



For release on August 4, 2017

African Commission: Landmark \$2.5 Million Award to DR Congo Massacre Victims

Anvil Mining rebuked for its role in Kilwa killings; New criminal investigation ordered

(Banjul, The Gambia, 4 August, 2017) – The African Commission on Human and Peoples’ Rights has [found](#) the government of the Democratic Republic of Congo responsible for the 2004 massacre of over 70 people in Kilwa, in the southeast of the country, and granted landmark compensation of US \$2.5 million to the victims and their families, three human rights groups who initiated the complaint said today.

An Australian-Canadian mining company, Anvil Mining, who operated a copper and silver mine at Dikulushi, 50 kilometres from Kilwa, was publicly rebuked for its role in the violations, which included providing logistical support to soldiers who indiscriminately shelled civilians, summarily executed at least 28 people and disappeared many others after a small group of lightly armed rebels tried to take control of the town. The Commission urged the Congolese government to launch a new criminal investigation and “take all due measures to prosecute and punish agents of the state and Anvil Mining Company staff.”

The complaint on behalf of 8 of the victims was brought to the African Commission in November 2010 by UK-based Rights and Accountability in Development ([RAID](#)), Congo-based Action Against Impunity and Human Rights ([ACIDH](#)) and the Institute for Human Rights and Development in Africa ([IHRDA](#)), based in Banjul, Gambia. The Commission communicated its decision to the parties in French last month.

“The Commission’s decision is an extraordinary victory for the Kilwa victims who have long sought justice for what they endured at the hands of government soldiers and Anvil Mining who assisted the army,” said Anneke Van Woudenberg, the Executive Director of RAID. “The Congolese government should fully implement the decision, pay the compensation and issue an apology to the victims as the African Commission has recommended.”

In a ground-breaking decision, the Commission found the Congolese government had violated nine human rights provisions of the African Charter, including extrajudicial executions, torture, arbitrary arrests, disappearances and forced displacement, amongst others. It awarded the 8 victims named in the complaint US \$2.5 million, the highest ever award by the African Commission. It urged the Congolese government to identify and compensate other victims and their families not party to the complaint who were also directly affected by the attack.

The Commission said the Congolese government should formally apologize to the people of Kilwa, exhume and re-bury with dignity the bodies dumped in a mass grave, construct a memorial, provide trauma counselling for those affected and rebuild the schools, hospital and other structures destroyed during the attack.

It requested the Congolese government to report back to the Commission within 180 days (or by December 17, 2017) on what action it has taken to implement its recommendations.

“The African Commission has set a far-reaching new precedent with this decision,” said Gaye Sowe, IHRDA’s Director. “This decision covers not only compensation for the direct harm the victims suffered, but also acknowledges the needs of the larger Kilwa community so terribly affected by the massacre.”

The decision followed a 13-year legal battle for justice by the victims and their families, who have still not seen any soldier or company official brought to justice. The Commission found senior Congolese officials had interfered in the judicial process in Congo and failed to ensure the victims had impartial and independent justice.

The Commission was particularly scathing about the Congolese military trial held in 2006 which dropped charges against three Anvil mining personnel and exonerated Col. Ademar Ilunga, the commanding officer in charge of the soldiers at Kilwa. In its verdict, the Congolese Military Court had sought to justify the soldiers’ abuses on the grounds the people of Kilwa supported the rebels.

“Aside from the utter improbability of this hypothesis, nothing justifies the indiscriminate bombing and extra-judicial executions of numerous individuals including women and children,” the Commission said in its decision. It added: “Given the flagrant and public nature of the facts, it was simply impossible to sustain the erroneous conclusion that the entire civilian population had been party to the conflict and not a single extra-judicial execution had taken place.”

Anvil Mining began to work the Dikulushi mine in 2002. It evacuated many of staff from the mine following the minor uprising in Kilwa and provided an aeroplane and vehicles to transport some 150 soldiers to Kilwa.

In 2010, the Dikulushi mine was sold to [Mawson West](#), a small Australian mining company. In January 2015, Mawson West stopped industrial production at Dikulushi, stating the mine was no longer economically viable.

The African Commission is a quasi-judicial body of the African Union tasked with promoting and protecting human by interpreting the African Charter of Human and Peoples’ Rights and considering individual complaints. Its decisions are not formally binding.

“The Congolese government should not turn a blind eye to the human rights findings of its African peers,” said Donat Ben-Bellah, the Executive Director of ACIDH. “The Commission has put the Congolese government on notice that it must address the crimes in Kilwa and finally bring the soldiers and the Anvil Mining staff who assisted them to justice.”

Quotes from two victims who were represented in the African Commission complaint:

Dickay Kikumbi Kunda, whose father, *Pierre Kunda Musopelo*, the police chief of Kilwa, was arbitrarily arrested by the soldiers, held incommunicado for three months and tortured.

“The Kunda family welcomes the decision of the African Commission which at long last has recognized that my father was tortured and forced to live out his days in poverty and pain after his release from arbitrary detention.”

Adele Mwayuma Faray, who lost two of her sons in Kilwa, presumed to have been summarily executed by the soldiers:

“Like other families of the disappeared, we suffered even more because we were denied the right to give our sons a proper burial according to the customs of the Bemba people. The compensation cannot bring them back, but it will help me and my family rebuild our lives. We are profoundly grateful to the African Commission for this decision in our case.”

A Q and A with further background information can be found here: http://www.raid-uk.org/sites/default/files/qa_acphr_decision_on_kilwa_massacre.pdf

The full French African Commission decision is here: http://www.raid-uk.org/sites/default/files/african_commission_decision_on_kilwa_2017.pdf

The English translation of the Remedies section is available here: http://www.raid-uk.org/sites/default/files/achpr_english_translation_of_remedies.pdf