

Open Letter to His Excellency President Joseph Kabila Commission of Inquiry on the Death of Floribert Chebeya Bahizire

H.E. President Joseph Kabila Kabange
Gombe, Kinshasa
Democratic Republic of Congo

Copy to:

His Excellency, Adolphe Muzito, Prime Minister
His Excellency, Luzolo Bambi Lessa, Minister of Justice and Human Rights

June 5, 2010

Your Excellency,

We are deeply shocked and saddened by the killing of our friend and colleague, Floribert Chebeya Bahizire, one of Congo's most prominent and courageous human right activists. The broad international and national condemnation of this appalling act has given us encouragement, but we believe it is crucial to immediately establish a credible, impartial and independent commission of enquiry to investigate the death of Floribert Chebeya Bahizire and the disappearance of his driver, Fidèle Bazana Edadi. We are calling on you to take leadership on this crucial matter.

The multiple announcements made about the start of investigations by various security services, the police and the public prosecutor's office during the past 72 hours lack the necessary credibility and impartiality. In light of the serious flaws that characterized previous investigations into the death of human rights defenders and journalists, we do not believe the current efforts will expose the truth of what happened or bring justice for the appalling crime.

Responding to Floribert Chebeya Bahizire's death with concrete actions that ensure justice is important not only to end impunity for attacks on human rights defenders, but also to help protect other Congolese human rights defenders and journalists who face intimidation, threats and harassment.

We believe that an independent commission of inquiry should be urgently established as follows:

1. It should be created by a ministerial decree under the authority of the Minister of Justice and Human Rights and approved by the Council of Ministers.
2. It should be presided over by an individual who is independent, of high moral authority, with a solid background in Congolese law.

3. Members of the commission should be appointed on the basis of their recognized impartiality, competence, integrity and independence as individuals. They should not be closely associated with any individual, government or political party, or any other organization potentially implicated in the matters under inquiry.
4. Members of the commission should have proven expertise in law, medicine, crime investigation, forensic science and be capable of evaluating and weighing evidence and exercising sound judgment.
5. We propose that the members of the commission could include the following:
 - (a) A professor of law or criminology
 - (b) A magistrates of the public prosecutor's office
 - (c) Military magistrates.

To ensure credibility of the commission, we strongly urge you to accept the offer made by UN Secretary General Ban Ki-moon to assist in the investigations as well as those from other governments and from Congolese civil society. We therefore propose you also include in the commission:

- (d) Participation of independent representatives from the Congolese human rights community
 - (e) A UN independent expert in human rights or investigation procedures
 - (f) An independent expert with forensic expertise
 - (g) An independent expert from the African Commission of Human and People's Rights.
6. The Commission's mandate should include:
 - The authority to obtain all the information it needs for the inquiry, to describe the context and the circumstances of the death of Floribert Chebeya Bahizire.
 - Powers to compel attendance and cooperation of witnesses, including officials, and to procure documents, including government and medical records.
 - Gather input from impartial legal advisors, independent advisors and other expert services as required for its work.
 - Clarify the facts and establish individual criminal responsibility and responsibility of the state.
 - Recommend to the Minister of Justice and Human Rights individuals who should be investigated and prosecuted for the killing of Floribert Chebeya Bahizire and the disappearance of his driver.
 - Identify measures to be taken to avoid a repeat of such incidents in the future.
 7. The commission should regularly report on the progress of its work and publish its conclusions within a time period of six months.

8. It must take into account and ensure the protection of witnesses, including the protection of the family of the deceased and of the driver, with the assistance of MONUC/MONUSCO as required.

This commission must be given adequate financial and logistical resources to carry out its work. While the budgetary means are the responsibility of the government, we also hope that international donors might be able to assist this effort with financial and technical means.

We further recommend that the Congolese government together with MONUC/MONUSCO take joint responsibility for ensuring the protection of the members of the commission as they conduct their work.

As an immediate urgent step, we strongly recommend that an independent expert autopsy is carried out on the body of Floribert Chebeya Bahizire, as requested by his family, and that international offers to assist with this procedure are accepted.

