

# CENTRAL AFRICA

## Memorandum to the European Union (EU) on the occasion of the EU-Africa Ministerial Meeting, 11 October 2001

Amnesty International welcomes the EU's commitment to support peace and reconciliation in the Great Lakes region. It shares the EU's repeatedly stated conviction that the promotion and protection of human rights constitutes an essential part in the efforts to achieve durable peace and stability in a region that has been torn by conflict. Governments and armed opposition groups are responsible for widespread human rights violations against unarmed civilians and captured combatants, including killings, torture, abductions, unlawful detentions, and ill-treatment in detention.

Amnesty International requests that the current Belgian Presidency of the EU should be the starting point for the EU to develop a focussed and comprehensive engagement with human rights in the Great Lakes region. There is an urgent need for a persistent and long-term EU commitment to building respect for fundamental rights and human dignity.

The EU–Africa meeting taking place on 11 October in Brussels will be a good opportunity to take up the commitments made by the EU and African leaders at their Cairo summit in April 2000. In their Cairo Plan of Action, they pledged to “promote and fully respect and protect human rights” and to “adopt a comprehensive approach to the task of eliminating the causes of human rights violations”. Amnesty International calls on the EU and its Member States to systematically make human rights an integral part of all its activities regarding the Great Lakes Region, including its efforts to support the Lusaka and Arusha agreements.

The Brussels meeting comes at a crucial moment for developments in the Great Lakes region. The move towards a transitional government in Burundi, national reconciliation in Rwanda and the revival of the Inter-Congolese Dialogue in the Democratic Republic of Congo (DRC) could represent genuine, albeit slow and precarious, steps towards greater protection of human rights. Amnesty International is calling for a redoubling of efforts and the adoption of a strong, supportive position from the EU to give greater momentum to these initiatives.

Amnesty International requests the EU, and its member governments, in their relations with and policy towards Burundi, the DRC and Rwanda to:

- urge the governments of Burundi, the DRC and Rwanda to take effective measures against torture and ill-treatment in line with the *Guidelines to EU Policy Towards Third Countries on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*

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- press the governments of Burundi, the DRC and Rwanda into establishing genuine moratoriums on executions with a view to abolishing the death penalty through the steps outlined in the *Guidelines to EU Policy Towards Third Countries on the Death Penalty*
  - make the protection and promotion of human rights an explicit priority of the mandate and tasks of the EU Special Envoy for the African Great Lakes Region
  - support independent and impartial human rights groups and human rights defenders across the region
  - prevent all transfers of military or security technology, training or other resources that could be used in human rights violations
  - closely scrutinize the origin of and trade in mineral and other natural resources, such as diamonds, gold, coltan, timber and coffee to ensure that trade in these goods is not the result of or the cause of human rights abuses in the region.

### **Human rights violations in the Great Lakes region**

In **Burundi**, some of the provisions of an Agreement for Peace and Reconciliation in Burundi signed on 28 August 2000 could provide the basis for better respect for human rights. However, Amnesty International is concerned that large-scale human rights abuses continue to be committed by all parties to the conflict, which has shown no signs of abating despite the Peace Agreement. Indeed, negotiation and signature of the Peace Agreement has generated a spiral of political tension and an upsurge in political violence. Two coups d'état have been attempted in recent months and fears of a possible resurgence of mass political and inter-communal violence have intensified.

Since August 2000 progress towards implementation of the Peace Agreement has been slow. It has been hampered by escalating conflict within Burundi and continued evidence of lack of support for the Agreement, even by some of its signatories. Following the announcement of a move towards a power-sharing transitional government, both main Hutu-dominated armed political groups, the *Conseil national pour la défense de la démocratie-Forces pour la Défense de la Démocratie* (CNDD-FDD), National Council for the Defence of Democracy - Forces for the Defence of Democracy, and the *Forces nationales pour la libération* (FNL), National Liberation Forces, neither of which signed or are bound by the Peace Agreement, have carried out their stated intention to continue fighting. Other political leaders, primarily those from Tutsi-aligned opposition parties or those who were in some way alienated from the Arusha peace talks, have also expressed discontent at the announcement of the transitional arrangements and the proposed reform of the army or have opposed the prospect of foreign peace-keeping troops. The second attempted coup this year took place as heads of state met to announce transitional arrangements, underlining discontent within the army at the current political and military situation.

