

PUBLIC

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14 May 2004

**Further Information on UA 81/04 (AFR 16/009/2004, 24 February 2004; AFR 16/016/2004, 23 April 2004)  
Fear of execution New Concern: Unfair Trial**

<b>BURUNDI</b>	<b>Simon MUNYAKAZI (m)</b>	<b>]</b>	
	<b>Apollinaire MWISENEZA (m)</b>	<b>]</b>	<b>Rwandese nationals</b>
	<b>James GAKURU (m)</b>	<b>]</b>	
	<b>Francis MAHESHI (m)</b>	<b>]</b>	

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Following their appeal before Bujumbura Court of Appeals on 12 May, Simon Munyakazi, Apollinaire Mwiseneza, James Gakuru and Francis Maheshi have had their death sentences confirmed. The men still have the right to appeal to the Cassation Chamber of the Supreme Court. If this fails, a plea for presidential clemency may be introduced as a final resort.

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 hearing was held despite the absence of Simon Munyakazi who was ill at the time. The men were initially denied legal assistance, mistreated during questioning at the *Brigade Special de Recherches* (BSR), Gendarmerie Special Investigations Unit, and suffered repeated delays during their appeal phase.

They were arrested on 31 January, following a bank robbery in the Burundian capital, Bujumbura two days earlier. They were found guilty following an unfair trial, of stealing a considerable amount of money, shooting and killing a driver transporting money for the bank, wounding a soldier by shooting him in the leg and the theft of a getaway vehicle. All however, have denied the charges against them.

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

- acknowledging that the authorities have the right to try those accused of violent crimes but stating that trials should be in accordance with international standards for fair trial;
- 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;
- expressing concern that the appeal hearing before Bujumbura Court of Appeals on 12 May 2004 was held despite the absence of one of the four defendants which falls short of international standards of fair trials;
- expressing concern at reports that Simon MUNYAKAZI, Apollinaire MWISENEZA, James GAKURU and Francis MAHESHI were tortured while detained at the *Brigade Spéciale de Recherche* (BSR), Gendarmerie Special Investigations Unit and that torture contravenes international human rights treaties including the International Covenant on Civil and Political Rights and the Convention on Torture and Other Cruel, Inhuman and Degrading treatment to which Burundi is a state party;
- expressing concern that in the past, several people have been executed in flagrant denial of their rights and of the procedures set down in the Burundian legal system;
- expressing concern that while devolving capital cases to the lower courts should be a step towards fair trials, in practice, it appears that defendants' rights are still blatantly violated;
- 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

**Telegrams: President, Presidence, Bujumbura, Burundi**

**Faxes: + 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

**Telegrams: Ministre 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

**Telegrams: Procureur General de la Republique, 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 21 75 49**

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 25 June 2004.