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The Chebeya-Bazana case: indictment of Paul Mwilambwe in Senegal on the grounds of universal jurisdiction

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Description:

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Paul Mwilambwe, a major suspect in the Chebeya-Bazana case was indicted by the Senegalese courts and placed under judicial supervision in Dakar yesterday, Thursday, 8 January 2015. This decision was taken following a criminal complaint based on universal jurisdiction filed on 2 June 2014 by lawyers of the FIDH Litigation Action Group (LAG) and the families of Floribert Chebeya and Fidèle Bazana, the two Congolese human rights defenders who were assassinated in June 2010. Our organisations [1] and the victims' families welcome the efforts of the Senegalese judicial authorities and expect these judicial proceedings to contribute to identifying the persons responsible for these assassinations and the disappearance of these two eminent human rights defenders.

"That Paul Mwilambwe has been indicted and heard by an independent investigative judge is a fundamental step on the road to truth and, we hope, to the justice which has not been available to the victims' families in DRC", said Patrick Baudouin, FIDH Honorary President. ***"This is the first time since the Hissène Habré case that a case based on extra-territorial jurisdiction is being tried in Senegal, a step which sends a strong, positive signal showing that the Senegalese judiciary intends to play an active role in the fight against impunity for the most serious crimes committed in Africa"***, he added.

On 10 January 2014, the lawyers for LAG and for the Chebeya and Bazana families had already filed an ordinary complaint against Paul Mwilambwe and all the others for the crime of torture, based on Senegal's extraterritorial jurisdiction law of 12 February 2007, which integrates the United Nations Convention against Torture in domestic law. Under this provision of the Senegalese Criminal Code, Senegalese courts can judge all persons suspected of torture if they are found in Senegal, even if the victim or perpetrator of the crime is not Senegalese, and even if the crime was not committed in Senegal.

As this January complaint had remained unanswered by the Prosecutor, FIDH and the victims' families filed another complaint, this time as civil parties, on 2 June 2014. Under Senegalese law, this almost always leads to the initiation of a public prosecution. In August 2014, the Senegalese judiciary followed up on the new complaint and heard the plaintiffs, thereby officially opening the judicial investigation.

"Since the Democratic Republic of Congo did not provide for equitable judicial proceedings, we initiated the proceedings in Senegal to ensure that an impartial and independent investigation would be carried out and that full information would be obtained on the murder and the enforced disappearance of the victims, Floribert Chebeya and Fidèle Bazana. We wanted an independent judge to hear Paul Mwilambwe, an actor in this tragedy, and this has happened today," said Assane Dioma Ndiaye, a lawyer for the FIDH LAG and for the Chebeya and Bazana families.

Paul Mwilambwe, a major in the Congolese National Police force (PNC), was in charge of security for the office of General John Numbi, Head of the PNC at the time of the events, in the premises where Floribert Chebeya and Fidèle Bazana were killed. Shortly after these killings, Paul Mwilambwe fled to a country somewhere in Africa before going to Senegal. In a filmed interview with [France 24 \(in French\)](#), whilst still on the run, Mwilambwe testified and denounced his own participation and the role and involvement of senior members of the Congolese police, including General John Numbi in the enforced disappearance and murder of the two human rights defenders.

"For us, this indictment gives us great hope to obtain the truth and justice that was refused to us in Congo where the justice system is bogged down. I want to know where my husband was buried. I want someone to tell me where he is. And I want to be able to bury him with dignity" , said Marie-José Bazana, the wife of Fidèle Bazana whose body has still not been found.

Background:

On 2 June 2010, Floribert Chebeya, Executive Director of the NGO Voix des sans Voix (Voice of the Voiceless - VSV), was found dead in his car in a suburb of Kinshasa. His close associate Fidele Bazana was reported missing. The day before, the two human rights defenders had shown up at PNC headquarters to meet with its Director, the Inspector-General, and General John Numbi. They did not emerge from this meeting alive. Faced with the public outcry triggered by the murder of Mr. Chebeya and disappearance of Mr. Bazana, the Congolese authorities were obliged to open an investigation. This investigation culminated in the precautionary suspension of General John Numbi and the imposition of murder indictments for eight police officers, including Paul Mwilambwe, who fled.

On 23 June 2011, following a trial marked by numerous incidents (see the [report of the Observatory for the protection of human rights defenders in French](#)), the military court on 23 June 2011 in Kinshasa acknowledged the civil responsibility of the Congolese state for the murder of Mr. Chebeya, as well as in the abduction and illegal detention of Mr. Bazana by several of its officers. The court convicted five of the eight police officers accused. Four were sentenced to death and one to life imprisonment. Three of those condemned to death are still on the run, and three of the police officers found to have played a role in the disappearance of Mr. Bazana, have since been acquitted. On 7 May 2013, the Military High Court, sitting as a court of appeal, declared itself incompetent to investigate the procedural issues in the case and decided to turn the proceedings over to the Supreme Court, operating as a constitutional court. In practice, this decision suspended the appeal proceedings, which remain deadlocked in DRC to date. In addition, Congolese authorities have never instituted proceedings to investigate the role played by General John Numbi, who has since been replaced as Head of the PNC, despite evidence and the complaints filed by the families of the two human rights defenders.

For more information on the Chebeya case

[Senegalese Court Follows up on Complaint Based on Universal Jurisdiction filed by FIDH and the Families in the Chebeya-Bazana Case](#)

[Attempted murder of the wife of a police officer, prosecuted in the Chebeya-Bazana affair](#)

[Complaint filed in Senegal against Paul Mwilambwe in Chebeya/Bazana case](#)

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[1] FIDH, VSV - La voix des sans voix, LE - Ligue des Électeurs, ASADHO - Association africaine des droits de l'Homme, GL - Groupe Lotus, ANMDH - Les amis de Nelson Mandela pour la défense des droits humains, LSDH - Ligue sénégalaise des droits humains, RADDHO - Rencontre africaine pour la défense des droits de l'Homme et ONDH - Organisation nationale des droits de l'Homme