

Military Court delivers a not guilty verdict in Kilwa Trial

A military court in Lubumbashi on 28 June 2007 delivered its verdict in the Kilwa trial and acquitted the principal defendants Colonel Ademar Ilunga and 8 soldiers of war crimes in connection to the events that occurred in October 2004 in a remote part of Katanga province near Anvil Mining's Dikulushi mine. A UN investigation found that at least 73 people, the majority of them civilians, were killed at Kilwa during the course of a counter-offensive by soldiers of the 62nd Brigade of the Congolese Armed Forces (FARDC) to crush a minor rebellion. The UN documented 28 alleged summary executions.ⁱ

Under a separate charge, Colonel Ademar Ilunga and Captain Sadiaka Sapanda were found guilty of the torture and murder of three people in an unrelated incident at the town of Pweto in January 2005. The soldiers are appealing against their conviction.

The Kilwa victims and their families will continue their fight for justice. Lawyers representing 144 plaintiffs have indicated that their clients intend to appeal the verdict acquitting the defendants of war crimes. Under Congolese law, their appeal is limited to the civil damages aspects of the verdict.

The court, upholding the recommendation of the prosecutor, also acquitted three expatriate Anvil Mining employees of complicity in war crimes. In a press release, Anvil Mining welcomed "the decision of the military court clearing Anvil and its employees of any involvement in the military action" by the Congolese Armed Forces in Kilwa, Katanga Province in October 2004. However, at the start of the trial in December 2007, the prosecutor made clear that it was only Anvil Mining's agents and not Anvil Mining the company which was on trial on charges of aiding and abetting the military.

In its press release Anvil Mining states that Anvil employees "under the force of law complied with the FARDC's requisition of company vehicles for use in fighting with a rebel group"ⁱⁱ But at the trial no formal order (*'arrêté'*) from the Governor of Katanga, which is required for a requisition to be officially valid, was ever produced.

The full written verdict is not yet available and RAID and its Congolese and international NGO partners will present a considered view of the Kilwa trial in due course.

In an earlier case in Katanga in December 2004, known as the Ankoro trial, soldiers of the 95th brigade of the Congolese Armed Forces (Forces Armées Congolaises – FAC – which later became the FARDC), who had been accused of murder, pillage and other crimes, were convicted on lesser charges and were given lenient sentences. The military prosecutor rejected calls for their commanding officers to be charged with war crimes despite the fact that they had authorized sustained rocket attacks and the indiscriminate bombardment of the village of Ankoro over 10 days in November 2002. These actions resulted in the deaths of 300 people and the destruction of over 7000 homes.ⁱⁱⁱ

Despite evidence of the responsibility of well-known Mai Mai commanders for a series of human rights violations in Katanga over many years, the Congolese authorities have failed to bring them to justice.^{iv}

RAID's key objective throughout has been to try and ensure that a thorough and fair investigation was conducted into the circumstances of the provision of "logistical assistance" by Anvil to the Congolese military in connection with the Kilwa incident, and why Anvil was largely silent about the Kilwa incident and its logistical assistance until the Four Corners documentary. As far as RAID is concerned, due to the manner in which the trial was conducted, the verdict of the court has not advanced these issues. If, as a result of a fair and thorough investigation into these issues, it was concluded that Anvil should be absolved of any blame, RAID would certainly make this clear.

ⁱ MONUC ‘Rapport sur les conclusions de l’enquête spéciale sur les allégations d’exécutions sommaires et autres violations de droits de l’homme commises par les FARDC à Kilwa le 15 octobre 2004’, paragraph 2 released in September 2005, available at: <http://www.abc.net.au/4corners/content/2005/s1479459.htm>.

ⁱⁱ Anvil Mining Limited news release “Anvil and its Employees Acquitted in Kilwa Incident” 28 June 2007 available at:
<http://www.anvilmining.com/documents/070628NewsReleasereMilitaryCourtAnnouncement.pdf>

ⁱⁱⁱ ASADHO/Katanga, ‘Rapport sur le Procès de Ankoro : Lutte contre l’impunité : mots vains pour le gouvernement de la RDC’, February 2005.

^{iv} Human Rights Watch News Release “As Vote Nears, Abuses Go Unpunished in Katanga” 21 July 2006 available <http://hrw.org/english/docs/2006/07/21/congo13783.htm>;