



Coalition for the International Criminal Court

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**KENYAN GOVERNMENT CHALLENGES ICC  
INVOLVEMENT IN POST-ELECTION VIOLENCE CASE**

*Suspects Ruto, Kosgey, Sang, Muthaura, Kenyatta and Ali Still Obligated to  
Appear at ICC Next Week*

**WHAT:** On 31 March 2011, the Government of Kenya filed a petition before the International Criminal Court (ICC) challenging the Court's involvement in the cases against Ruto, Kosgey, Sang, Muthaura, Kenyatta and Ali for their alleged role in the 2007-2008 Kenyan post-election violence.

**WHY:** The Kenyan Government made a request pursuant to Article 19 of the Rome Statute – the ICC's founding treaty - requesting ICC Judges to declare inadmissible the two cases addressing the violence in the wake of Kenya's disputed 2007 Presidential elections. The Government argues that the adoption of the new Constitution and associated reforms have opened the way for Kenya to conduct its own prosecutions for the post-election violence. Under the statute, States have the right to challenge the jurisdiction of the ICC on the grounds that they are investigating or prosecuting a case before the Court or have already done so. Indeed, the ICC only intervenes if national legal systems are unable or unwilling to investigate and prosecute perpetrators of genocide, crimes against humanity and war crimes, a conclusion that the Judges of the ICC had previously reached with respect to the Kenyan authorities in authorising the Prosecutors investigation into the post-election violence.

**NEXT STEPS:** It is now up to Judges to determine whether Kenya has jurisdiction to try the cases rather than the Court. However, the challenge made today does not affect the validity of the summonses to appear issued for the six suspects. Ruto, Kosgey, Sang, Muthaura, Kenyatta and Ali are still obligated to appear in Court next week. William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang are summoned to appear before Pre-Trial Chamber II on Thursday 7 April 2011 at 9:30 and Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali on Friday 8 April 2011 at 14:30.

**BACKGROUND:** On 8 March 2011, Judges of ICC Pre-Trial Chamber II issued summonses to appear for the six men and in relation to their alleged roles in the 2007-2008 Kenyan post-election violence.

The ICC prosecutor's investigation into crimes against humanity allegedly committed in Kenya in relation to the 2007-2008 post-election violence was authorized by Judges of PTC II on 31 March 2010, following a request by the ICC prosecutor on 26 November 2009. It was the first time the prosecutor used his "*proprio motu*" powers to initiate an investigation without first having received a referral from governments or by the United Nations Security Council.

The ICC is the world's first permanent international court to prosecute war crimes, crimes against humanity and genocide. There are currently 114 ICC states parties to the Rome Statute, the Court's founding treaty. 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, Chad, Colombia, Côte d'Ivoire, Georgia, Guinea, Honduras, Republic of Korea, Nigeria, and Palestine.

*Coalition NGO experts are available for interviews and background. List available upon request by contacting [maillet@coalitionfortheicc.org](mailto:maillet@coalitionfortheicc.org)*

*The Coalition for the International Criminal Court includes 2,500 civil society organizations in 150 different 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](http://www.coalitionfortheicc.org)*

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