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## **Congolese Military Judge Calls for the Prosecution of Former Anvil Mining Staff for Complicity in War Crimes**

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Lubumbashi, Democratic Republic of Congo (DRC): In an unprecedented move, a Congolese military judge has recommended the prosecution of three former Anvil Mining employees for complicity in war crimes and of Colonel Ademar Ilunga and eight of his subordinates for breaches of the Geneva Convention and its Additional Protocols.

The judge's 12 October decision follows a lengthy investigation into extrajudicial killings, torture, rape and looting carried out by the Congolese Armed Forces two years ago in the town of Kilwa, which is located in the mineral rich Katanga Province, DRC. The crimes occurred during an operation to suppress a small-scale rebellion in Kilwa.

The former Anvil Mining employees include the following individuals:

- Pierre Mercier, a Canadian national, who was the General Manger of Anvil's Congolese subsidiary, Anvil Mining Congo, and also the Deputy General Manager of the Perth-based company, Anvil Mining NL. He is now believed to be working for First Quantum Minerals, which operates the Sakania mine near the Zambian border.
- Peter Van Niekerk and another man identified only as Cedric, both South Africans, who were responsible for security at Anvil's remote Dikulushi copper/silver mine at the time of the incident. Anvil no longer employs its own staff to protect the mine; security has been outsourced to a South African company.

The former employees are accused of having "voluntarily failed to withdraw the vehicles placed at the disposal of the 62nd Brigade in the context of the counter offensive of [15-18] October 2004 to recapture the town of Kilwa" and of having "knowingly facilitated the commission of war crimes by Ilunga Ademar and his men".

The most serious crime, which was carried out by the Congolese Armed Forces, was the summary execution of 20 men and 5 women, none of whom took part in the small-scale rebellion that was the impetus for the military's counter-offensive.

The Military Prosecutor has issued a “*decision de renvoi*” which combines the indictment and the decision to place the accused persons in the hands of a military trial court judge. It indicates that the prosecutor has ended his investigation and concluded that there is sufficient evidence to support the charges.

After Australia’s flagship current affairs programme, Four Corners, exposed Anvil Mining’s role in the Kilwa incident, the company confirmed that it provided “logistical assistance” to the Congolese Armed Forces, but claimed that its vehicles were “requisitioned” and that it effectively had no choice but to comply. Before the expose, Anvil Mining never informed any authorities of the scale and gravity of the incident. The World Bank Group’s Multilateral Investment Guarantee Agency provides the Dikulushi project with political risk insurance.

In June 2005, Australian law firm, Slater and Gordon, acting on behalf of RAID and Congolese non-governmental organizations called on the Australian Federal Police to investigate whether there was evidence of Anvil’s complicity in the commission of crimes against humanity or war crimes under Chapter 8 of the Australian Criminal Code Act of 1995. Australia’s law mirrors the International Criminal Court. In September 2005, Australia’s Department of Foreign Affairs and Trade referred the matter to the Australian Federal Police (AFP). Their investigation is ongoing.

RAID welcomes the military judge’s decision to recommend that Colonel Ademar Ilunga and the other defendants should stand trial for war crimes. It is a significant step in the struggle to end impunity in the DRC.

“A trial conducted in accordance with international standards should proceed as this is the only way of bringing justice to the victims of the Kilwa massacre”, said Patricia Feeney, executive director of RAID. “The precise circumstances in which Anvil provided ‘logistical support’ used by the Congolese military in the terrible events that occurred in Kilwa must be fully investigated and resolved”.

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**Further information:**

Background brief: [http://raid-uk.org/docs/Press\\_Releases/Background\\_Brief\\_15\\_Oct\\_06.pdf](http://raid-uk.org/docs/Press_Releases/Background_Brief_15_Oct_06.pdf)

RAID’s web page for the Kilwa incident:  
[http://www.raid-uk.org/work/anvil\\_dikulushi.htm](http://www.raid-uk.org/work/anvil_dikulushi.htm)

RAID’s June 2005 press release: “Anvil Mining’s Complicity in Congolese Massacre Exposed by Australia’s Flagship Current Affairs Program; Groups call on World Bank to Withdraw Support for the Dikulushi Copper/Silver Mine”.  
[http://raid-uk.org/docs/Press\\_Releases/PR\\_Four\\_Corners\\_Anvil.pdf](http://raid-uk.org/docs/Press_Releases/PR_Four_Corners_Anvil.pdf)