Initiative for the Protection of Human Rights and Social Reintegration
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ADVOCACY NOTE

For the immediate release of four Tenke Fungurume Mining (TFM) workers detained in Dilala prison following the work stoppage of 1 and 2 June 2026

Addressees:

- His Excellency the National Minister of Employment, Labour and Social Welfare
- Her Excellency the Governor of Lualaba Province
- The Urban Labour Inspectorate of Lualaba
- The Public Prosecutor at the Kolwezi High Court (Tribunal de Grande Instance)
- The trade union organisations represented within TFM
- The General Management of TFM and its parent company, CMOC Group
- The financial partners, buyers and funders of TFM
- Human rights and workers' rights organisations

Subject: Prolonged detention of Messrs Papy MUFUNGA, Benjamin BIYA, Christian MUKUBU and Frédéric KINEME, TFM workers, in breach of a non-prosecution undertaking and of Congolese legal safeguards, under case file RMP3354

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1. Executive summary

Since 12 June 2026, four workers of the company Tenke Fungurume Mining (TFM) have been deprived of their liberty in Dilala prison (Kolwezi) for acts attributed to them following a work stoppage that took place on 1 and 2 June 2026 at the Kwatebala site. Yet this work stoppage had been closed by a compromise formalised in a **non-prosecution letter signed by the union bench, TFM and the Labour Inspectorate**.

Nearly five months later, these workers were only brought before the council chamber (chambre du conseil) on 3 November 2026. The charges against them have changed as the case has progressed, no material evidence has been produced even though the company has drones and surveillance cameras, and several colleagues arrested for the same acts have been released.

This note analyses the facts in light of Congolese law and the DRC's international commitments, demonstrates the irregularities observed, and sets out specific demands to the authorities, the company and its financial partners.

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2. STATEMENT OF FACTS

2.1 The origin of the conflict: a failure of union communication

TFM and the union bench met to revise the company collective agreement. At the end of these discussions, **no feedback was given to the workers** by their representatives. Faced with this lack of transparency regarding an instrument that directly governs their working conditions and pay, on **1**

June 2026 the workers stopped work at their workplace to demand that the union bench account for itself.

This was a **spontaneous, peaceful work stoppage in pursuit of demands**, directed not against the employer but towards the union representatives, in order to obtain legitimate information.

2.2 Settlement of the conflict on 2 June 2026

On **2 June 2026**, the employer requested a delegation of ten workers to seek a compromise. An agreement was reached **with no damage and no injuries**. To seal this settlement, **a non-prosecution letter was signed by three parties: the union bench, TFM and the Labour Inspectorate.** The conflict was therefore closed through social dialogue, under the aegis of the competent administrative authority.

2.3 The arrests of 12 and 13 June 2026

Ten days later, on **12 and 13 June 2026**, agents of the SOC security service and of the National Intelligence Agency (ANR) carried out **the abduction of workers at the Kwatebala site between 8 p.m. and 9 p.m.**, in plants 10K, 11K and 15K. Those apprehended were **held in an undisclosed location, without their families being informed**.

For the same acts, some workers were released. Four of them remain incarcerated in Dilala prison:

Name	**Department**
Papy MUFUNGA	Acid Plant
Benjamin BIYA	Maintenance
Christian MUKUBU	Safety / 15K
Frédéric KINEME	Maintenance / Cobalt

2.4 Shifting and unsubstantiated charges

The workers have successively been accused of:

1. Putting out the eye of a colleague, Mr Alex KABULA, an operator at process 11K — without any medical report being produced;
2. Setting fire to an OWO truck located about 30 km from the plant where they were — a truck which, moreover, does not belong to TFM;
3. Destroying the fence on the Mutende side, even though Mutende is about 30 km from the Kwatebala site where the strikers were gathered, and this area is under heavy military and private security surveillance due to the fight against illegal artisanal mining;
4. More recently, **destroying a security Land Cruiser**, a charge that emerged as the case evolved.

In the face of these charges, TFM, which has **drones and a network of surveillance cameras** covering its facilities, **has produced no video, no image, nor even the number of its incident report of 2 June 2026**.

3. Legal analysis

3.1 The lawfulness of the work stoppage under Congolese law

The Constitution of 18 February 2006 (as amended) guarantees:

- **Article 38**: freedom of association (trade union freedom);
- **Article 39**: the right to strike, exercised under the conditions laid down by law.

The Labour Code (Law No. 015/2002 of 16 October 2002, as amended by Law No. 16/010 of 15 July 2016):

- Recognises the right of workers to be informed and consulted on matters relating to their working conditions, in particular through the collective agreement (articles 272 et seq.);
- Organises the settlement of collective disputes through conciliation before the Labour Inspectorate (articles 303 et seq.);
- Specifies that a strike or work stoppage **does not terminate the employment contract** and does not in itself constitute serious misconduct (article 315).

