

PUBLIC

AI Index: AFR 16/002/2005

16 February 2005

Further Information on UA 81/04 (AFR 16/009/2004, 24 February 2004) and follow-ups (AFR 16/016/2004 23 April 2004; AFR 16/017/2004, 14 May 2004) - Fear of execution/Unfair trial

BURUNDI      Simon MUNYAKASI (m)  
                 Apollinaire MWISENEZA (m)  
                 Francis MAHESHI (m)

Killed:            James GAKURU (m)

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Amnesty International has just been informed that James Gakuru, who was sentenced to death in March 2004, has reportedly been killed as he attempted to flee Rumonge prison in the capital Bujumbura. Francis Maheshi, who was reportedly with him at the time, is said to have escaped. An investigation into the circumstances of James Gakuru's death has not yet been conducted.

Simon Munyakasi and Apollinaire Mwiseneza, who were arrested together with James Gakuru and Francis Maheshi on 31 January 2004, remain in custody. Following an unfair trial, the four men were found guilty of stealing a considerable amount of money, killing the driver transporting money for the bank, wounding a soldier by shooting him in the leg and the theft of a getaway vehicle.

Though the four men denied the charges against them, their death sentences were confirmed when they lost their appeal before the Bujumbura Court of Appeals on 12 May 2004. They still have the right to appeal to the Cassation Chamber of the Supreme Court. However, if this fails their final resort would be to appeal to the President for clemency.

Amnesty International is concerned that the death penalty has been imposed following a judicial process that falls far short of international standards for fair trials. The men were initially denied legal assistance, mistreated during questioning at the *Brigade Spéciale de Recherche* (BSR), Gendarmerie Special Investigations Unit, and suffered repeated delays during their appeal phase.

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

- expressing deep regret at the death of James Gakuru, and calling on the authorities to conduct an impartial and independent investigation into the circumstances of his death;
- expressing concern for the safety of Simon Munyakazi, Apollinaire Mwiseneza and Francis Maheshi should he be recaptured;
- calling on the authorities to investigate reports that the men were tortured while detained at the *Brigade Spéciale de Recherche* (BSR), Gendarmerie Special Investigations Unit;
- stating your opposition to the death penalty which is a violation of the right to life and has been shown to have no deterrent effect;
- calling on the president to grant clemency if death sentences are passed and upheld, and reminding him that *Front pour la Démocratie au Burundi* (FRODEBU, Front for Democracy in Burundi) has committed itself to abolishing the death penalty which is a cruel, inhuman and degrading punishment;
- calling on the president to commute any death sentences which come before him.

**APPEALS TO:**

President of the Republic

Son Excellence  
Monsieur Domitien NDAYIZEYE  
Président de la République  
La Présidence  
Burundi

**Fax: + 257 21 26 70**

**Salutation: Monsieur le Président de la République / Your Excellency**

Minister of Justice

Monsieur Didace KIGANAHE  
Ministre de la Justice et Garde des Sceaux  
Ministère de la Justice  
Bujumbura, Burundi

**Fax: + 257 21 86 10**

**Salutation: Monsieur le Ministre / Dear Minister**

State Public Prosecutor

Monsieur Gerard NGENDABANKA  
Procureur Général de la République  
Parquet Général  
Bujumbura, Burundi

**Fax: + 257 21 86 10**

**Salutation: Monsieur le Procureur Général / Dear Sir**

**COPIES TO:**

Burundian Minister of Human Rights

Monsieur Déogratias RUSENGWAMIHIGO  
Ministre des Droits de la Personne humaine, des Réformes institutionnelles et des Relations avec  
l'Assemblée nationale  
Ministère des Droits de la Personne humaine  
Bujumbura, Burundi

**Fax: + 257 24 38 80**

and to diplomatic representatives of Burundi accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.** Check with the International Secretariat, or your section office, if sending appeals after 30 March 2005.