

# ANNEX 18

Press Release: 16.07.2009

## **ICC Prosecutor receives materials on post-election violence in Kenya**

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On 14 July 2009, the Prosecutor of the International Criminal Court (ICC) Luis Moreno-Ocampo received two reports from Kenyan Attorney General Amos Wako: one status report on the operationalization of the witness protection programme for the period from August 2006 to July 2009, and one report on crimes committed during the post-election violence. The Kenyan Government had committed to sending those documents pursuant to the terms of an agreement with the Office of the Prosecutor of 3 July 2009.

The Prosecutor will receive in The Hague in the coming days materials transmitted by Kofi Annan, the Chairman of the AU Panel of Eminent African Personalities. These materials consist of six boxes of documents and supporting materials compiled by the Commission of Inquiry into the Post-Election Violence (known also as the Waki Commission), and an envelope with a list of possible suspects by the Waki Commission, which were entrusted to Mr. Annan on 17 October 2008.

On receipt of these materials, the Prosecutor will open the sealed envelope and reseal it after examining its content. "The content of the envelope will remain confidential, there will be no leaks," the Prosecutor said. "In accordance with the Rome Statute, my Office utilises all information received in our analysis work," he explained further. "The findings of the Waki Commission are important but they do not bind the Office; I should reach an impartial conclusion. I am grateful to Kofi Annan and Justice Waki for transmitting this information and for their contributions to our common goal in fighting impunity."

The situation in Kenya has been under preliminary examination by the Office of the Prosecutor since 2008. At this stage, no decision has been made whether or not to open an investigation. "We will consider in particular the existence of national proceedings. The Kenyan authorities are discussing options to establish a national court to prosecute these cases. In accordance with the Rome Statute, the primary responsibility for investigating and prosecuting these crimes rests with Kenya," Mr. Moreno-Ocampo added. "If the Kenyan Parliament does not reach an agreement to establish a specific judicial mechanism to deal with the problem, the Kenyan government has committed to referring the case to the ICC by June 2010."

"There will be no impunity for the crimes that have been committed; this is the only way to prevent the commission of new crimes during the next elections," he said. The International Criminal Court is an independent, permanent court that investigates and prosecutes persons accused of the most serious crimes of international concern, namely genocide, crimes against humanity and war crimes.

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