout the country.

What is the current political situation?

Presidential elections are currently scheduled for October 30, 2005. Progress is being made in the run-up to elections. The extremely contentious issue of eligibility to stand for the presidency, which was a major obstacle to peace, was resolved by President Gbagbo's declaration that all candidates nominated by the political parties signatory to the Linas-Marcoussis Agreement would be eligible. In July 2005, six legal texts, dealing with issues that have been significant in all the peace agreements were passed by President Gbagbo by presidential decree. Though the *Forces Nouvelles* (FN) and the opposition parties do not consider the reforms adequate, diplomats and South African mediators have determined that the laws comply with the peace agreements. The disagreement has led to a stalemate, proving to be a major problem in the move toward elections and preventing disarmament from taking place.

Why is the role of the media in ethnic violence such a big issue in Côte d'Ivoire?

After Côte d'Ivoire gained independence from France in 1960, the country enjoyed economic prosperity and stability under the leadership of President Felix Houphouët-Boigny until his death in 1993. As a result, immigrants gradually grew to make up one quarter of Côte d'Ivoire's population. Ethnic tensions have simmered in Côte d'Ivoire since the early 1990's when politicians began to exploit cultural differences of immigrants for their own political gain. These tensions have been spurred through abuse of the media to incite violence and ethnic hatred which have directly resulted in attacks. This type of incitement is within the Court's jurisdiction and is a crucial element to be investigated. The grave dangers of the situation and this use of the media are clear, especially when one looks at the comparisons to the broadcasts which stoked the genocide in Rwanda in 1994.

What would happen if it became clear that ICC investigations might worsen the conflict and hinder peace?

The Prosecutor has the power to suspend investigations if he concludes that this would serve the interest of justice. Such a decision can be reviewed by the Pre-Trial Chamber, on its own motion or at the request of the Security Council. If the circumstances change, the Prosecutor can resume the investigation.

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