

# Democratic Republic of Congo

## **Bukavu, murder city**

**An investigation into the murders of  
journalists in the capital of Sud-Kivu**

**March 2009**

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### Summary

Three Congolese journalists were murdered in Bukavu in the space of three years. Were these killings revenge on the journalists or their media for revealing information that threatened local potentates? In any event these three killings remain unpunished, given the relentless determination of the police and justice system not to find those responsible. Or, worse still to release those to whom everything pointed as being directly responsible: politicians, soldiers, drug gangs, as many violent groups as lay down the law in Kivu. Despite pressure from the UN, the EU and NGOs, the government of the Democratic Republic of Congo and the Congolese Army refrain from restoring order and justice.

The findings in the report of Reporters Without Borders' investigation in Kivu in December 2008 are overwhelming.

Pascal Kabungulu Kibembi, journalist, executive secretary of the Inheritors of Justice and vice-president of the Great Lakes Human Rights League (LDGL), was shot dead at his home overnight on 31 July-1st August 2005. Suspicion immediately fell on Lieut-Col. Thierry Ilunga, commander of the 105th brigade of the Armed Forces of the Democratic Republic of Congo (FARDC). This warlord was arrested, tried and sentenced for murder and then mysteriously released 24 hours later, without any explanation.

Serge Maheshe, news editor on *Radio Okapi*, was murdered in the street in front of his friends Serge Muhima and Alain Mulimbi on 13 June 2007. The two, who were summoned as witnesses, formally identified one of the killers, a soldier. Result: they were both sentenced to death for "criminal conspiracy"! The false witnesses who accused them ended up by retracting. Serge Maheshe's friends were finally acquitted on 21 May 2008, but the military suspect was never brought to book.

Didace Namujimbo, also a journalist on *Radio Okapi*, who had been threatened on many occasions, was killed on 21 November 2008 just yards from his home. The civilian justice system opened an investigation but the military justice system very quickly seized control of the case. Four months later, no date has been fixed for the opening of the trial.

This report presents the results of the investigations carried out in each murder case. It details the botched legal procedures as well as the negligence and corruption of a section of the judicial institution. It condemns the power of the military and of their back-up troops, as well as the role played behind the scenes by mining pressure groups

Appalled by these serious crimes and permanent obstacles to press freedom, Reporters Without Borders is calling for the immediate setting up of a special judicial investigation.

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Bukavu, lying on the banks of a vast lake, has been abandoned to the ravages of poverty. The former colonial capital of Sud-Kivu, perched on the hills beside the water at the furthestmost eastern point of the Democratic Republic of Congo, struggles to survive amidst chaos, far from everything, some 1,500 kilometres from Kinshasa. Despite the raids that had regularly plunged it into bloodshed since 1994, Sud-Kivu does not have the look of a land of massacres. Fighting that brought death to the other side of the lake, between August and November 2008 in the border area of Nord-Kivu and around the Virunga park, did not spill over onto this bank.

But this region is the epicentre of a ten-year war which, since 1998, has cost more than four million lives. With its uncontrollable shanty towns and its idle security forces, Bukavu has become one of central Africa's most violent cities, despite the permanent presence of a brigade of the UN Mission in the Democratic Republic of Congo (Monuc). The press and also human rights defenders have paid a very high price in this regard. Since June 2007, in less than 18 months, two journalists from the small team that runs *Radio Okapi* have been shot dead at night by men armed with one of the countless kalashnikov machine guns in circulation in the muddy side streets of this small lakeside settlement, which has in ten years of war become a Great Lakes slum.

The murder of Didace Namujimbo, on 21 November 2008, following the killing of Serge Maheshe, on 13 June 2007, sent a shock wave through Congolese civil society, already sorely tried by years of insecurity. "The day of the funeral, the streets of Bukavu were filled with people. The young people were furious. An impressive funeral procession followed my brother to his grave", said Déo Namujimbo, himself a journalist, and correspondent for Reporters Without Borders in the east of the DRC. "Is our city cursed?", wonders Kizito Mushizi, provincial president of Congo's National Press Union and director of the privately-owned *Radio Maendeleo*, that broadcasts news programmes from a small studio and a huge aerial in the centre of the city. "The

people here are warm and welcoming. They want to live in peace, but we have to make a huge effort", says deputy governor of Sud-Kivu, Jean-Claude Kibala.

With the aim of investigating these murders and to try to formulate recommendations that could be useful to the local authorities and Monuc, Reporters Without Borders sent a delegation to the capital Kinshasa, Goma and Bukavu, from 16-24 December 2008. This report resulted from that mission.

### Didace Namujimbo's last day

The body of journalist Didace Namujimbo was found in the early hours of 22 November 2008, beside steps cut into the ground around 50 metres from his Bukavu home and lying in a pool of blood. He was shot dead with a bullet in the neck fired at point blank range as he returned home the previous evening. "Who shot him, how and above all why", is the question that continues to haunt the brother of this well known young journalist, Déo Namujimbo, who has worked for Reporters Without Borders in Sud-Kivu for around ten years.

Didace Namujimbo had since February 2006 been on the staff of the local office of *Radio Okapi*, an influential station, started in 2002, through a partnership with the Monuc and the Fondation Hironnelle. Backed by several foreign funders, it broadcasts in French and in the DRC's four national languages across this huge country, which is the size of all of western Europe. The radio, which attracts about 40% of listeners in the east of the country, "has pulled off a unique achievement in French-speaking Africa: toppling *Radio France International (RFI)*. A success story that was produced above all by the originality of the media that combines professionalism and proximity to the people", correctly observed journalist Thomas Hofnung, in an article about the radio in the French daily *Libération*. Along with *Radio Télévision nationale congolaise (RTNC)*, *Radio Okapi* is the only station to reach the country's far flung areas that suffer from many shortages, including passable roads and means of public transport.

