

UA 309/97

Fear of refoulement / Arbitrary arrest 30 September 1997**KENYA Esdras Twagirimana, Rwandese national, aged 25**

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Esdras Twagirimana, a Rwandese refugee detained in the Kenyan capital Nairobi, could be at risk of *refoulement* to Rwanda, where he would be at risk of serious human rights abuses including prolonged detention without charge or trial, ill-treatment, "disappearance" and unlawful killing.

Esdras Twagirimana, his wife and one-year-old daughter had sought asylum in Kenya after fleeing from the Democratic Republic of Congo (formerly Zaire), where they had also been living as refugees. Esdras Twagirimana was first arrested in Nairobi on 18 July 1997, along with six other Rwandese nationals, at the request of the International Criminal Tribunal for Rwanda (ICTR). The seven were arrested on suspicion of having played a leading role in the genocide which claimed as many as one million lives in Rwanda in 1994 and were transferred to the ICTR's detention centre at Arusha, in Tanzania. Soon afterwards, it was discovered that Esdras Twagirimana's arrest had been carried out on the basis of mistaken identity. The man for whom he had been mistaken was also arrested. Nevertheless, Esdras Twagirimana remained in detention in Arusha for around 60 days, apparently without any formal charges against him, and was effectively denied access to a lawyer throughout this period.

On 20 September, he was released and sent back to Nairobi, without any clear guarantees that he would receive protection in Kenya. Upon arrival, he was immediately arrested at the airport, held there for two days before being transferred to the central police station, where he is still detained. He has not been informed of the reason for his rearrest and detention in Nairobi and he has not been charged.

The fact that Esdras Twagirimana was arrested and detained by the ICTR will inevitably give rise to suspicions about his involvement in the genocide in Rwanda in 1994 - even though the ICTR's investigators eventually decided to release him. Amnesty International is not aware of any specific allegations against him; however, other Rwandese nationals - in Kenya as well as in Rwanda - have been subjected to arbitrary arrest and other human rights abuses on the basis of unsubstantiated accusations of participation in the genocide.

Esdras Twagirimana's passport has been taken by the Kenyan authorities. His case is reportedly being studied by a panel of officials from the Kenyan Ministry of Home Affairs, the police and the immigration services.

**BACKGROUND INFORMATION**

There has been a pattern of arbitrary arrest, detention without charge, ill-treatment, torture and other forms of harassment of refugees in Kenya. Some have been deported against their will to their country of origin, despite the human rights violations they may face there.

Hundreds of Rwandese, Burundian and other foreign nationals were arbitrarily arrested in Kenya in July 1997 (see UA 229/97, AFR 32/41/97, 22 July 1997 and follow-ups of 25 July and 8 August); some were ill-treated by the Kenyan police.

Most were released in August 1997, but some were threatened with deportation after their release if they did not have valid documentation to remain in Kenya. Some were told they must leave the country within seven days. Many were

transferred to Kakuma refugee camp in northern Kenya, where conditions are known to be very harsh.

Torture and ill-treatment are common in Kenyan police stations. Criminal suspects, as well as political prisoners, have been tortured to extract confessions.

Amnesty International has documented a pattern of grave human rights abuses in Rwanda, which have escalated in 1997. Among the victims are many refugees who returned to Rwanda from neighbouring countries. Since January 1997, thousands of people - the majority unarmed civilians - have been killed by soldiers of the Rwandese Patriotic Army (RPA), by armed opposition groups believed to be allied to the former Rwandese armed forces or by other armed groups. The number of "disappearances" has also increased. There are currently more than 120,000 people detained in Rwanda, most on accusations of participation in the genocide. They are held in grossly overcrowded detention centres where the conditions are often life-threatening. At least 65 of those tried so far have been sentenced to death, in many cases after unfair trials.

**RECOMMENDED ACTION: Please send telegrams/faxes/express/airmail letters in English or your own language:**

- asking for information on why Esdras Twagirimana was rearrested following his return from Arusha to Nairobi on 20 September 1997 and asking for details of any formal charges against him;
- calling for his immediate release unless he is promptly charged with a recognizably criminal offence;
- seeking assurances that he will not be ill-treated in detention and he will be protected from further human rights abuses while in Kenya;
- seeking assurances that he will not be forcibly returned to Rwanda, where he would be at risk of serious human rights abuses.

**APPEALS TO:**

Mr William Ole Ntimama  
Minister of Home Affairs  
Ministry of Home Affairs and National Heritage  
PO Box 30520  
Nairobi, Kenya

**Telegrams: Minister Home Affairs, Nairobi, Kenya**

**Faxes: +254 2 218811**

**Salutation: Dear Minister**

Commissioner Duncan Wachira  
Commissioner of Police, Police HQ  
PO Box 30083, Nairobi, Kenya

**Telegrams: Police Commissioner Wachira, Nairobi, Kenya**

**Faxes: +254 2 330495**

**Salutation: Dear Commissioner**

Mr Stephen Kalonzo Musyoka  
Minister of Foreign Affairs and International Cooperation  
Harambee Avenue, PO Box 30551  
Nairobi, Kenya

**Telegrams: Minister Foreign Affairs, Nairobi, Kenya**

**Faxes: +254 2 335494 or 214733**

**Salutation: Dear Minister**

Mr Amos Wako

Attorney General, PO Box 40112, Nairobi, Kenya

**Telegrams: Attorney General Wako, Sheria, Kenya**

**Faxes: +254 2 211082**

**Salutation: Dear Attorney General**

**When faxing, if no tone please try later.**

**COPIES TO:** diplomatic representatives of KENYA accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.** Check with the International Secretariat, or your section office, if sending appeals after 14 November 1997.