



Coalition for the International Criminal Court

www.coalitionfortheicc.org

MEDIA CONTACTS:

In New York: Ms. Brigitte Suhr

Director of Regional Programs

Coalition for the ICC

Tel: +1 (646) 465-8540

suhr@coalitionfortheicc.org

In Bukavu: Mr. Byamungu Armel Luhiriri

Francophone Africa Situations Liaison

Coalition for the ICC

Tel: +243.998.623.650 and

+243.823.676.349

luhiriri@coalitionfortheicc.org

In The Hague: Niall Matthews

Communications Assistant

Coalition for the ICC

Tel: +31 (0) 70-3111085

matthews@coalitionfortheicc.org

MEDIA ADVISORY

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ICC to Open Key Hearing in DRC Kivus Investigation

Judges to Consider Charges against Callixte Mbarushimana for War Crimes and Crimes Against Humanity; NGOs Regret Delayed Involvement of Victims in the Case

WHAT: Tomorrow, 16 September 2011, the International Criminal Court (ICC) will open a key hearing in the case of *The Prosecutor v. Callixte Mbarushimana* for alleged crimes against humanity and war crimes committed in the Kivu provinces of the Democratic Republic of the Congo (DRC). The purpose of the confirmation of charges hearing is for judges of ICC Pre-Trial Chamber I (PTC I) to determine whether the case against Mbarushimana should be sent to trial.

WHO: Callixte Mbarushimana is a Rwandan citizen and executive secretary of the Forces Démocratiques pour la Libération du Rwanda—Forces Combattantes Abacunguzi (FDLR-FCA). Mbarushimana is suspected of being responsible for crimes against humanity (murder, torture, rape, persecution and inhumane acts) and war crimes (attacks against the civilian population, destruction of property, murder, torture, rape and inhuman treatment) allegedly committed in 2009 in the DRC.

HOW: During the hearing, the ICC prosecutor will be required to support his charges with sufficient evidence. The suspect will be given the chance to object to the accusations and challenge evidence through his defense counsels. One hundred and thirty victims will participate in proceedings through their legal representatives and present their perspectives and concerns. The chamber is expected to make a decision within 60 days after the hearing's closing. Judges can confirm the charges, reject them or ask the prosecutor for additional information. If the judges of PTC I confirm the

charges, the case will move forward to trial. PTC I is composed of Presiding Judge Judge Sanji Mmasenono Monageng, Judge Sylvia Steiner and Judge Cuno Tarfusser.

COMMENTS: “The opening of the confirmation hearings in the Mbarushimana case is an important step towards bringing justice to victims of the grave crimes committed in the Kivus over the past number of years,” said Byamungu Armel Luhiriri, the Africa Situations liaison for the Coalition for the International Criminal Court—a civil society network of more than 2,500 NGOs in 150 countries advocating for a fair, effective and independent ICC and improved access to justice for victims of genocide, war crimes and crimes against humanity.

Several NGO members of the Coalition have long been calling on the ICC prosecutor to accelerate his investigation in the Kivu provinces of the DRC. “The opening of the Mbarushimana hearings is an important step in the fight against impunity in the region,” said Andre Kito, coordinator of the DRC Coalition for the ICC. “However, the ICC Registry should take steps to extend victims participation in the proceedings to those from the city of Shabunda (South Kivu), as serious crimes have also been committed there.”

A number of Coalition members have deplored the delays concerning the participation of victims in these proceedings. The decision authorizing 130 victims to present their views at the confirmation hearing was only rendered less than a week before the original hearing date of 16 August 2011. Hundreds of additional victims who had applied to participate in advance of Court-set deadlines in the Mbarushimana case were also left out due to time and resources constraints of the Registry, which was unable to process applications for some 470 victims by the deadline that had been set by the Chamber.

“For many victims in North and South Kivu, this was their opportunity to tell the Chamber, through their legal representatives, why this case is important for them and why it should proceed to trial stage,” said Carla Ferstman, director of the NGO REDRESS. “Now, victims are finally coming forward to engage with the Court but the Court is not ready or capable to deal with them. If this resource issue is not resolved, victim participation will become a meaningless paper promise.”

BACKGROUND: On 25 January 2011, Mbarushimana was transferred to the ICC detention center in The Hague, the Netherlands, following his arrest on 11 October 2010 by French authorities pursuant to an ICC arrest warrant issued under seal on 28 September 2010.

Kivu is a region in the northeast area of the DRC that borders Lake Kivu. North and South Kivu have long been sites of conflict involving a number of actors, including the Forces Démocratiques pour la Libération du Rwanda (FDLR), the Armed Forces of the Democratic Republic of Congo (FARDC), the Congrès National pour la Défense du Peuple (CNDP) and the MONUSCO.

The DRC is one of six situations under investigations by the ICC. It was formally referred to the Court by the DRC Government on 19 April 2004, and the prosecutor officially opened an investigation on 23 June 2004. Five arrest warrants have been issued in the DRC situation, and two trials are ongoing, the first for Thomas Lubanga Dyilo, and second for Germain Katanga and Matthieu Ngudjolo Chui.

The ICC is the world's first permanent international court to prosecute war crimes, crimes against humanity, and genocide. There are currently 117 ICC states parties. Central to the Court's mandate is the principle of complementarity, which holds that the Court will only intervene if national legal systems are unwilling or unable to investigate and prosecute perpetrators of genocide, crimes against humanity, and war crimes. There are currently seven investigations before the Court: the Central African Republic; the Democratic Republic of the Congo; Darfur, the Sudan; Uganda, Kenya and Libya. The ICC has publicly issued 18 arrest warrants and nine summonses to appear. Three trials are ongoing. The ICC Prosecutor recently requested authorization from judges to open an investigation in Côte d'Ivoire. His office has also made public that it is examining eight 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 over 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

Experts from human rights organizations members of the Coalition are available for background information and comment. List of experts available upon request to: communications@coalitionfortheicc.org

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