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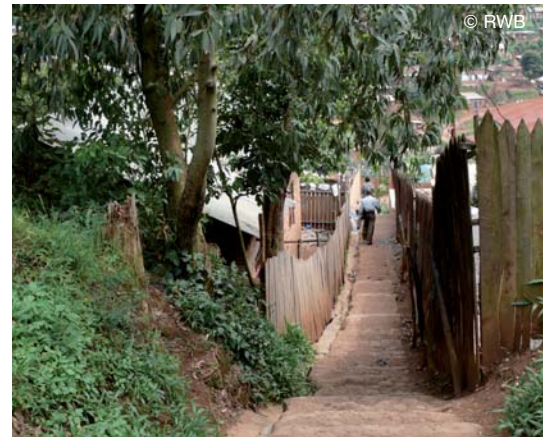
Radio Okapi studios in Bukavu

On the day he was killed, Friday 21 November 2008, Didace Namujimbo went as he did every day, to the headquarters of Monuc where *Radio Okapi* has its studios, in the Muhumba district on the outskirts of the city, not far from the border post with Rwanda. At midday, he went back to the city centre and into a shop owned by a trader known as “Shumi”, in Munzehirwa square, where he handed over his cash savings, a common practice in a country where banks are few and far between and undependable. Didace also withdrew a sum of money and took his cheque book in order to pay the first months’ rent of a new house he was intending to view the following day. The journalist then went back to the radio station and finished his working day at around 5.45pm. To go back into the city, he got into the Monuc minibus, which for security reasons, takes radio staff home. Namujimbo was the last passenger to alight. Using his friendship with the minibus driver and saying he had an appointment at the La Bodega restaurant at the Residence Hotel, he was not taken to his home.

In fact, Namujimbo met a girl friend, not far from the Alfajiri college, closer to Monuc than his home. On parting from her he received a phone call at about 7pm from his boss at the radio wanting to check if there were any problems, then a few minutes later he made the habitual Monuc radio check on his walkie-talkie, as the UN security procedure requires. He then received another phone call from Dubai during which his caller, a young businessman, named Elie “Negrita”, told him that he could collect a television decoder which had been ordered a long time ago. Namujimbo then went on foot to the

home of his businessman friend where the man’s wife gave him a parcel after which he headed home, on foot because he could not find a taxi. Witnesses interviewed by Reporters Without Borders said it was by now about 9pm.

It was dark when Namujimbo reached the Ndendere district of the commune of Ibanda and he left the main road, turning into a series of wood-reinforced steps which are cut directly into the earth, between the fences, to reach the little square of slope on which his house is set. The journalist had on him two phones, with three SIM cards, using three different networks, a laptop computer in a shoulder bag, a Motorola walkie-talkie, his cheque book, a television decoder worth more than 100 dollars, and finally, a significant sum in cash.



A neighbour of Namujimbo’s told Reporters Without Borders that he heard a short dispute break out at around 9.30pm in the middle of the steps. “Going up!” he heard “the voice of a soldier” exclaim, in Lingala, the language spoken in the capital Kinshasa to the west of the country and widely spoken within the Congolese regular army. “No, coming down!” said another “soldier’s voice”, according to the witness, who identified the men in question, the language he heard and members of the regular armed forces, without having seen them. A few moments later a shot rang out. The neighbour, who said he was “afraid for his wife and children” and did not feel “tempted to go out in the middle of the night in these circumstances”, said he “could not confirm” having recognised the

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voice of Didace Namujimbo, whom he knew well, during the dispute.

At dawn the following day, the journalist was found dead, lying on his back, his head leaning against a wooden fence separating a beaten earth path and the garden of a small house, clinging to the slope. His Motorola walkie-talkie, 50 US dollars and 3,000 Congolese francs (worth around five dollars) were found on the body.

### “Consternation” within Monuc

Soon after sunrise, at around 6am, the neighbours who had discovered the body raised the alarm and called the police. A group of curious onlookers rushed to the spot. The news quickly spread of a second murder of a journalist on *Radio Okapi*, first in Bukavu, then

a few hours later, to Kinshasa, and finally abroad. In the capital, director of public information division for Monuc, Kevin Kennedy, got the news by text from his colleague Jacqueline Chenard, head of public information in Bukavu. Still shocked by the murder 15 months earlier, of Serge Maheshe, also in Bukavu, he told Reporters Without Borders that he could not but “make a link between the two events” and was struggling to understand why it had happened. “Our staff are vulnerable. The system does not allow the same level of protection for the staff of *Okapi*, who are journalists and therefore need to be in constant contact with the public, as for the UN staff”, he told the Reporters Without Borders’ delegation. “When something like this happens, despite all our efforts to make things to go well, we feel completely powerless”, said Bernard Conchon, project head at the Fondation Hironnelle in the DRC.

