

PUBLIC

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Prisoners of conscience /unfair trial

DEMOCRATIC REPUBLIC  
OF CONGO

Prince Kumwamba Nsapu (m), aged 32, human rights defender  
Grégoire Mulamba Tshisakamba (m), aged 36, human rights defender  
Victor Tshisola (m)  
Mpiana Ngoie (m)  
Mbuye Ngalula (m)  
Mbuya Mbombu (m), student  
Maboy Lusambaye (m)  
Yvette Kenge Mutombo (f), nurse  
Kabongo Kabemba (m)  
Kilima Bisaku (m)

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The ten people named above are being detained in the southeastern town of Lubumbashi for their perceived criticism of the authorities. Although they are all civilians, they may face trial on contrived criminal charges before a notoriously unfair military tribunal.

The detainees were arrested on 16 April, apparently in connection with a joint press statement issued on 15 April by three local human rights groups. The statement condemned the continuing operation of a military tribunal called the *Cour d'ordre militaire* (COM), Military Order Court, which the government had announced would be abolished at the end of 2002. Eight people found to be in possession of the press statement were arrested on the orders of the COM prosecutor, Colonel Charles Alamba Mongako. They have since been accused of '*incitation à la rébellion*' (inciting rebellion) for having this document in their possession. This accusation appears to be based on a part of the press statement which calls for COM magistrates to abstain from organizing further COM trials, on the basis that the COM itself is no longer constitutional. The seven men and one woman are being held in a detention block within the COM headquarters, but have yet to appear in court.

Later on 16 April two human rights activists, Prince Kumwamba Nsapu of the *Association africaine de défense des droits de l'homme* (ASADHO), African Association for the Defense of Human Rights, and Grégoire Mulamba Tshisakamba of the *Centre des droits de l'homme et du droit humanitaire* (CDH), Centre for Human Rights and Humanitarian Law, went to the COM headquarters to seek information about the eight detainees. On their arrival, the two activists were themselves arrested and taken, their hands bound behind their backs, to Lubumbashi's Kasapa prison. They have been questioned in detention about the joint press statement but no formal accusations have been made against them. On the morning of 17 April they were taken back to the COM but were returned to Kasapa prison without appearing before the court.

#### BACKGROUND INFORMATION

The *Cour d'ordre militaire* was set up by the late President Laurent-Désiré Kabila, initially in order to try cases involving the military. However after the outbreak of war in 1998 its remit was significantly extended following the declaration of a state of emergency in several provinces of the DRC. It has since tried and imprisoned dozens of civilians, including political prisoners and human rights defenders, after unfair trials. In November 2002, the current president, Joseph Kabila, published a decree announcing that the COM was to be abolished on 18 December 2002, but, for reasons which are unclear, this has not happened. In March 2003 a further governmental decree was passed which appeared to confirm the abolition of the COM with immediate effect.

The press statement issued jointly on 15 April by ASADHO, CDH and the *Commission de vulgarisation des droits de l'homme et du développement* (CVDHO), Commission for the Popular Dissemination of Human

Rights and for Development, argued that the COM has now effectively been dissolved and should therefore no longer be hearing cases. The statement expressed concern that one COM trial is nevertheless in progress in Lubumbashi and two other COM trials, one in the nearby town of Likasi, remain scheduled to take place in the next few months.

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

- expressing your concern at the detention of ten people, including two human rights activists, since 16 April in connection with a press statement criticizing the functioning of the *Cour d'ordre militaire*;
- reminding the Congolese authorities of their obligation under Article 19 of the International Covenant on Civil and Political Rights (ICCPR), to which the DRC is a state party, to protect the right to freedom of expression, including the freedom of individuals to seek, receive and disseminate information and ideas;
- stating your view that the arrest of these ten individuals is a violation of their right to freedom of expression and that you consider them to be prisoners of conscience;
- urging that they are immediately and unconditionally released;
- seeking clarification on the current status of the *Cour d'ordre militaire* in the light of governmental decrees which appear to proclaim the court's abolition.

**APPEALS TO:**

Minister of Human Rights

Professeur Ntumba Luaba

Ministre des Droits humains

Ministère des Droits humains

33/C Boulevard du 30 juin

Kinshasa-Gombe

République démocratique du Congo

**Telegram:      Ministre des Droits humains, Kinshasa-Gombe, Republique democratique du Congo**

**Email:          ntumbaluaba@yahoo.fr**

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

Minister of Justice

Monsieur Ngele Masudi

Ministre de la Justice

Ministère de la Justice

BP 3137, Kinshasa-Gombe

République démocratique du Congo

**Telegram:      Ministre de la Justice, Kinshasa-Gombe, Republique democratique du Congo**

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

COM Prosecutor

Colonel Charles Alamba Mongako

Procureur général près la Cour d'ordre militaire

Parquet de la Cour d'ordre militaire

Kinshasa-Gombe

République démocratique du Congo

**Telegram:      Procureur général près la Cour d'ordre militaire, Kinshasa-Gombe, République démocratique du Congo**

**Salutation:     Monsieur le Procureur général / Dear State Prosecutor**

**COPIES TO:** diplomatic representatives of 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 29 May 2003.