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In this context of political and military uncertainty, the human rights of ordinary Burundians of all ethnic groups are routinely and blatantly violated. Since August 2000, hundreds of civilians have been killed, some as the victims of numerous ambushes carried out by both the main armed opposition groups. Others have been extrajudicially executed by members of the government's armed forces or deliberately and arbitrarily killed by members of the CNDD-FDD or FNL, who have killed scores of people suspected of collaborating with the government administration or armed forces. Human rights defenders and humanitarian workers have been abducted, attacked and killed by members of the armed opposition, or threatened and their work obstructed by members of the government armed forces or administration. Numerous cases of torture and ill-treatment have been reported, particularly in military and para-military custody. There have been a number of deaths in detention as a result of torture. Freedom of expression has continued to be under threat, including through the ill-treatment and brief detention of journalists from an independent radio station which broadcast an interview with an FNL spokesperson following the short-lived FNL occupation of parts of Bujumbura in February 2001. Human rights violations including illegal and arbitrary detentions, torture and extrajudicial executions have also been attributed to the armed but unpaid government militia, the *Gardiens de la Paix*, Peace Guards, which have been used, particularly in the south, to bolster the security forces. The government has continued to arm civilian groups, ostensibly for their own protection. Hundreds of thousands of people are displaced within the country, while new refugees have continued to arrive in neighbouring Tanzania, which hosts already over 400,000 Burundian refugees.

Concerning Burundi, Amnesty International calls on the EU to :

- impress on the parties to the conflict their obligations to observe the provisions of Common Article 3 of the Geneva Conventions and its Additional Protocol II
- support and strengthen the Office of the UN High Commissioner for Human Rights in Burundi to ensure that it has enough resources and political support to carry out its tasks efficiently and independently
- continue to provide financial, political and other material support to countries hosting large numbers of Burundian refugees, particularly Tanzania, ensure that these states scrupulously observe the principle of non-refoulement and that voluntary repatriation programs are not put into operation until there is a fundamental and durable improvement in the situation in Burundi

In the **Democratic Republic of Congo (DRC)**, Amnesty International believes that there is unlikely to be a durable resolution of the politically-motivated armed conflict in the DRC in all its regional dimensions unless there is a resolution of the human rights crisis. This must be anchored in justice for all, regardless of the identities of the perpetrators or the victims. Amnesty International is concerned that the Lusaka ceasefire agreement fails to recognise that the people of the DRC require and deserve justice for the violation of their fundamental human rights, particularly the right to life and physical integrity. The agreement fails to acknowledge

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that forces belonging to many of the signatories to the agreement have been involved in grave violations of international humanitarian law and other human rights treaties, and equally fails to answer a call by ordinary Congolese to see justice done.

Many are putting a lot of trust and hope in the intercongolese dialogue. Amnesty International recognises that it is an appropriate forum to address human rights issues and to put in place lasting mechanisms for the protection and promotion of human rights. However, the organization continues to be concerned that parties to the armed conflict continue to take measures against civil society and the unarmed opposition that will make it difficult for the dialogue to take place in an environment conducive to ensuring an end to a culture of human rights violations and impunity. People who have spoken out against the armed conflict or human rights abuses have been subjected to human rights abuses. Human rights defenders Golden Misabiko and N'sii Luanda Shandwe spent seven months and three months respectively as prisoners of conscience because of their work exposing human rights violations committed by government forces. Journalists are also routinely harassed and sometimes detained. Although Golden Misabiko was finally released on 13 September 2001, he is just one of hundreds of prisoners to have been tortured in detention.

The DRC is also the site of systematic human rights abuses perpetrated, ordered or condoned by the governments of Uganda, Rwanda and their client armed political groups in areas under their control in eastern and northern parts of the country. Armed groups, including *mayi-mayi*, opposed to these forces have also committed widespread atrocities. The civilian population in these areas continues to suffer insecurity and extreme economic hardship, while the humanitarian situation of the more than one million internally displaced is catastrophic. Many human rights abuses are closely linked to the fight for control of forestry, mining and other commercial interests in these regions.

**In Rwandese-controlled areas of eastern and northern DRC**, tens of thousands of Congolese civilians have been unlawfully attacked, killed and beaten. Troops have frequently engaged in sexual violence, including against very young girls and old women. There is increasing recruitment of children into the fighting forces, police, and armed civilian paramilitary Local Defence Forces, including a substantial number of children less than 12 years old. Arbitrary arrests and unlawful detention are also a constant practice in the areas controlled by the Rwandese army and the Goma based *Rassemblement congolais pour la démocratie* (RCD-Goma), Congolese Rally for Democracy, forces. In many cases, arrests of people on charges of collaboration with armed opponents appear to be politically motivated. The overwhelming majority of detainees are held unlawfully for prolonged periods, often without charge, without having the opportunity to challenge the basis of their detention before the courts. Food is often not regularly provided and families are prevented from visiting detainees. Many detainees are often secretly held in unofficial places of detention, including military officers' private homes, to prevent families and lawyers from finding them, or to extract money from the

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detainees. Many detainees are tortured or beaten with iron bars or sticks, and women have been raped or even shot in the genitals.

**In Ugandan-controlled areas of eastern and northern DRC**, Ugandan government soldiers and forces of the Ugandan-backed *Movement pour la libération du Congo* (MLC), Movement for the Liberation of Congo, and *RCD-Mouvement de libération* (RCD-ML), as well as armed groups opposing them, have committed acts of torture, unlawful killings of civilians and other abuses. Civilians have also been killed in infighting between the Ugandan-backed groups. The political and administrative vacuum created by such factional disputes has contributed greatly to bouts of devastating inter-communal violence in Ituri province, including the killing of more than 800 people accused of witchcraft. Ugandan forces have been implicated in the killing of thousands of civilians during fighting between members of the Hema and Lendu ethnic groups.