### Kivu, matrix of war

Shot through with ethnic, political and property rivalries, coveted for its natural wealth, the region, made up of two provinces, Nord-Kivu and Sud-Kivu, is “the matrix of all the wars in Congo”, according to the headline of an article by Angélique Mounier-Kuhn, in the French daily *Le Monde* on 5 December 2008. During the 1990s, the grip of Marshal Mobutu Sese Seko on his vast country began to weaken and a corrupt army began to decline. Kivu provided the launch pad for the rebellion led by Laurent-Désiré Kabila, with the backing of neighbours Rwanda and Uganda that led to the swift overthrow of the dictator in Kinshasa, in May 1997. Shortly afterwards, a second war broke out, August 1998, unleashed by the political and financial desires of Rwanda and Uganda, who considered that their earlier support for the “Mzee” (old man) had not been sufficiently rewarded. Fierce fighting, pillaging of its resources and a humanitarian crisis transformed the DRC into a regional theatre of war, involving up to eight different armies and leaving around 4 million dead in five years. By 2003, the DRC appeared finally to be moving towards a lasting peace. Foreign troops pulled out and, under strong pressure from the international community, a democratisation process culminated in 2006 in the election as president of Joseph Kabila, son of the “Mzee” who had been murdered by one of his own bodyguards.

But the specific question of Kivu was neglected. The region continued to live in a climate of sporadic violence, particularly that continued by a renegade general, Laurent Nkunda, who joined the rebellion in 2004, and who in 2006 founded the National Congress for the Defence of the People (CNDP). A peace conference held in January 2008 in Goma, the capital of Nord-Kivu, certainly fed hopes of a resolution, but this fell apart in August when Laurent Nkunda and his Rwandan allies launched an offensive against the Congolese army, supported by the mai-mai militia.

Bukavu is situated on the edge of the chaos that reigns in the Kivu. For several years and continuing after the political transition period in 2003, the Sud-Kivu capital was subjected to the control of RCD-Goma, a political-military party headed by Azarias Ruberwa. In June 2004, General Laurent Nkunda forcibly took control of the city. Rebels under his orders sowed terror and committed atrocities and pillage. One month later, on 14 July 2004, the rebel leader and his men were finally driven out by troops of the 10th military region and retreated back to Rwanda. At the 2006 presidential elections, Bukavu voted overwhelmingly for Joseph Kabila, showing the frustration of a people desperate for change. Whether by soldiers, members of the presidential guard or uncontrolled armed bands including the “Fenders” and the “Red Army”, young criminals sowing terror in the city, the people live constantly with threats and extortion.

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Déo Namujimbo points at the spot where his brother's body was found

There were immediate outraged reactions to the killing. Monuc spokesman, Madnodje Mounoubai, expressed the “consternation” of the UN mission over this latest murder. The special representative of the secretary general within Monuc, Alan Doss, condemned what he called a “cowardly” murder, a view repeated in the first hours and days after the killing by the highest authorities of the UN. Secretary General, Ban Ki Moon, and the Director General of UNESCO, Koichiro Matsuura, joined together to call for “a full and independent investigation” of this murder. Early urgent response from UN agencies, the Fondation Hirondelle, and the organisation Protection International, led to security improvements for their staff and support for a team shocked by the killing. Security training was offered, changes to schedules and a crisis cell was set up in liaison with the Fondation Hirondelle headquarters in Lausanne.

The journalist's funeral was held two days later, on Monday 24 November, his coffin draped with the UN flag. A ceremony in tribute to him was held in the central courtyard of the Monuc headquarters, opposite the *Radio Okapi* studios, during which the Monuc co-ordinator for the east of the country, Alpha Sow paid tribute to a “knight of peace” and called on his colleagues to continue “always to hold higher the torch of *Radio Okapi*”. The UN anthem was played and several eulogies given. The ceremony closed with the Congolese anthem, after which the cortege proceeded to the Bukavu Cathedral for a mass. After this Namujimbo's coffin, followed by a procession more than four kilometres long, was buried close to that of his colleague Serge Maheshe.

## The untouchable Kabungulu case

Being a public figure, with no links to an armed force of any kind or a powerful political network is a dangerous exercise in Bukavu. Before the murder of Didace Namujimbo, there were two similar killings in the city in the space of three years, without either the police or judicial system giving any serious attention to solving the cases.

The opening salvo came when Pascal Kabungulu Kibembi was shot dead at his home in Bukavu, in front of his family overnight on 31 July-1st August 2005, just after 3.30 am. The 55-year-old activist, who was executive secretary of the organisation, Inheritors of Justice and vice-president of the Great Lakes Human Rights League (LDGL), was seen by journalists in Sud-Kivu as one of their own. This was chiefly because of his investigations into atrocities committed by members of the military and of rebel movements in a region, where in 2009, some areas are “administered” by uncontrollable factions of movements that grew out of Rwandan Hutu killers who fled their county in 1994. The killers, two men in uniform and one in plain-clothes, armed with AK-47 assault rifles and knives, fled taking with them a laptop computer, a television, 15 dollars and a pair of shoes taken from their victim.



Pascal Kabungulu Kibembi

Suspicion quickly fell on Lieut-Col. Thierry Ilunga, commander of the 105th brigade of the Armed Forces of the Democratic Republic of Congo (FARDC) and a former cadre in the rebellion supported by Rwanda and Uganda, the Rally for Congolese Democracy (RCD-Goma), then integrated into Congolese political life. Lieut-Col. Ilunga

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publicly threatened to kill Pascal Kabungulu in May 2003 after he published a report on the pillaging of mines in Kivu carried out under his authority. A few days after the murder of Pascal Kabungulu, Ilunga even arrived, armed to the teeth, to free two suspects being held by the police, Capt. Gaston Sangba and Lieutenant Basco Labama, saying that he would himself put the two men “under house arrest”.