The botched investigations of the past into the death of human rights defenders and journalists in Congo must not be repeated. Investigations into the murder of Pascal Kabungulu, a human rights defender shot dead in Bukavu in July 2005, the murder of two Radio Okapi journalists - Serge Maheshe in June 2007 and Didace Namujimbo in November 2008 - and the murder of Kinshasa journalist Franck Ngyke and his wife H  l  ne Mpaka in November 2005, were all marred with serious irregularities and did not lead to justice.

Establishing a credible commission of inquiry is important to avoid the mistakes of the past and to demonstrate clearly, once and for all, that those who target human rights defenders in Congo will be held to account.

Yours sincerely,

Signing organizations:

1. Amnesty International
2. Human Rights Watch
3. Observatoire pour la protection des d  fenseurs des droits de l'Homme (FIDH / OMCT)
4. Article 19
5. Voix des Sans Voix
6. Association africaine de d  fense des droits de l'homme, ASADHO
7. Association des Victimes de Guerres de l'Ituri, AVIGITURI
8. Association Chr  tienne pour l'Assistance des Prisonniers, ACAP
9. Action pour les Droits Humains, ADH
10. Action Contre l'Impunit   pour les Droits de l'Homme, ACIDH
11. Action des Chr  tiens Activistes des Droits de l'Homme de Shabunda, ACADHOSHA
12. Action Sociale pour la Paix et le D  veloppement, ASPD
13. Africa Fondation, AF
14. Association des Armateurs sur le Lac-Kivu, ASSALAC
15. Association pour la Promotion et la D  fense de la Dignit   des Victimes, DRC
16. Centre de Recherche sur l'Environnement, la D  mocratie et les Droits de l'Homme, CREDDHO
17. Centre des Etudes sur la Justice et sur la R  solution 1325, CRJ/1325

18. Centre des Droits de Homme et du Droit Humanitaire, CDH
19. Centre pour la Promotion des Droits de l'Homme et de la Démocratie, CPDH
20. Centre OLAME
21. Cité des Droits de l'Homme et la Paix, CIDHOP
22. Club des Amis du Droit du Congo, CADC
23. Coalition Nationale pour la Cour Pénale Internationale en RDC, CN-CPI/RDC
24. Comité de Suivi pour la Contribution des Communautés et Eglises pour la Transformation humaine, COSCET
25. Fédération des Jeunes pour la Paix Mondiale, FJPM
26. Fédération des Droits de l'Homme, FDH
27. Fondation Congolaise pour la Promotion des Droits Humains et la Paix, FOCDP
28. Héritiers de la Justice, HJ
29. Initiative Congolaise pour la Justice et la Paix, ICJP
30. Institut René Cassin, IRC
31. Groupe Lotus, GL
32. Groupe Justice et Libération, GJL
33. Groupe Equitas, GE
34. Groupe d'Action Non Violente Evangélique, GANVE
35. Justice Plus, JP
36. Ligue pour la Paix et les Droits de l'Homme, LIPADHO
37. Mouvement pour la Démocratie et la Réconciliation, MDR
38. Organisation pour la sédentarisation des peuples Pygmées, OSAPY
39. Promotion de la Démocratie et Protection des Droits Humains (PDH)
40. Association des Jeunes Engagés pour le Développement et la Santé (AJDS)
41. GHOLVI
42. CAFED/Nord Kivu
43. Collectif des Organisations des Jeunes Solidaires du Congo (COJESKI)/Nord Kivu
44. Centre d'Initiatives pour le Développement Intégral (CIDI)/Nord Kivu
45. Réseau Provincial des ONG des Droits Humains au Congo (REPRODHOC)/Nord Kivu
46. Campagne Pour la Paix
47. Forum des Organisations Humanitaires et de Développement (FONAHD)
48. Centre pour la Paix et les Droits de l'Homme – Peace and Human Rights Center (CPDH-PHRC)
49. Bons Samaritains des Grands Lacs pour le Développement et Défense des Droits Humains
50. Conseil Régional des Organisations Non-Gouvernementales de Développement (CRONGD)/Nord Kivu
51. Action Globale pour la Promotion Sociale et la Paix (AGPSP)
52. Union d'Actions pour les Initiatives de Développement (UAID)
53. Synergies des Femmes pour les Victimes des Violences Sexuelles (SFVS)
54. Fédération des Organisations de Défense des Droits de l'Homme (FODDHO)
55. Villages Cobayes (VICO)