

URGENT ACTION

HUMAN RIGHTS ACTIVISTS MUST BE RELEASED

King Mwamisyo and Elias Bizimungu are two activists with the citizens' movement, LUCHA in the Democratic Republic of Congo (DRC). They were arrested in April and September 2022, respectively, on trumped-up charges solely for peacefully exercising their rights to freedom of expression and peaceful assembly after criticising the military and police authorities in the eastern province of Nord-Kivu for failing to protect the people under their jurisdiction and for being complicit in human rights violations under the "state of siege" since May 2021. They are prisoners of conscience that must be released immediately and unconditionally.

TAKE ACTION: WRITE AN APPEAL IN YOUR OWN WORDS OR USE THIS MODEL LETTER

Governor of Nord-Kivu province

Lt-General Constant Ndimba

Avenue du Lac, quartier Himbi, Goma

Democratic Republic of Congo

Email: secretariat.cab.gp.nk@gmail.com

Dear Governor,

*I write to express my grave concern for the unlawful prosecution of **King Mwamisyo** and **Elias Bizimungu**, both human rights activists held arbitrarily in connection to the peaceful exercise of their rights to freedom of expression and peaceful assembly.*

King Mwamisyo, a law student and activist from the citizens movement LUCHA (Lutte pour le Changement, or Fight for Change in English) was arrested by the Police Commander for Goma, the capital of the Democratic Republic of Congo's (DRC)'s northern province of Nord-Kivu, on 2 April 2022 and detained for seven days without charge. On 9 April 2022, he was transferred to the Goma military prosecutor's office and interrogated about his social media posts in which he criticized the provincial and urban authorities (who happen to be military and police officers because of the "state of siege") for failing to ensure security and instead using their powers to extort the population and commit multiple human rights violations. That day, he was charged with "insulting the army" (outrage à l'armée) and sent to Goma prison where he remains held. On 9 December 2022, the Goma military court found him guilty and sentenced him to five years in prison and an additional five years of deprivation of civil and political rights which includes ineligibility to hold public office and deprivation of the right to vote. He appealed against the sentence, and the appeal hearings before the Goma superior military court are underway, with the first hearing due to take place on 5 April.

Elias Bizimungu, also a LUCHA activist and journalist from the town of Kiwanja, about 75km north of Goma, was arrested on 26 September 2022 at an army checkpoint on the first day of a two-day peaceful mobilization to protest the Rwandan support of the 'M23 rebellion'. On 29 September 2022, he was transferred to the Goma prison where he is still detained. He was detained without charges and did not have access to a lawyer until 22 December 2022, when his trial started. He was only informed of the charges, including "participation in an insurrectional movement", during trial. On 29 December 2022, the military tribunal held that it lacked jurisdiction to try this offense. Three months later, on 6 March, the case was handed over to the Goma ordinary (civilian) court. The first hearing was held on 16 March.

I urge you to ensure the immediate and unconditional release of King Mwamisyo and Elias Bizimungu, and to quash the conviction and drop the charges against them. I also urge you to take steps to improve conditions at the Goma prison by ensuring the rights to adequate shelter, food, clean water, healthcare, and safe environment of those detained, and to immediately remove and permanently prohibit impediments to visits by lawyers and family members, including illegal fees.

Yours sincerely,

ADDITIONAL INFORMATION

King Mwamisyo, 28, is a law student and a LUCHA activist from the city of Goma, Nord-Kivu province, in eastern DRC. He was presented to a judge for the first time on 16 September 2022, more than five months after he was arrested.

Elias Bizimungu, 33, is a journalist and an activist with the citizens' movement LUCHA, from the town of Kiwanja, about 75km north of Nord-Kivu's capital, Goma. The military officer who arrested Elias said his actions had disrupted public order and caused economic losses for the people and the state. Both activists are being held in Goma prison after having their applications for provisional release dismissed.

The conditions of detention in Goma prison are abominable. The prison, built to accommodate 300 people, has currently nearly 4,000 inmates confined in cramped and filthy spaces, without running water, electricity, beds, medical care, or adequate food. Anyone willing to see the inmates must pay up to \$USD 2 in bribes to the four security checkpoints in the prison.

Prosecutions for "insulting" the army, the President or other state institutions are a violation of the right to freedom of expression and therefore incompatible with DRC's obligations under Article 19 of the International Covenant on Civil and Political Rights (ICCPR). The UN Human Rights Committee, which monitors implementation of the Covenant, has emphasized the particular obligation that States have to allow criticism of institutions such as the army or the administration. The prosecution of civilians before a military tribunal is also a violation of the right to a fair trial. Guidance on fair trials from the African Commission on Human and Peoples' Rights states that "[t]he purpose of Military Courts shall be to determine offenses of a purely military nature committed by military personnel". King Mwamisyo's prosecution before a military court is therefore in violation of DRC's obligations under regional and international human rights law.

The resurgence of the rebel group, March 23 Movement (M23), in Nord-Kivu province aggravated the security and humanitarian crisis in eastern DRC, while reigniting military and political tensions between the DRC and Rwanda. Tensions between the two countries sparked a new wave of anti-Rwanda and anti-UN protests.

In 2022, the DRC authorities intensified their crackdown on the rights to freedom of expression, association and peaceful assembly. They continued to use the Covid-19 pandemic and the extended "state of siege" (a form of martial law which was declared in May 2021 and has since been extended over 40 times) in Ituri and Nord-Kivu as pretexts to ban or suppress public meetings and demonstrations by individuals and groups considered to be critical of the government. Military authorities, appointed under the "state of siege", continued to arbitrarily arrest and detain critics and to ban and suppress demonstrations with impunity. Demonstrations considered favourable to the authorities were allowed to go ahead while those deemed critical were banned or violently suppressed. Civil society organizations and opposition activists were arbitrarily detained, often without trial, for criticizing the "state of siege" or the government, or otherwise exercising their human rights. In April 2022, a military court in Beni city sentenced 12 activists from the civil society movement, Lutte pour le Changement, to 24 months in prison for "inciting the public to disobey the laws". The activists were arrested in November 2021 for staging a peaceful sit-in at the city hall to protest against the extension of the "state of siege" without a proper assessment of its impact on the security situation. They were eventually released in August 2022 after the Court of Appeal of Nord-Kivu quashed the military court's decision. More information about the "state of siege" can be found in Amnesty International's 2022 briefing, ['DRC: One year on, 'State of Siege' used as a tool to crush dissent'](#).

PREFERRED LANGUAGE TO ADDRESS TARGET: French

You can also write in your own language.

PLEASE TAKE ACTION AS SOON AS POSSIBLE UNTIL: 31 May 2023

Please check with the Amnesty office in your country if you wish to send appeals after the deadline.

NAME AND PRONOUN: King Mwamisyo, Elias Bizimungu (both he/him/his)