An investigation ordered by the interim governor of the province of Sud-Kivu at the time, Didace Kaningini, led to the trial of eight suspects, including Thierry Ilunga, which opened at the end of November 2005, before the military court at the Bukavu garrison. According to the case presented by the public ministry, Capt. Gaston Sangba and Lieutenant Basco Labama drove the three killers in their jeep, including Corporal Liaka Mafolo, aka “Patrick Le Blanc”, who was believed to be the man who fired the fatal shots. The two soldiers, who were the look-outs, were apparently in the pay of and acting under the orders of Thierry Ilunga, who hoped to make it look like a robbery, while he acted in the interests of vengeance of a man sure of impunity and determined to defend his privileges.

At the close of the hearing on 12 December 2005, which had turned out to be particularly damning for Lieut-Col. Ilunga, he tried to escape, seizing a gun from a soldier in the court. The prosecutor had just called for his conviction for “murder” and “criminal conspiracy”, and for his immediate imprisonment along with one of his suspected accomplices, Governor Kaningini. The governor was accused of having knowingly sabotaged the investigation to deflect suspicion from Thierry Ilunga. They were both detained at Bukavu central prison and then released the following morning, “because of pressure from all sides on the court and the senior inspector” according to the lawyer for Inheritors of Justice, Roger Muchuba. The next hearing, fixed for 14 December, did not go ahead. On 21 December, the representative of the public ministry, Major José Diemo, said that the trial would be transferred to the military court in Sud-Kivu, without specifying any date. After that nothing more happened. The trial of the alleged killers of Pascal Kabungulu was never held.

The Kabungulu case, the first in a long series of fiascos, weighed heavily on an already very difficult climate. All the more so, since the only consequences of the case were acts of brutality or threats against witnesses and defenders of the victim. In one such outcome at 2am on 10 April 2006, two armed and uniformed men burst into the home of Emmanuel Barhayiga Shafari, at the time editor of the weekly *Le Souverain primaire*. The raiders threatened the journalist with their guns, ordering him to hand over all the documents in his possession relating to the Kabungulu case, especially photos of the accused taken during the trial. They also demanded a photo of Idesbald Byabuze, a jurist who gave evidence during the trial. After Emmanuel Barhayiga told them that he did not keep such documents at his home, the three soldiers left threatening to return, which would be “worse for him than ever”.

### The Serge Maheshe outrage

Then came the murder of Serge Maheshe, news editor at the local office of *Radio Okapi*, on the evening of 13 June 2007. The respected journalist left the office that day with his friend Serge Muhima, and went to the home of Alain Mulimbi Shamavu, to make final arrangements for the marriage of Shamavu in two days time. At about 9pm, the three men passed the big red gate of the home of the bridegroom to be, on Avenue Saïo, a road overhanging one of the bays formed by Lake Kivu, leaving the “Red Lights” crossing and leading to the “Peace Corps” in the Ndendere district. The 4X4 vehicle marked with the UN emblem that Serge Maheshe used to get around the city was parked about 30 metres away.

While the three friends chatted in the dark, three men in plain clothes, one of them armed with an AK-47, passed in front of them. A few seconds later, two of them doubled back and ordered them to lie down on the ground. The third man remained a little further away, about 100 metres from the small group. Serge Maheshe protested, asking why they had to obey. The two men repeated their orders more firmly, while the *Radio Okapi* journalist, in line with the security pro-

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cedure he had been taught, tried to use his Motorola walkie-talkie to contact Monuc. A first bullet immediately hit him in the leg and the journalist collapsed. His terrified companions both hid. Serge Muhima jumped into the ravine opposite and Alain Mulimbi crawled under the vehicle, while hearing their friend tell their attackers that they could take what they liked, his money and his telephone. Another shot rang out and Serge Maheshe fell silent. Hidden under the UN-marked 4X4, Alain Mulimbi felt one of the men trying to pull him out by his feet, which he resisted as much as he could. Then he heard a third shot fired at this friend. The armed men then left without hurrying. As calm returned and their assailants disappeared, Alain Mulimbi got out from under the vehicle and called his two friends. Serge Muhima was safe, hidden in the undergrowth, but Serge Maheshe, was lying on the earth road in a pool of blood, delirious and moaning after being hit by two bullets in the chest.



The gateway of Alain Mulimbi's home and the street on which Serge Maheshe was shot dead

Neighbours, including a doctor, who had heard the shots, quickly came to the assistance of the three men who immediately took their dying friend to the general hospital in Bukavu. As emergency room doctors tried to help Serge Maheshe, Serge Muhima phoned Monuc, as well as the UN Department of Security and Safety (UNDSS), responsible for protecting UN staff. A few moments later he returned to where Alain Mulimbi and Dr Zozo Musafiri were waiting for him and they told him that Serge Maheshe, aged 31, married and the father of two children, had died of his wounds.

### A disastrous trial

The following morning, Bukavu police sealed off the district in which the murder took place. At the Bijido military camp, some 30 metres from the scene of the crime, police hastily arrested Corporal Katuzelo Mbo and Sgt Arthur Bokungo Lokombe (one a member of the Naval Force and the other a member of the army rapid intervention group in Sud-Kivu), along with 17 other people, eight of them women, for "illegally possessing weapons". All were taken before the same court that evening within a "flagrancy procedure", according to the provincial governor, Célestin Cibalonza. The two main suspects denied all involvement in the murder. The family of Serge Maheshe did not attend because they were busy organising the journalist's funeral.

