

*****Media Advisory*****

ICC: Pretrial Hearing for Second Kenya Case
Charges Stem From 2007-08 Post-Election Violence

(The Hague, September 21, 2011) – A “confirmation of charges” hearing to determine whether the second case in the Kenya situation at the International Criminal Court (ICC) should be sent to trial will begin on September 21, 2011, before an ICC pretrial chamber in The Hague. The hearing is expected to conclude by October 5.

In this Kenya case, the ICC prosecutor has accused Francis Kirimi Muthaura, Uhuru Muigai Kenyatta, and Mohammad Hussein Ali of committing crimes against humanity during Kenya’s 2007-2008 post-election violence.

All three men were government officials at the time of the violence. Muthaura is the head of the public service and secretary to the cabinet, while Kenyatta is the deputy prime minister and finance minister. Ali was the Kenyan police commissioner at the time of the violence. They are accused of violence toward backers of the then-opposition Orange Democratic Movement.

A confirmation of charges hearing in the first Kenya case was held earlier this month. In that case, William Samoei Ruto, Henry Kiprono Kosgey, and Joshua arap Sang face charges of crimes against humanity also allegedly committed during the post-election violence. They are accused of violence against supporters of President Mwai Kibaki’s Party of National Unity.

Decisions in both cases are expected by the end of the year.

“Kenyans were glued to their TV sets and radios during the ICC hearing earlier this month in the case against Ruto, Kosgey and Sang,” said [Elizabeth Evenson](#), senior international justice counsel at Human Rights Watch. “They will now have the chance to hear the prosecutor’s case against Kenyatta, Muthaura, and Ali. Kenyans will then wait eagerly for the judges to decide whether to send these cases to trial.”

The hearing is not a trial and will not determine the guilt of Muthaura, Kenyatta, or Ali. Instead, the limited purpose is to allow the judges to evaluate whether the prosecutor has enough evidence to move ahead with a trial. The defendants will have the opportunity to object to the charges, challenge the prosecutor’s evidence, and present their own evidence. The defendants have indicated that they each intend to call witnesses. Kenyatta is expected to testify.

Under the court’s innovative system allowing for victim participation, 233 victims have been authorized to participate in the hearing through a common legal representative. On behalf of these victims, the legal representative may make opening and closing statements and may also seek the court’s permission to question witnesses and provide written submissions.

The Kenya investigation – the ICC’s fifth – was opened in March 2010 after the prosecutor received authorization from the court. The ICC prosecutor’s investigations have focused on the [violence in Kenya](#) that followed what was widely perceived as a rigged presidential election in

favor of the incumbent, President Kibaki, in December 2007.

To read a Questions and Answers document on the confirmation of charges hearing, please visit: <http://www.hrw.org/node/101787>

To read the Human Rights Watch report “Ballots to Bullets: Organized Political Violence and Kenya's Crisis of Governance,” please visit:
<http://www.hrw.org/reports/2008/03/16/ballots-bullets>

For more Human Rights Watch reporting on Kenya, please visit:
<http://www.hrw.org/en/africa/kenya>

For more Human Rights Watch reporting on the ICC, please visit:
<http://www.hrw.org/en/category/topic/international-justice/international-criminal-court>

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