



Coalition for the International Criminal Court

www.coalitionfortheicc.org

MEDIA CONTACT:

In New York: Ms. Brigitte Suhr
Director of Regional Programs, Coalition for the ICC
Tel: +1 (646) 465-8540
Email: suhr@coalitionfortheicc.org

Mr. Stephen Lamony
Africa Outreach Liaison/Situations Advisor, Coalition for the ICC
Tel: +1 (646) 465-8514
Email: lamony@coalitionfortheicc.org

In Cotonou: Mr. Francis Dako,
Africa Coordinator, Coalition for the ICC
Tel: +229 21 32 28 06
Email: dako@coalitionfortheicc.org

In The Hague: Oriane Maillet
Head of Communications, Coalition for the ICC
Tel: +31 (0) 70 311 10 82
Email: maillet@coalitionfortheicc.org

MEDIA ADVISORY

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**PROSECUTOR REQUESTS OPENING OF ICC INVESTIGATION IN COTE
D'IVOIRE**

Prosecutor Seeks Judges' Authorization to Investigate 2010 Post-Election Violence

WHAT: On 23 June 2011, the Prosecutor of the International Criminal Court (ICC) Luis Moreno-Ocampo requested authorization from Pre-Trial Chamber II to open an investigation into war crimes and crimes against humanity allegedly committed in Côte d'Ivoire following the presidential election of 28 November 2010. Judges of Pre-Trial Chamber II will now have to consider whether or not there is a reasonable basis to proceed with an investigation and whether the matter falls within the Court's jurisdiction.

HOW: For the Court to open an investigation, a situation can be referred to the Court by a State Party, the United Nations Security Council or initiated by the ICC prosecutor himself, with authorization of the Judges. Today is the second time in the Court's history that the ICC Prosecutor has sought to open an investigation on his own initiative i.e. 'proprio motu', in accordance with article 15 of the Rome Statute – the Court's founding treaty. After a preliminary examination, the Prosecutor concluded that there is a reasonable basis to believe that crimes within the jurisdiction of the Court have been committed in Côte d'Ivoire since 28 November 2010. However, the Prosecutor must receive the authorization of ICC Judges before the official investigation can be opened.

WHY: The ICC Prosecutor has been examining the situation in Côte d'Ivoire since 2003 in order to determine whether an investigation is warranted, following the submission of a declaration by the then Ivorian government recognizing the jurisdiction of the Court. On 14

December 2010, newly-elected President of Côte d'Ivoire Alassane Ouattara sent a letter to the Office of the Prosecutor (OTP) reaffirming the Ivorian government's acceptance of the Court's jurisdiction. On 4 May 2011, President Ouattara reiterated his wish that the Court open an investigation into the most serious crimes allegedly committed on Ivorian territory since 28 November 2010 in relation to the disputed elections. In his letter, President Ouattara stated that in spite of his efforts to re-establish the rule of law and the impartiality of the judiciary in Côte d'Ivoire, Ivorian justice was not best placed to investigate and prosecute those bearing the greatest criminal responsibility for these crimes and that the ICC should do so. President Ouattara also reaffirmed his intention to fully cooperate with any ICC investigation and to ratify the Rome Statute as soon as possible. It is the first time that the Court may open an investigation into a state which is not a party to the Rome Statute but which has accepted the Court's jurisdiction

COMMENTS: Members of the Côte d'Ivoire Coalition for the ICC have been calling for the opening of an ICC investigation into crimes committed there since 2003. But they insist that only focusing on the post 2010 election time-frame will damage the credibility of the Court.

"Ivorian civil society organizations welcome this development by the Office of the Prosecutor as a step towards accountability for wrongs that have gone unpunished in the country," said **Ali Ouattara, President of the Côte d'Ivoire Coalition for the ICC (CI-CPI)**. "However, the CI-CPI as well as the majority of NGOs working in human rights and the majority of the population hope that the investigations cover crimes committed since 19 September 2002 as requested in the April 2003 declaration accepting the jurisdiction of the Court."

"The violation of human rights in Côte d'Ivoire and the crimes against humanity did not begin on 28 November 2010," stated **Nathalie Kone Traore, Executive Secretary of the Centre Féminin pour la Démocratie et les Droits Humains**. "In all fairness and objectivity, it is desirable that investigations be conducted into crimes committed since the crisis began in 2002. This would enhance the credibility of the Court," she further emphasized. "As President of an organization promoting women's rights, I find this limitation difficult to understand and accept. At least 3 NGOs we work with believe that the initiation of investigations since September 2002 would be fairer and more credible. It would avoid the perception of victor's justice."

"The request to initiate an investigation is a positive step towards accountability in Côte d'Ivoire and in the absence of any national investigations," said **Francis Dako, the Coalition's Africa Coordinator**. "Should Judges authorize his investigation, the entire world will be watching to see how the ICC handles its important task, so it is important to do it right," he stated. If President Ouattara does not have the resources to investigate human rights violations then it falls to the ICC to do so. However the ICC must do so impartially to bring those most responsible to justice not matter what side of the conflict they participated in," he added.

BACKGROUND: While Côte d'Ivoire is not a state party to the Rome Statute, the previous government under former President, Laurent Gbagbo had accepted the Court's jurisdiction in the territory on 18 April 2003. Following his assumption of power, President Ouattara reaffirmed the original acceptance of jurisdiction and indicated his confidence in the ability

of the ICC to fairly and impartially render justice to victims and hold perpetrators of grave crimes accountable.

On 20 May 2011, the Presidency of the ICC assigned the situation in the Republic of Côte d'Ivoire to ICC Pre-Trial Chamber II following the letter of 19 May 2011, by which the Prosecutor informed the President of the Court of his intention to submit a request to the Pre-Trial Chamber for authorization to open investigations into the situation in Côte d'Ivoire since 28 November 2010. Pre-Trial Chamber II is composed of Presiding Judge Ekaterina Trendafilova, Judge Hans-Peter Kaul and Judge Cuno Tarfusser

The ICC is the world's first permanent international court to prosecute war crimes, crimes against humanity, and genocide. Central to the Court's mandate is the principle of complementarity, which holds that the Court will only intervene if national legal systems are unable or unwilling to investigate and prosecute perpetrators of genocide, crimes against humanity, and war crimes. There are currently six active investigations before the Court: the Central African Republic; the Democratic Republic of the Congo; Darfur, the Sudan; Kenya; Libya; and Uganda. The ICC has publicly issued 15 arrest warrants and nine summonses to appear. Three trials are ongoing. The Office of the Prosecutor has made public that it is examining at least ten situations on four continents, including Afghanistan, Colombia, Georgia, Guinea, Honduras, Republic of Korea, Nigeria, and Palestine.

The Coalition for the International Criminal Court is a global network of civil society organizations in 150 countries working in partnership to strengthen international cooperation with the ICC; ensure that the Court is fair, effective and independent; make justice both visible and universal; and advance stronger national laws that deliver justice to victims of war crimes, crimes against humanity and genocide. For more information, visit: www.coalitionfortheicc.org .

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