Serge Muhima and Alain Mulimbi were summoned as witnesses. They were confronted, during a reconstruction of the crime on 15 June, 48 hours after the killing, with the two soldiers suspected of having at the very least recently fired their weapons. Serge Muhima told the defence lawyer that he recognised the "voice and the gait" of one of them, identified as being the one who fired. The man immediately leaned towards him and said angrily in Swahili: "you say you recognised us. Watch out for yourself. We will be getting out of here!" ("Yo olobi omnaki biso awa? Ok, keba nayo, toko bima!").

The following day, as a huge crowd gathered at the "Brasserie" or "Kilometre 4" cemetery on the slope of the hill, Serge Muhima and Alain Mulimbi were held at the headquarters of the military inspectorate, where the investigation continued. In tribute to Serge Maheshe, all the city's radio stations took their usual morning programmes off air, replacing them with religious music.



Serge Maheshe



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Kept at the military inspectorate of Sud-Kivu's 10th military region, on the pretext that the murder weapon had been "military", the procedure was evidently tainted from the start. "No cross examination, no right to defence, no forensic evidence from the scene of the crime or the weapon used, no protection of witnesses, mixing the case in with routine arrests, all amounted to a judicial procedure that was far from credible", Reporters Without Borders said.

But the most astounding development had yet to come. On 30 June, Serge Muhima and Alain Mulimbi were placed in custody by the Bukavu military inspector, after being "invited" by a soldier to join the investigators to hear about supposed "new developments". In fact, the new development was that the military inspector's services had unearthed two civilians, known for petty crime in the poor neighbourhood of Kadutu. The two men, Freddy Bisimwa and Mugisho Mastakila, claimed to have recognised "Ka Serge" and "Doctor Alain Mihigo", saying that the two friends had planned the murder of the journalist, promising them 30,000 dollars and an air ticket for South Africa if the operation succeeded. Serge Maheshe's two friends did their best to claim their innocence and to insist that they had never seen the two "suspects", but they were forced to spend the night at the military inspectorate "for the needs of the investigation", before being allowed to see their families, to be once again faced with the alleged "killers" and placed in custody in Bukavu central prison.

From this time on, despite doubts still expressed to this date by the higher military inspectorate in Bukavu to the Reporters Without Borders' delegation, the procedure lurched from irregularities to dramatic turnarounds. The story given by Freddy Bisimwa and Mugisho Mastakila, maintaining confusion about the full name of "Alain" whom they allegedly "recognised", providing inconsistent versions of events and proving incapable of putting forward any motive or supporting evidence, was however taken sufficiently seriously by the military investigators to be accepted as damning evidence against the victim's two friends, despite their denials and alibis.

"We identified the murder weapon and those who fired the fatal shots. They killed and then robbed Serge Maheshe. We took them before the court and they were convicted. Despite all the negative noises around the trial, all that is absolutely certain", Captain Dieudonné Kabembe, Bukavu's deputy senior military inspector told Reporters Without Borders.

Despite the flimsiness of the case, the trial of the "alleged killers" of Serge Maheshe — the two civilian accusers, a handful of "accomplices" and the two soldiers arrested the same day — opened before the Bukavu military court in July 2007. Presided in confusion by a military judge, the hearings trundled on until 28 August, when there were further procedural violations. On that day, the court sentenced Freddy Bisimwa and Mugisho Mastakila to death for the "murder" since the court had material evidence linking them to murder weapon and the phone that was stolen from the victim. But the court also passed the death sentence against the two friends of the victim and eye witnesses to the killing, Serge Muhima and Alain Mulimbi, for "criminal conspiracy" despite the existence on the court's own findings of "shadowy areas". The verdict was pronounced based solely on the "confessions" of the two "gunmen", without advancing any motive or serious concrete evidence. The eight other defendants, accused of implication in the murder to varying degrees, were acquitted or condemned for related offences. The two soldiers who had been initially accused of being the killers, and of whom Serge Muhima had recognised the "voice and the gait" during the reconstruction, were also cleared of any involvement in the killing, despite the fact that one of them was sentenced to six months in prison for "destruction of a weapon" after having sawn off the barrel of the sub-machine gun supposedly used in the killing. Another civilian defendant was sentenced to six months in prison for escaping at the start of the investigation.

The verdict was received with stupefaction in Bukavu, at *Radio Okapi*, within Monuc and among international observers of the Congolese transition. "We never thought the military court in Bukavu would go so far in incoherence and denial of justice," Reporters Without Borders said at the time.

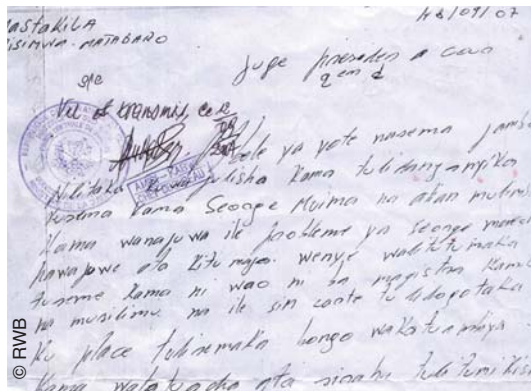
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#### A coup de theatre, an appeal and some mysteries

One month later there was a complete turnaround. Freddy Bisimwa and Mugisho Mastakila wrote a letter, in Swahili, from prison on 8 September 2007, of which Reporters Without Borders has a copy, in which they accused two military judges by name of having bribed them to accuse the two friends of the murder, saying they were provided with compromising material evidence, to support the scenario. In the same letter, authenticated by their finger prints, they said that Serge Muhima and Alain Mulimbi were innocent and called for the two to be released. The letter went on to say that the judges had given them the victim's SIM card from his mobile phone, as well as the murder weapon, promising them a quick release and a regular income in exchange for their false testimony. The reaction of the authorities in Kinshasa was clear. Justice minister at the time, Georges Minsay Booka told Reuters that he had no plans to intervene, considering that the "innocent ones [had] been released and the guilty convicted".



