

Letter to DR Congo Prime Minister on Creation of Specialized Mixed Court

July 18, 2011

His Excellency the Prime Minister
Adolphe Muzito

Your Excellency,

We, the undersigned Congolese and international civil society organizations, urge you to immediately call for inclusion on the agenda of the extraordinary session of parliament, which will stand in the coming weeks, of ***the revised version*** of the draft law for the creation of a specialized mixed court within the Congolese judicial system.

This specialized mixed court, the establishment of which was proposed by your government, will have jurisdiction over serious international crimes endured by the country's civilians since 1990: war crimes, crimes against humanity, and crimes of genocide.

Our organizations appreciated the openness demonstrated by the Minister of Justice and Human Rights to comments and suggestions from international partners, civil society, and the Permanent Commission on Reform of Congolese Law (*Commission Permanente de Réforme du Droit Congolais*), aimed at improving the initial text voted by the Council of Ministers on February 25, 2011, which contained important weaknesses.¹

This consultative process, lengthy but very important, has resulted in a new, revised and improved version of the draft law, which we support. We refer here to the **latest version issued by the Ministry of Justice this week** for re-examination by the government's Commission of Laws (*Commission des Lois*) and by the Council of Ministers (*Conseil des Ministres*). This version is different from that sent to the Mixed Justice Committee (*Comité Mixte de Justice*) last month.

By proposing to establish a robust judicial mechanism, the government of the Democratic Republic of Congo has taken a courageous initiative in response to the UN Mapping Report published in October 2011, which documented a long and shocking list of heinous crimes committed in the DRC between 1993 and 2003. Several development partners have already firmly stated that they are in favor of this initiative. Fighting impunity for the most serious crimes will contribute to the establishment of a durable peace in the DRC and in the Great Lakes region.

The court proposed in the latest version of the draft law will have the competence to judge not only past crimes, but also those of the present, such as serious human rights violations that continue to be committed, particularly in eastern DRC, including pillage, murder, mass rape, and forced labor. Thus, the swift adoption of the draft law would send a strong message to all armed forces operating in the east of the country who perpetrate abuses against the population. The adoption of this law would also demonstrate to victims that the government has not forgotten them, and that the "zero-tolerance" policy is followed not only by statements, but by concrete action. Finally, it will strengthen the Congolese judicial system's capacity to treat contentious issues, which due to their nature are complex and demand specific competencies.

The court is therefore logically embedded in the government's more general policy to reform and strengthen the Congolese judicial apparatus – an aim which will be, according to information available to us, one of the priorities of the extraordinary parliamentary session.

¹ See Goma Common Position, April 15, 2011, <http://www.hrw.org/news/2011/04/15/dr-congo-establishment-specialized-mixed-court-prosecution-serious-international-cri>.

Your Excellency, as we approach the end of this legislative session, we understand that your government probably wishes to bring to vote a number of other important pieces of legislation during this session. However, given the importance of this text, we urge you to ensure that this important draft law is on the agenda of the extraordinary parliamentary session. We are convinced that the establishment of a specialized mixed court capable of trying those who have committed serious crimes in Congo, whether Congolese or of other nationality, is an essential initiative to establish democracy and a durable peace in the Democratic Republic of Congo, and guarantee a future respectful of human rights, notably the right to justice for the thousands of civilian victims of the most atrocious crimes.

Your Excellency, with this draft law, your government has the unique opportunity to advance justice for the most serious crimes. Your government must now put all its weight behind this draft law so that it will be adopted by parliament during the extraordinary session.

Yours sincerely,

Signed:

1. Action des Chrétiens pour l'Abolition de la Torture au Nord-Kivu (ACAT/NK)
2. Action Sociale pour la Paix et le Développement (ASPD)
3. Actions pour la Promotion Socio-Economique des Ménages (APROSEM)
4. APED
5. Arche d'Alliance
6. Assistance Judiciaire aux Indigents (AJI)
7. Assistance Judiciaires aux Vulnérables (AJV)
8. Association Africaine de Défense des Droits de l'Homme (ASADHO)
9. Campagne Pour la Paix (CPP)
10. Centre de Recherche sur l'Environnement, la Démocratie et les Droits de l'Homme (CREDDHO)
11. Centre d'Etudes et de Formation Populaire pour les Droits de l'Homme (CEFOP/DH)
12. Centre d'Initiatives pour le Développement Intégral (CIDI)
13. Centre pour la Justice et la Réconciliation
14. Centre pour la Paix et les Droits de l'Homme (CPDH)
15. Child Protection Consulting Group (CPCG)
16. Club des Amis du Droit du Congo
17. Coalition Congolaise pour la Justice Transitionnelle (CCJT)
18. Collectif des Organisations de Jeunes Solidaires du Congo-Kinshasa – Nord-Kivu (COJESKI-NK)
19. Copprodho
20. Défense et Assistance aux Femmes et Enfants Vulnérables en Afrique (DAFEVA)
21. Encadrement des Femmes Indigènes et des Ménages Vulnérables (EFIM)
22. Équipe de Soutien au Développement Intégral Humanitaire et de la Biodiversité (ESDIHB)
23. Fédération Internationale des Ligues de Droits l'Homme (FIDH)
24. Groupe Justice et Libération (GJL)
25. Groupe Lotus
26. Héritiers de la Justice
27. Human Rights Watch
28. Initiatives Alpha
29. Initiative Congolaise pour la Justice et la Paix (ICJP)
30. Initiative Femme Debout pour la Justice (IFDJ)
31. Initiatives Justice
32. Ligue de la Zone Afrique pour la Défense des Droits des Enfants et Élèves (LIZADEEL)
33. Ligue des Electeurs
34. Ligue pour la Défense et la Vulgarisation des Droits de l'Homme (LDVDH)
35. Maniema Libertés (MALI)
36. Observatoire Congolais des Droits Humains (OCDH)

37. Pax Christi – Kikwit
38. Promotion et Appui aux Initiatives Féminines (PAIF)
39. Réseau des Femmes Leaders/AWEPA
40. Réseau d'Initiatives Locales pour un Développement Durable (REID)
41. Réseau Provincial des ONGDH au Congo – Nord-Kivu (REPRODHOC-NK)
42. Solidarité Féminine pour la Paix et le Développement Intégral (SOFEPADI)
43. Solidarité pour la Promotion Sociale et la Paix (SOPROP)
44. Synergie des Femmes pour les Victimes des Violences Sexuelles (SFVS)
45. Synergie pour l'Assistance Judiciaire aux Victimes de Violations des Droits Humains au Nord-Kivu (SAJ)

CC :

His Excellency, Joseph Kabila Kabange, President of the Republic
Adolphe Lumanu Mulenda Bwenda N'sefu, Vice Prime Minister, Minister of the Interior and Security
Évariste Boshab Mabudj-ma-Bilenge, President of the National Assembly
Emmanuel-Janvier Luzolo Bambi Lessa, Minister of Justice and Human Rights
Léon Kengo wa Dondo, President of the Senate