

EXTRA 24/98

Fear of imminent Execution / Legal concern 30 March 1998**DEMOCRATIC REPUBLIC OF CONGO Muderwa, 15 year old boy soldier**

On 28 March Muderwa, a member of the presidential guard, was sentenced to death by a military tribunal after a grossly unfair trial and is now under threat of imminent execution. He is currently being held at a military detention centre, *camp Loano*.

Muderwa was convicted of killing a member of a Red Cross football team at a soccer pitch the same day. The killing followed a dispute between Muderwa and his fellow soldiers who wanted to play football and the Red Cross football team who wanted them to leave because they had booked the pitch.

The hearing of the *Cour d'ordre militaire*, military order court, took place at the side of the pitch immediately after the event giving Muderwa's lawyer no time to prepare the defence.

Though the prosecution recommended life imprisonment the military judge sentenced the boy to death. The military court's statute prohibits appeal to a higher jurisdiction and defendants have no opportunity to challenge convictions and sentences handed down by the court. Only President Kabila has the power to commute the sentences.

BACKGROUND INFORMATION

Military tribunals in the Democratic Republic of Congo have sentenced dozens of people, some of them civilians, to death in recent months. In January 1998, at least 43 people were sentenced to death and executed within days. These convictions were passed down by the *Cour d'ordre militaire*, Military Order Court, set up in 1997 by President Laurent-Désiré Kabila. The court's judges are not known to have any judicial training.

The imposition of the death penalty on a minor contravenes international legal obligations of the government of the Democratic Republic of Congo. Article 6 of the International Covenant on Civil and Political Rights (ICCPR), to which DRC is a party, states that the sentence of death shall not be imposed for crimes committed by persons below eighteen years of age. If Muderwa is executed, this would be the first known case of a minor executed in the Democratic Republic of Congo.

Amnesty International recognizes the responsibility of governments to bring to justice those suspected of criminal offences, but opposes the death penalty in all countries and all circumstances, because it is a state-sanctioned violation of the right to life and the right not to be subjected to cruel, inhuman or degrading punishment.

RECOMMENDED ACTION: Please send telegrams/faxes/express/airmail letters in French or your own language:

- urging President Laurent-Désiré Kabila to commute the death sentence against Muderwa;
- urging the Congolese authorities to grant Muderwa a fair trial conforming to international standards, including the right of appeal;
- reminding the Congolese authorities that a death sentence for a minor (under 18) is a violation of the government's obligations under the International Covenant on Civil and Political Rights;

- urging the Congolese authorities to abolish the death penalty, which is a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading punishment.

APPEALS TO:

(Please note: fax tones may be difficult to obtain)

Head of State

Son Excellence

Laurent-Désiré KABILA

Président de la République

Présidence de la République

Kinshasa-Ngaliema

Democratic Republic of Congo

Telegrams: Président, Kinshasa, DR Congo

Faxes: + 243 88 02120

Salutation: Monsieur le Président de la République / Dear President

Minister of Justice

M. Mwenze KONGOLO

Ministre de la Justice

Ministère de la Justice

BP 3137, Kinshasa-Gombe

Democratic Republic of Congo

Telegrams: Ministre Justice, Kinshasa, DR Congo

Salutation: Monsieur le Ministre / Dear Minister

President of the Military Order Court

M. Kiyana MINKUNTU

Président de la Cour d'ordre militaire

Palais de Justice

BP 7016

Kinshasa-Gombe

République Démocratique du Congo

Salutation: Monsieur le Président de la Cour Militaire / Dear President of the Military Order Court

COPIES TO: diplomatic representatives of Democratic Republic of Congo accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 10 April 1998