The letter written by Freddy Bisimwa and Mugisho Mastakila

However, a serious incident that occurred just a few weeks before the murder was never investigated. Two soldiers of the Republican Guard army corps in Bukavu, attached at the time to the presidential guard, on 6 May badly mistreated and seriously threatened Serge Maheshe near his home after he intervened between them and his cousin who had just arrived on a visit. The soldiers had forced the visitor to his knees and were preparing to hit him, when Maheshe intervened. He heard them say that he was "nothing [to them]" and that they had already "beaten up more impor-

tant people". According to what Serge Maheshe himself said in an email that Reporters Without Borders has a copy of, the soldiers handcuffed him and threatened him for an hour, telling him that they could "shoot him and that nothing would happen, not even an investigation". The incident ended when an officer and then the governor intervened and apologised to the journalist. Despite this, the two Republican Guard soldiers continued to intimidate Serge Maheshe over the following days, while he approached everyone in authority he could find to seek protection for himself and his family. "Monuc should blame the Republic Guard if anything should happen to me or a member of my family" the journalist said in his message. Despite an apology from the captain of the elite corps, three days later, and a promise that the two soldiers would be held "for several days", there was never any official investigation of the incident.

"I accept that, after the trial in the lower court, there was need for a correction", Captain Kabembe admits to Reporters Without Borders today. It was against this background that an appeal by Freddy Bisimwa and Mugisho Mastakila, as well as Serge Muhima and Alain Mulimbi, opened in Bukavu on 6 February 2008. After a series of hearings, each as badly conducted as in the lower court, the appeal court on 21 May ended by acquitting the two friends of the victim, ruling that there was no proof of their involvement. The court, however upheld the death sentence against Freddy Bisimwa and Mugisho Mastakila, sentenced for "murder" in the course of "assisting a robbery", while dropping the "murder" charge initially brought against them. The court also sentenced to death a third civilian, who had never been mentioned before, Patient Bisimwa, for "criminal conspiracy". This man was presented as an accomplice of the two killers, although the public ministry had not called for any sentence against him. As for the Congolese state, also facing proceedings, it was cleared of all responsibility. With this vague verdict, the case was officially closed.

Since then, the civil authorities say they have learned a lesson from this fiasco. "I have explicitly demanded that the mistakes made in the Maheshe case should not be repeated in the

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Namujimbo case. And that we should not renew these hasty accusations”, deputy governor, Jean-Claude Kibala said.

### Civil justice versus military justice

The authorities had everything to prove as a result, after the murder of Didace Namujimbo. Immediately after the discovery of his body, on 22 November 2008, Bukavu prosecutor Jacques Melimeli opened an investigation. The same day, considering that “the cycle of violence against journalists is fed on impunity assured to the killers and to the investigators of murder through sham trials” Reporters Without Borders’ partner organisation in the DRC, Journalist in Danger (JED), called for a joint investigation with Monuc to ensure the reliability of investigations. The UN body immediately said it was ready to cooperate with the Congolese police and judicial authorities. But on 2 December, yet again on the pretext that the murder was of “military origin”, the investigation was entrusted to the garrison’s military investigators. So, yet again, the civil justice system handed over the investigation to military justice.



Bukavu’s senior military inspectorate

This transfer, identical to the Kabungulu and Maheshe cases, is based on Article III of the military judicial code, laying down the competence of military jurisdiction in the case of the use of a “weapon of war”, whether or not those responsible for the murder are in the military. “The cartridges found at the crime scene came from a kalashnikov”, a Congolese officer told *Agence France-Presse* on the day the investigation was handed over. “In addition military judges have better knowledge of ballistics”, added Jacques Melimeli to justify his

decision. On his part, the deputy senior military inspector met by Reporters Without Borders, Capt. Dieudonné Kabembe, said he thought the transfer was logical and justified. “The report of the forensic scientist said that the murder had been committed with an AK-47. I am therefore perfectly happy with the idea” that the investigation should come back to the military inspectorate. Even the lawyer for the Namujimbo family, Joel Mapatano Karume, said that he did not see any “draw-back” in the case being in the hands of military justice.

Despite this, the organisation Protection International plans to appeal against it, along with local NGOs, in the name of unconstitutionality. The organisation described the transfer as synonymous with “confiscation”. In support of its objection, the network of experts and trainers, which has worked for several years on security issues for Bukavu’s journalists, evoked Article 156 of the Congolese Constitution, that carries greater weight than the military judicial code. According to fundamental law, military jurisdictions are competent to try offences committed by members of the armed forces and the national police. On the contrary, a trial of civilians is therefore not within the competence of military courts. Whereas, at the time the file was transferred to the military inspectorate, no suspected had been identified, neither civil nor military. “Thus, the sole fact of having been killed by a bullet should not justify the transfer of the file”, said Sophie Roudil, co-ordinator of the organisation in the DRC.

