



Coalition for the International Criminal Court

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MEDIA ADVISORY

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KENYA POST-ELECTION VIOLENCE SUSPECTS APPEAR AT ICC

WHAT: On 7 April 2011, suspects William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang appeared before Pre-Trial Chamber II of the International Criminal Court (ICC) for their alleged role in the 2007-2008 Kenyan post-election violence. Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali are expected to appear on Friday 8 April 2011 at 14:30. On 31 March 2011, the Government of Kenya filed a petition before the Court challenging its involvement in the cases, but that filing does not affect the six suspects' obligation to appear before the Court.

WHY: On 8 March 2011, Judges of ICC Pre-Trial Chamber II issued summonses to appear for the six men, in relation to their alleged roles in the 2007-2008 Kenyan post-election violence. The initial hearings in the two cases are held in order to verify the identity of the suspects and to ensure that they have been informed of the crimes which they are alleged to have committed as well as of their rights under the Rome Statute, the ICC's governing treaty.

COMMENTS: "By addressing the post election violence that saw terrible acts perpetrated in Kenya, today's hearings constitute a step towards accountability and justice for victims, with a view to promoting peace and reconciliation," said William R. Pace, Convenor of the Coalition. "In appearing before the ICC, the suspects will be afforded all the rights under the Rome Statute, including the presumption of innocence and the right to fair and independent proceedings," he stated. "In parallel to these proceedings and to avoid misrepresentation, the Coalition calls on the ICC to increase its efforts in raising awareness in Kenya about the Court's proceedings," he added.

NEXT STEPS: A confirmation of charges hearing has been provisionally set by Pre-Trial Chamber II for 01 September 2011 following today's initial appearance, in order to determine whether or not to send the cases against the six suspects to trial. The Kenyan Government has however petitioned the Court pursuant to Article 19 of the Rome Statute

that these two cases be declared inadmissible, arguing that the adoption of the new Constitution and associated legal 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. Judges of Pre-Trial Chamber II will now have to determine if the cases can be tried at the Court, based on the arguments contained in the government petition. The Rome Statute does not impose a timeframe for the Judges to make that decision.

BACKGROUND: 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*" or discretionary powers to initiate an investigation in the absence of 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

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

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