

PUBLIC

AI Index: AFR 62/005/2009

2 March 2009

UA 55/09

Incommunicado detention/Fear of torture and other ill-treatment/health concern

DEMOCRATIC REPUBLIC OF CONGO (DRC) Bernardin MBANDI (m), retired civil servant, aged 70

Retired civil servant Bernardin Mbandi, who held an influential post during the government of President Mobutu (1965-1997), was arrested on 22 January at his home in the capital, Kinshasa. He has been held incommunicado since then, putting him at risk of torture and other ill-treatment.

He was arrested by two agents of the *Agence nationale de renseignements* (ANR), National Intelligence Agency, and is held at ANR headquarters in the city. The ANR, which is run by the President's office, is empowered only to investigate crimes against the security of the state. However, it regularly acts outside these powers, making arbitrary arrests of opposition supporters, civil society activists and journalists, and also people suspected of criminal offences with no impact on state security. Lawyers, national human rights groups and UN human rights monitors are routinely prevented from visiting ANR detainees.

Bernardin Mbandi suffers from asthma, but has not been seen by a doctor or had access to his medicine. His family have been able to deliver food for him at the ANR twice a week, but have not been allowed to see him. Instead, ANR agents pass a hand-written note from him thanking them for the food.

It is not clear why Bernardin Mbandi has been arrested, but it may be a result of political and community rivalries in his native region, Bandundu, where as a former senior government official he still holds influence.

BACKGROUND INFORMATION

Under Article 18 of the DRC's constitution, all people detained have the right to immediate contact with their families and legal representatives, and should be immediately informed of the reason for arrest. The initial period of detention ("*garde à vue*") must not exceed 48 hours, after which the detainee must be brought before a judge or be released. All detainees must be treated so as to preserve their life, physical and mental health and dignity.

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

- urging the authorities to give Bernardin Mbandi immediate access to medical attention, legal representation and family visits;
- urging the authorities to bring Bernardin Mbandi immediately before a judge to determine the legality of his arrest, or to release him;
- urging them to order an independent investigation into allegations of arbitrary arrest, unlawful detention and torture and ill-treatment by the ANR in Kinshasa.

APPEALS TO:

Head of State
Son Excellence Joseph KABILA
Président de la République

Présidence de la République
Palais de la Nation
Avenue de Lemera
Kinshasa-Ngaliema
République Démocratique du Congo

E-mail: presipp@yahoo.fr

Salutation: **Dear President Kabila/Son Excellence Monsieur le Président**

Prime Minister

Adolphe Muzito
Premier Ministre de la République
Primature
Palais de la Nation
Avenue de Lemera
Kinshasa-Ngaliema
République Démocratique du Congo

E-mail: primaturerdc@yahoo.fr

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

President of the National Assembly

Vital Kamerhe
Assemblée Nationale
Palais du Peuple
Kinshasa, Lingwala
République Démocratique du Congo

E-mail: assnat@parlement-rdc.org

Salutation: **Dear President of the National Assembly/Monsieur le Président de l'Assemblée Nationale**

President of the Senate

Léon KENGO WA DONDO
Senat
Palais du Peuple
Kinshasa, Lingwala
République Démocratique du Congo

Email: senat@parlement-rdc.org

Salutation: **Dear President of the Senate/Monsieur le Président du Senat**

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

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 13 April 2009.