This position is shared by Bukavu’s civilian authorities, which approved the transfer of the file to military justice, but who said they had “decided not to completely let go of its control over the case”. Sud-Kivu’s deputy governor said, “the verdict will be handed down by military justice, but the investigation could perhaps be led by another authority, including civil justice”. This reading of the situation was behind the creation, at the initiative of the governorate, of a monitoring committee in the Namujimbo case, grouping the National Intelligence Agency (ANR), the directorate general of migration (DGM), the army, the state prosecutor and Monuc, under the authority of the governorate.

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The deputy to the superior military inspector assured Reporters Without Borders that there would be “close co-operation” with Monuc on human rights issues, saying he wanted to “emphasise transparency and having hidden nothing”. For all that, the inspectorate did not hide its mistrust of Monuc, which, through its head of Bukavu’s human rights section, Luc Heikenbrant, condemned the fact that the military had taken over the file. In Kinshasa, Kevin Kennedy told Reporters Without Borders that he was worried by the “lack of investigative capacity on the part of the Congolese justice system”.

### Four months later

“We call on the civilian and military authorities to do everything to ensure that those responsible for this murder are quickly found, and that this time, they are punished”, head of personnel for Monuc in Bukavu, Dédi Furume, clearly said at the funeral of Didace Namujimbo. What is not sure is whether he was heard.

The day after the opening of the investigation, on 23 November, Sud-Kivu’s provincial police inspector, Gen. Gaston Lunzembo, said publicly that the investigation was “on the right lines”. “According to the investigations under way and the few witnesses who have been interviewed, it has been demonstrated that the victim was targeted and that his assailants knew him very well”, he said. “While it is still preliminary, we will keep it confidential, at our level. Let us allow the investigators time to dig further. And the rest, when the time comes, we will tell you what it is about. Since there is full cooperation with Monuc, we also want to ask the public to co-operate with the police, because, without this cooperation, it will be difficult to find the culprits”. The general’s optimism did not however dispel fears about the conduct of the investigation that often appeared amateurish.

Such was the case when, after the discovery of the body of Didace Namujimbo, the crime scene was not sealed off. Pictures taken on the morning of Saturday 22 November, and witness accounts gathered by Reporters Without Borders indicated that the body was

touched, moved and that scores of curious bystanders trampled over the crime scene. A cartridge was “found” by someone on the spot, just a few metres from the body, on a heap of sand in the garden of the house in front of which the journalist was killed, although there was no proof that it had any link with the bullet fired. The post mortem examination carried out by the forensic scientist, Xavier Mampengu, made no mention of it. Four months after the killing, there was no material evidence in the file indicating with any certainty that the bullet that killed Namujimbo really came from an AK-47, something which most of those involved in the investigation had taken for granted.



Didace Namujimbo

Five people were arrested between the end of November 2008 and mid-February 2009: three soldiers, a discharged soldier and a young woman. All of them were then cleared thanks to checks on their mobile phones, obtained from Zain, Vodacom and CCT (Congo China Telecom). To date, the “chief suspect” is Satulungu Milabyo, a nurse at Bukavu’s military hospital, suspected of involvement because of a phone call he received after the murder, on Saturday 22 November, from the Namujimbo’s CTT number. Several other phone conversations were recorded using the same number. The second person to be arrested was a family member of Lieutenant Satulungu, who had arrived the day before the murder in the Minova area (150 kilometres from Bukavu). The inspectorate also made an arrest in Goma, the main town in Nord-Kivu province, of a young woman who had never had any previous phone contact with Didace Namujimbo, but who, after his death, had frequent conversations with one or the other of his phones. Finally, a

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soldier, and a demobilised soldier were arrested in Ciriri, a district in the Bukavu outskirts, and a Kamituga (145 kilometres from Bukavu). Questioning of all these suspects is “ongoing”, the investigators said.

The work of the military inspectorate has apparently also been obstructed by Vodacom, which did not cooperate satisfactorily with investigators, in that it provided falsified telephone statements, preventing the identification of the alleged “No 1 suspect”, who could have been the instigator of the killing.

### Bukavu, an open city?

Didace Namujimbo killed instantly with a bullet in the neck, Serge Maheshe with a burst of fire into his chest, Pascal Kabungulu in front of his children in the middle of the night... Two journalists from the very influential *Radio Okapi* and a regional NGO’s best known investigator were killed with impunity in the space of two years. Similar crimes are an almost daily occurrence in Bukavu. Sometimes carried out by men in uniform, using AK-47s of unknown provenance, in exchange for a fistful of dollars or a service rendered. “I have seen with my own eyes, in a village not far from here, 17 kalashnikovs stocked in the home of an ordinary citizen, who was keeping them in case he needed money”, one journalist told Reporters Without Borders. Bukavu is a city when one can get killed, at night, by one or two men, with a bullet which was intended for the war.

This is also the final argument systematically made by Bukavu’s military authorities to reject the theory that there could be motives aside from common crime behind the murders of Didace Namujimbo and Serge Maheshe. “There is a tendency here to think that each time there is a murder, that there is necessarily an instigator”, the deputy superior military inspector said. Certainly, Bukavu is a violent city. Several murders were committed shortly before the Reporters Without Borders’ delegation arrived. On 11 December, keyboard operator Séguin Tshisekedi, working for the International Rescue Committee (IRC), was found shot dead in a side-street in the city centre, as he

was returning home. Proceeds from the murder, if it was simply for theft: 425 US dollars and two mobile phones. Two days later, the body of a soldier from the Navy was mysteriously found at the edge of the city, with his pockets emptied. In the same week, police recovered a body of another murder victim, near the Alfajiri institute. And these three murders, of which nothing is really known, even months later, are just a few examples. For all that, the outrageous sham of a trial in the Kabungulu and the absurd machinations in the Serge Maheshe murder trial cast serious doubt on the certainties of the military.



