

PUBLIC

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Further information on UA 118/01 (AFR 62/007/2001, 16 May 2001) and follow-up (AFR 62/008/2001, 17 May 2001) - Arbitrary arrest / torture

DEMOCRATIC REPUBLIC OF CONGO Golden Misabiko Baholelwa - human rights defender

Human rights defender Golden Misabiko Baholelwa is still detained without charge at Kinshasa's central prison, some five months after he was arrested, apparently because of his human rights activism. He has reportedly been tortured in detention.

Golden Misabiko is held with at least 50 other detainees in a cell-block known as *pavillon 1* at the *Centre pénitentiaire et de rééducation de Kinshasa* (CPRK), Kinshasa Penitentiary and Reeducation Centre. This cell-block apparently holds those suspected of involvement in the assassination of President Laurent-Désiré Kabila on 16 January 2001, but it appears that several of the detainees, including Golden Misabiko Baholelwa, may be prisoners of conscience, detained either because of their human rights work or because they are related to suspects in the assassination (see also UA 143/01 and follow-ups). None of the detainees in *pavillon 1* have been formally charged or brought before a court of law.

Golden Misabiko, who is the president of the Katanga province branch of the human rights group *Association africaine de défense des droits de l'homme* (ASADHO), African Association for the Defence of Human Rights, was arrested on 5 February in the southeastern town of Lubumbashi. The next day he was taken to Kinshasa, where he was held for several days at a notorious security service detention centre known as the *Groupe Litho Moboti* (GLM) building. He was reportedly beaten repeatedly with sticks on two consecutive days and ill-treated throughout his time there. He was not allowed to see a doctor, despite the fact that for two weeks he was reportedly passing blood.

Golden Misabiko is not thought to have been ill-treated or tortured since he was transferred to the CPRK. However, he is allowed only one five-minute visit from relatives a week and has no access at all to doctors or lawyers. There appear to be no credible grounds for linking him to the assassination of President Kabila. Instead, it is thought likely that his arrest was linked to a communiqué issued by ASADHO in December 2000, denouncing the execution of a number of alleged coup plotters. The government at first angrily denied the allegations, but admitted to the UN Special Rapporteur on the DRC in March 2001 that a number of alleged coup plotters had indeed been executed in November 2000.

BACKGROUND INFORMATION

Pavillon 1 is reported to be under heavy guard by soldiers belonging to the Zimbabwe Defence Forces (ZDF), who have been military allies of the DRC Government since armed conflict broke out in the country in August 1998. The ZDF have severely restricted visits by relatives and denied detainees access to lawyers. The legal basis for the ZDF to assume the administration of a Congolese prison remains unclear.

The Commission of Inquiry into the assassination of President Kabila, which reportedly includes Zimbabwean military officials, operates largely outside the framework of Congolese law and has seemingly unlimited powers to detain

suspects incommunicado and without charge. Many of those detained on the orders of the Commission of Inquiry have been ill-treated or tortured.

FURTHER RECOMMENDED ACTION: Please send telegrams/telexes/faxes/express/airmail letters in French, English or your own language:

- expressing concern at the illegal detention without charge of Golden Misabiko and at least 50 others in *pavillon 1* of the CPRK;
- expressing concern at reports that Golden Misabiko was tortured while he was held at the GLM detention centre, and urging that those responsible are prosecuted;
- urging the authorities to ensure that the detainees in *pavillon 1* are not ill-treated, and that they are all allowed adequate visits from their relatives, as well as access to lawyers, any necessary medical treatment and adequate food;
- asking what charges, if any, the detainees are facing and urging that they be given the opportunity promptly to answer any charges before a court of law that respects international standards for fair trial;
- expressing concern that Golden Misabiko Baholelwa appears to be a prisoner of conscience, detained because of his human rights work, and urging that he is released immediately and unconditionally if he is not to be charged with a recognizably criminal offence for which there is substantiating evidence;
- expressing concern at the illegal powers accorded to the Commission of Inquiry, asking what right ZDF soldiers have to detain and impose restrictions on inmates in a Congolese prison, and to whom they are accountable, and expressing concern that they are violating the basic rights of these detainees.

APPEALS TO:

DRC Chief State Prosecutor and President of the Commission of Inquiry
Luhonge Kabinda Ngoy
Procureur Général de la République
Palais de Justice
BP 7016, Kinshasa-Gombe
Democratic Republic of Congo

Fax: + 243 12 20 843 (c/o Ministry of Justice - this number is difficult to get through to)

Salutation: Monsieur le Procureur Général / Dear Chief State Prosecutor

Director of the Kinshasa Penitentiary and Reeducation Centre
Kitunga Killy Dido
Directeur du CPRK
Centre pénitentiaire et de rééducation de Kinshasa
Makala district, Kinshasa
Democratic Republic of Congo

Salutation: Monsieur le Directeur/Dear Director

Zimbabwean Minister of Defence
(Mrs) Joyce Teurai Mujuru
Acting Minister of Defence
Ministry of Defence
1st Floor Munhumutapa Building
Private Bag 7713
Causeway, Harare
Zimbabwe

Fax: + 263 4 796762

Telegram: Minister of Defense, Munhumutapa Building, Harare, Zimbabwe

Salutation: Dear Minister

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

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 28 August 2001.