

PUBLIC

AI Index: AFR 62/022/2001

5 July 2001

Further information on UA 143/01 (AFR 62/013/2001, 6 June 2001) and follow-ups (AFR 62/014/2001, 8 June 2001; AFR 62/17/2001, 15 June 2001 and AFR 62/019/2001, 19 June 2001)- Arbitrary arrest / fear of torture

DEMOCRATIC REPUBLIC OF CONGO (DRC)

N'sii Luanda Shandwe, human rights defender

New name: Anne-Marie Kamwanya Masumbuko (f)

At least 50 other detainees held at Kinshasa's central prison

Human rights defender N'sii Luanda Shandwe continues to be detained without charge at Kinshasa's central prison, along with at least 50 other people, including Anne-Marie Kamwanya Masumbuko, who are apparently detained in connection with the assassination of President Laurent-Désiré Kabila on 16 January 2001.

The detainees are being held in the cell-block known as *pavillon 1* at the *Centre pénitentiaire et de rééducation de Kinshasa* (CPRK), Kinshasa Penitentiary and Reeducation Centre. They are reported to be under constant guard by soldiers belonging to the Zimbabwe Defence Forces (ZDF) and are allowed one visit from their relatives a week, lasting no more than around five minutes. Throughout these short visits, the detainees and their visitors are surrounded by ZDF soldiers. Lawyers and doctors are not allowed access to the detainees - one of the ZDF soldiers reportedly told N'sii Luanda that he had no right to a lawyer.

Anne-Marie Kamwanya Masumbuko was arrested on three separate occasions in March 2001 and interrogated about the alleged role of her husband, former army major Janvier Bora Kamwanya, in the assassination of President Kabila. She was tortured before her transfer to the CPRK, repeatedly beaten with a piece of wood and military belts (*cordelettes*) at a notorious security service detention centre known as the *Groupe Litho Moboti* (GLM) building. She appears to be a prisoner of conscience, detained simply because she is married to a suspect in the assassination. At least four other women are also understood to be held in *pavillon 1*, including a second wife of Bora Kamwanya.

N'sii Luanda Shandwe has not been ill-treated but has reportedly lost weight as a result of his detention and the inadequate food being given to the detainees. Other detainees were tortured before their transfer to the CPRK.

BACKGROUND INFORMATION

Since August 1998, the ZDF have been fighting on the side of the DRC Government against Congolese armed political groups supported by Rwandese and Ugandan forces in a war for the control of the DRC, which has left tens of thousands of Congolese civilians dead. It is unclear, however, what legal basis there is for the ZDF to assume *de facto* responsibility for the guarding of detainees in a Congolese prison and it is also unclear to whom they are accountable. While Amnesty International recognises the right of the DRC government to bring to justice those suspected of involvement in the assassination of President Kabila, the detention of suspects without charge and without access to lawyers or doctors is in flagrant breach of the provisions both of Congolese and of international law.

The Commission of Inquiry established to investigate the assassination, and which reportedly includes Zimbabwean military officials, appears to have unrestricted powers to detain suspects incommunicado and without charge. Many of those detained on the orders of the Commission of Inquiry have been ill-treated or tortured, as documented in a recent Amnesty International report entitled *Torture: a weapon of war against unarmed civilians* (AFR 62/012/2001) published on 26 June. No steps are known to have been taken against the torturers.

FURTHER RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible. Write to the DRC authorities in French or English or in your own language, and to the Zimbabwean authorities in English or in your own language:

- expressing concern that N'sii Luanda, Anne-Marie Kamwanya Masumbuko and at least 50 other people continue to be held without charge in *pavillon 1* of the *Centre pénitentiaire et de rééducation de Kinshasa*;
- expressing concern at the torture of Anne-Marie Kamwanya Masumbuko and others and urging the authorities to take immediate steps to guarantee the safety of all the detainees;
- calling for N'sii Luanda, Anne-Marie Kamwanya Masumbuko and the other detainees to be granted more adequate visits from their relatives, as well as access to lawyers, any necessary medical treatment and adequate food;
- expressing concern at the illegal powers accorded to the Commission of Inquiry, calling into question the right of ZDF soldiers to detain and impose restrictions on inmates in a Congolese prison and seeking clarification of whom they are accountable to, and expressing concern that they are violating the basic rights of these detainees;
- asking what charges, if any, these detainees face, and urging that if they are to be charged with a recognizably criminal offence, they be given the opportunity promptly to answer any charge before a court of law;
- expressing concern that N'sii Luanda, Anne-Marie Kamwanya Masumbuko and some other relatives of suspects appear to be prisoners of conscience and urging their immediate and unconditional release if they are not to be charged with a recognizably criminal offence;
- urging that those responsible for the ill-treatment or torture of detainees be made to answer for these offences before the courts and that all officials, including members of the ZDF, ensure that the basic rights of the detainees are respected.

APPEALS TO:

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
Democratic Republic of Congo

Fax: + 243 12 20 843 (c/o Ministry of Justice - this number is difficult to get through to)

Salutation: Monsieur le Procureur Général / Dear Chief State Prosecutor

Zimbabwean Minister of Defence
(Mrs) Joyce Teurai Mujuru
Acting Minister of Defence
Ministry of Defence
1st Floor Munhumutapa Building

Private Bag 7713
Causeway, Harare
Zimbabwe

Fax: + 263 4 796762

Telegram: Minister of Defense, Munhumutapa Building, Harare, Zimbabwe

Salutation: Dear Minister

DRC Minister for Human Rights

Professeur Ntumba Luaba

Ministre des Droits humains

Ministère des Droits humains

33/C Boulevard du 30 juin

Kinshasa-Gombe

Democratic Republic of Congo

Fax: + 243 12 20 664

Salutation: Monsieur le Ministre / Dear Minister

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

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 16 August 2001.