

UA 83/02

Dea

DEMOCRATIC Anne-Marie Masumbuko Mwali (f)
REPUBLIC OF Rosette Kamwanya Beya (f)
CONGO (DRC)Up to 133 other people

The trial of up to 135 people, including Anne-Marie Masumbuko Mwali and Rosette Kamwanya Beya, is due to resume on 19 March in the Congolese capital Kinshasa.

All are accused of involvement in the assassination of former DRC president, Laurent-Désiré Kabila, on 16 January 2001. They will be tried by a military tribunal which does not meet basic international standards for fairness. Many of the defendants are likely to face the death penalty if found guilty.

The trial, which started on 15 March, is the culmination of more than a year's investigation by a government Commission of Inquiry, which reportedly includes both Zimbabwean and Angolan military officials, into the assassination. During this period, the basic legal rights of detainees, some of whom have now been detained for over a year, have been systematically disregarded at every turn. The Commission was given sweeping powers to detain suspects without charge and to hold them incommunicado. Many of the detainees were reportedly tortured in detention. They have been allowed just one ten-minute visit a week from relatives and, until 14 March 2002, were refused access to lawyers altogether. Many of the defendants have still not seen a lawyer, while many defence lawyers have not had access to the files detailing the charges against their clients.

Both male and female defendants are detained in a single cell-block known as *pavillon 1* at Kinshasa's main prison, the *Centre pénitentiaire et de rééducation de Kinshasa* (CPRK), Kinshasa Penitentiary and Reeducation Centre. The majority of them are members of the security forces. Some, however, are civilians who may be prisoners of conscience, detained simply because they are related to suspects in the assassination. They include Anne-Marie Masumbuko Mwali and Rosette Kamwanya Beya, who are both wives of an army major sought by the government in relation to the assassination.

Pavillon 1 is guarded by Zimbabwe Defence Forces (ZDF) soldiers, who have been military allies of the DRC Government since armed conflict broke out in the country in August 1998. Defence lawyers are reportedly obliged to seek the permission of ZDF commanders before being allowed to visit detainees. There is no known legal basis for the ZDF to assume the administration of a Congolese prison in this way or to restrict detainees' access to legal counsel.

The trial is being held at the CPRK and is being heard by the *Cour d'ordre militaire* (COM), Military Order Court. The COM is a military tribunal set up in 1997 by Laurent-Désiré Kabila, initially to hear disciplinary cases involving members of the military. However, despite not having the jurisdiction to do so, it soon began to hear civilian cases as well and has since become one of the government's key instruments of political repression. Dozens of political activists, journalists, and human rights activists have been imprisoned by the COM after manifestly unfair and politically-motivated trials. Over 200 people have been executed after being sentenced to death by the COM. Contrary to international standards, defendants, including those sentenced to death, have no right to appeal against their conviction or the sentences imposed by the COM.

BACKGROUND INFORMATION

Amnesty International recognises the right of the authorities to bring to justice those suspected of involvement in the assassination of Laurent-Désiré Kabila, but stresses that all defendants should be entitled to their full legal rights, including a trial that meets international standards for fairness. Amnesty International opposes the death penalty under all circumstances, considering it to be a violation of the right to life and a form of cruel, inhuman and degrading punishment.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in French, English or your own language:

- expressing deep concern that up to 135 defendants may be at risk of being sentenced to death after unfair trials before the *Cour d'ordre militaire (COM)*;
- acknowledging the right of the authorities to bring to justice those suspected of involvement in the assassination, but urging that defendants are afforded their full legal rights, including proper access to lawyers and adequate time to prepare their defence;
- urging the Congolese political and judicial authorities to transfer the trial from the COM to an independent, impartial and competent court which excludes the use of the death penalty and will guarantee the defendants' right to a fair trial and their right to appeal against any conviction and sentence before a higher jurisdiction;
- expressing concern that some of the detainees, including Anne-Marie Masumbuko Mwali and Rosette Kamwanya Beya, may be prisoners of conscience, detained simply because they are related to those suspected of involvement in the assassination of Laurent-Désiré Kabila;
- seeking clarification as to what legal basis there is for the Zimbabwean Defence Forces to detain and impose restrictions on detainees in a Congolese prison, including restricting defendants' access to their lawyers;
- reminding the authorities of their publicly stated commitment to impose a moratorium on all executions and urging that this commitment is honoured and that no further death sentences be passed by any courts in the DRC;
- calling for a fundamental reform of the *Cour d'ordre militaire* -- before it is allowed to preside over any further trials -- to bring it into line with international standards for fair trial or, failing that, for its complete abolition.

APPEALS TO:

President of the DRC
 Président Joseph Kabila
 Président de la République
 Présidence de la République, Kinshasa-Ngaliema
 République démocratique du Congo

Salutation: Dear President / Monsieur le Président

Minister of Human Rights
 Professeur Ntumba Luaba
 Ministre de Droits humains
 Ministère de Droits humains
 33/C Boulevard du 30 juin
 Kinshasa-Gombe

République démocratique du Congo

Email: ntumbaluaba@yahoo.fr

Min_droitshumains@yahoo.fr

Fax: + 243 12 20 664 (this number can be very difficult to get through to)

Salutation: Monsieur le Ministre / Dear Minister

Minister of Justice

Monsieur Antoine Deogratias Ngele Masudi
Ministre de la justice et des Affaires parlementaires
Ministère de la justice
BP 3137 Kinshasa-Gombe
République démocratique du Congo

Fax: + 243 12 20 843 (If someone answers ask for the fax "Pourriez- vous brancher le fax s'il vous plaît?" - this number can be very difficult to get through to)

Salutation: Monsieur le Ministre / Dear Minister

DRC Chief State Prosecutor and President of the Commission of Inquiry

Luhonge Kabinda Ngoy
Procureur Général de la République
Palais de Justice
BP 7016, Kinshasa-Gombe
République démocratique du Congo

Fax: + 243 12 20 843 (c/o Ministry of Justice)

Salutation: Monsieur le Procureur Général / Dear Chief State Prosecutor

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 29 April 2002.