The government of the DRC under President Joseph Kabila, who assumed power in January 2001 after the assassination of his father Laurent-Désiré Kabila, has made positive statements regarding the protection of human rights, but the gap between words and action was further demonstrated on 13 September 2001 when 13 people were sentenced to death after being convicted, five of them *in absentia*, of plotting to overthrow the government in early 2001. Some of those on trial are believed to be under the age of 18. Virtually all those tried are reported to have been tortured in order to force them to implicate themselves or other co-defendants. They were also denied access to lawyers before their trial and have no right to appeal against their convictions or sentences. They appeared before the *Cour d'ordre militaire* (COM), Military Order Court, which Amnesty International has been campaigning consistently to be reformed or abolished. Since its inception in 1997, the COM has conducted politically-motivated and unfair trials resulting in the imprisonment of dozens of political prisoners and prisoners of conscience. More than 200 people have been executed after being sentenced to death by the court, some just hours after the passing of the sentence.

Concerning the DRC, Amnesty International calls on the EU to:

- call on the UN to set up an international commission of inquiry to investigate violations of international humanitarian law and other human rights treaties by all parties to the conflict in the DRC, based on, and completing, the UN Secretary General's Investigative Team which published a report of its obstructed and partial inquiry in June 1998
- press all parties to the conflict to fulfil their obligations to observe the provisions of Common Article 3 of the Geneva Conventions and its Additional Protocol II
- impress on all parties to the conflict their responsibility to ensure the safety of civilians
- urge the government of the DRC to immediately release all prisoners of conscience

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- seek guarantees from the government of the DRC that all prisoners will be treated humanely and according to the *UN Body of Principles for the Protection of all Persons under any Form of Detention or Imprisonment*
  - provide support to the re-building and strengthening of the DRC judicial system, including the reform or abolition of the COM.

In **Rwanda** itself, Amnesty International supports the principle of ‘no impunity’ and the need to bring to justice those alleged to be responsible for the 1994 genocide, but has grave concerns about certain aspects of attempts to try those accused, particularly in terms of the *gacaca* tribunals. The organisation is also concerned about current human rights violations, notably arbitrary arrests and abductions of those perceived to be critical of the government.

Amnesty International acknowledges the importance of the reason for the establishment of the *gacaca* tribunals being to allow for popular participation in uncovering and judging responsibility for the 1994 genocide and as a significant contribution to national reconciliation. The tribunals might also bring to an end the human rights abuses suffered by approximately 115,000 detainees in Rwanda’s grossly overcrowded prisons. Many of these detainees were arbitrarily arrested or unlawfully detained. Many have been held for years without trial and with little investigation or collection of evidence against them. Moreover, they have been held in prisons and detention centres where conditions are life-threatening and amount to cruel, inhuman and degrading treatment. Amongst cases tried, death sentences continue to be passed at a high rate.

Amnesty International has serious concerns about the pre-*gacaca* hearings by which detainees with non-existent or incomplete case-files are brought before the communities in which the alleged crimes were committed in a belated attempt to complete judicial investigations before the *gacaca* tribunals begin. These hearings are completely state-managed by the prefectural prosecution departments acting with no legal writ and whose personnel determine who speaks, when they speak and largely determine the results of the proceedings. The accused are usually not allowed to speak, key witnesses are frequently not present and much of the received testimony is organised by state authorities. It remains unclear to what extent these hearings terminate the prosecution department’s investigation of these cases. Amnesty International fears that these pre-*gacaca* hearings indicate that *gacaca* as a process is poorly organized, readily manipulable, and that local communities lack the autonomy and authority to receive testimony and render independent judgments.

The *gacaca* tribunals are legitimated by the Rwandese government on the grounds that there will be a free, vigorous and open debate between community members regarding what happened in their communities during the genocide and who is responsible. However, the current political atmosphere in Rwanda is not conducive to such a debate and is instead characterised by severe infringements on the right to freedom of expression. Individuals have “disappeared”,

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or have been detained or forced into exile for criticizing the government, refusing to testify or to testify in a prescribed way or even for reporting on illegal property transfers or confiscation by government or security officials. Frequently, the family and friends of such individuals face similar punishments. At the same time, the Rwandese government continues to commit serious violations against civilians in its reactions to periodic attacks by insurgents within its boundaries, as well as in the on-going war in the Democratic Republic of the Congo.

Concerning Rwanda, the EU should also:

- continue to provide assistance to the public prosecution department and their judicial investigation police, and use its responsibility as a funder of these bodies to ensure that evidence is gathered and processed in a fair, accurate and timely manner
- provide, in their monitoring of the *gacaca* hearings, independent reporting of gross infringements of international legal norms - in a process the EU has itself recognised as imperfect
- call on the Rwandese government to investigate all allegations of human rights violations committed by state security forces and act effectively and impartially to bring to justice those responsible.