It is also true that Bukavu is a dangerous and unstable place where nothing goes to plan. The administration is too often poor and powerless. “Certainly, the insecurity in the region is linked to the disorganisation of the security forces”, the deputy governor of Sud-Kivu admits. “Men who know where to get weapons stoke up the hassles that make up people’s daily lives, illegal taxes, extortion. Armed men live among the citizens and sometimes turn to banditry. It is extremely dangerous”, he told Reporters Without Borders. The sprawling Kadutu slum is a breeding ground for hired killers that is difficult to control. And the civil administration admits that it does not have the means to maintain order. Questioned about these deficiencies by Reporters Without Borders, Jean-Claude Kibala pours out the problems: lack of fuel, transport, rations and money to pay security forces properly and its informers. “There are now no-go areas which are just as dangerous for police patrols” said the young politician, who returned from Germany to take up a position in one of central Africa’s most volatile regions. The “five pillars” programme launched by President Joseph Kabila at the end of

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2007 is today the target of mockery as the “five songs” by many Bukavu residents, who have quickly given way to disillusionment, after voting overwhelmingly for the current head of state at the July 2006 presidential elections.

“A soldier should be paid 36 dollars a month” one local journalist told Reporters Without Borders, speaking on condition of anonymity. “But what happens is that every military official takes his cut, on a variety of pretexts, from food rations, to medical care or purchase of fuel. At the end, a soldier is left with only about 10 dollars in his pocket”. So, according to the expression of Kizito Mushizi, director of *Radio Maendeleo*, “escheated soldiers” can easily be persuaded to earn a bonus of several hundred or thousand dollars by committing a crime that could go as far as murder.



Bukavu

But Bukavu is also a city in which rumours can run wild. The Reporters Without Borders delegation was constantly given more or less well supported hypotheses or information that turned out to be false when checked out. “Everyone tries to understand what is going on and makes up their own scenario,” said Déo Namujimbo, the brother of Didace. “Unfortunately, this thirst for explanations and marketplace gossip only make things worse”. It is not unusual for journalists and human rights activists, like Déo, to receive death threat texts from unknown numbers. Against a background of dire poverty, political stalemate, always imminent violence, generalised corruption and circulation of more or less wild rumours, the apparent social success of journalists on *Radio Okapi* made them targets of their fellow citizens for revenge or for

reasons of jealousy. “Nothing can be ruled out, but nothing can really be asserted either” said Déo Namujimbo. “That is what makes this situation so unhealthy and this city more and more unliveable”.

### Conclusion and recommendations

In a fractured city overflowing with guns where the disintegration of the state and the struggle for survival are the daily lot of its citizens, journalists working in Bukavu for *Radio Okapi* are not in the same boat as the others. They get a regular salary in a city where the majority get by on a fistful of dollars a month, and driving around as they do in 4X4 vehicles bearing the emblem of the United Nations, they arouse jealousies, bitterness and hatred. Serge Maheshe and Didace Namujimbo were well known, experienced journalists, who were socially and professionally successful. According to his friends and colleagues to whom Reporters Without Borders spoke, Namujimbo was not working on any sensitive issue at the time of his murder. “He was cautious and he persuaded colleagues to be careful as well”, one of his journalist friends told the organisation. Serge Maheshe was exasperated by corruption and injustice he saw around him and voiced his dismay at the poverty and exploitation. Pascal Kabungulu was an activist, a man of conviction, but given his limited means, he did not expose more than a tiny part of the huge number of scandals that abound in the east of the DRC, with the complicity of powerful and dangerous men.

However different each man’s path was, all three had at least one thing in common: They were all in the position to make enemies, political or otherwise, in a region where indiscretions, whether a sensitive investigation or a success seen as “insolent” can be punished, for a few dollars, with murder. And if the city of Bukavu is gripped by uncontrollable violence, or at least uncontrolled violence, it is precisely because the civil and military authorities, through at best amateurism and corporatist reflexes, or at worst the determination to hide a reality that could implicate them in the murders, have proved incapable of doing them justice by ensuring that the truth comes out.

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Reporters Without Borders therefore recommends:

- **That the government of the Democratic Republic of Congo** finally takes note of the failures in the Kabungulu and Maheshe cases and the concerns surrounding the investigation into the killing of Didace Namujimbo. The authorities in Kinshasa should, as a result, set up a special judicial commission with the job of shedding light on the murders of journalists and human rights activists in Bukavu, and involving civil Congolese justice, Monuc and local press freedom organisations. This special commission, mandated by the president, should have wide powers of investigation, including within the security forces.
- **That the governorate of Sud-Kivu** continues to show realism and rigour in managing security cases and political murders, and to insist on its rights with the military authorities if need be. The governorate should also closely monitor the sessions of the monitoring committee it has put in place and

ensure complete transparency on the content and functioning.

- **That the Congolese Army** stop taking over investigations that should be carried out into the Kabungulu, Maheshe and Namujimbo cases and, in its own interest, provide the necessary co-operation to independent investigators who could be given responsibility for investigations.
- **That the UN** should stress more firmly Monuc's mandate with the Congolese authorities in connection with the protection of human rights and of its staff.
- **That Monuc should**, in co-operation with journalists in Bukavu and specialist international organisations, ensure that security measures are fully appropriate to the situation in the region.
- **That journalists in Bukavu** continue to show the greatest professionalism in the exercise of their jobs, despite the difficulties, and the utmost caution in their daily lives.