The conflict of 1 June 2026 was settled exactly as the Labour Code provides: through dialogue, with the intervention of the Labour Inspectorate and the signing of an agreement. The fact of having stopped work cannot therefore, in itself, form the basis of any prosecution or sanction.

3.2 The legal value of the non-prosecution letter

The non-prosecution letter signed on 1 June 2026 by TFM, the union bench and the Labour Inspectorate constitutes:

- An act of conciliation within the meaning of the Labour Code, binding on the signatory parties;
- An **agreement** within the meaning of article 33 of the Congolese Civil Code, Book III, which “has the force of law for those who made it”;
- An undertaking by the employer not to prosecute the workers for acts related to the work stoppage.

If TFM is behind the complaints that led to the arrests of 12 June, the company has **breached its own undertaking**, made before a State authority. This breach engages its contractual liability and constitutes a serious failure of good faith in professional relations (article 33 CCL III; articles 7 and 62 of the Labour Code on the performance of the contract in good faith).

3.3 Irregularities in the arrests and detention

a) Arrests by the SOC and the ANR

- The security service of a private company (SOC) **has no status as a judicial police officer** and may not carry out arrests other than in flagrante delicto.
- The ANR is an intelligence service whose judicial competence is **limited to offences against State security** (Decree-Law No. 003/2003 of 11 January 2003). Alleged acts of assault and battery or destruction of property are **ordinary criminal offences** falling under the National Police and the

Public Prosecutor's Office. The intervention of the ANR in a labour dispute is **an abuse of jurisdiction**.

b) Incommunicado detention

Article 18 of the Constitution provides that any person arrested must be **immediately informed of the reasons for their arrest**, must be able to **contact their family or counsel**, and that police custody **may not exceed 48 hours**, at the end of which the person must be released or placed at the disposal of the judicial authority. Detention in an undisclosed location, without informing families, flagrantly violates this provision as well as **article 17** (individual liberty) of the Constitution.

c) Length of pre-trial detention

The **Code of Criminal Procedure** (Decree of 6 August 1959) strictly regulates pre-trial detention:

- It is permitted only where there are **serious indications of guilt** and the acts are sufficiently serious (article 27);
- The officer of the Public Prosecutor's Office must **refer the matter to the judge within five days** of the provisional arrest warrant (article 28);
- The pre-trial detention order is valid for **15 days**, extendable by **a reasoned order for one month**, renewable, with each extension requiring an **appearance before the council chamber** (articles 30 and 31).

A detention running since **12 June 2026**, with a first appearance before the council chamber on **3 November 2026** — nearly **five months** — is, in the absence of regularly ordered and notified extensions, manifestly irregular. Even assuming extensions, the length is **disproportionate** given the weakness of the evidence and the nature of the alleged acts.

d) Presumption of innocence and equality before the law

Article 17, paragraph 9 of the Constitution enshrines the presumption of innocence. Article 12 enshrines the equality of all before the law. Yet:

- Workers arrested for the same acts have been released while four remain in detention, with no known justification for this difference in treatment;
- The charges have changed and become heavier over time, which reveals the absence of a solid initial factual basis;
- The absence of a medical report for the alleged injury, the absence of images despite the surveillance means available, and the physical impossibility of being simultaneously at Kwatebala and Mutende (30 km apart) constitute serious doubts which, in law, must benefit the accused.

3.4 The DRC's international commitments

The DRC has ratified:

- ILO **Conventions No. 87** (freedom of association) and **No. 98** (right to organise and collective bargaining), under which the Committee on Freedom of Association has consistently held that the arrest and detention of workers for their participation in a peaceful strike constitute a serious violation of freedom of association;

- The International Covenant on Civil and Political Rights (article 9: prohibition of arbitrary detention, right to trial within a reasonable time or to release; article 14: presumption of innocence);
- The African Charter on Human and Peoples' Rights (articles 6 and 7).

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4. Use of criminal justice for intimidation purposes

The sequence of events — an amicable settlement under the aegis of the Labour Inspectorate, followed by arrests ten days later by non-competent services, incommunicado detention, selective releases, shifting charges, lack of evidence despite available technical means, and five months without a court appearance — outlines the profile of an **instrumentalisation of criminal procedure to punish a social movement** and deter any future demands.

The continued detention of four workers has a **chilling effect on the entire workforce** of TFM and undermines the company's social climate. It directly contradicts the image of a "responsible company" that TFM claims and exposes the company, as well as its parent company and partners, to a significant **reputational, legal and commercial risk**.

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5. Accordingly, IPDHOR Demands:

5.1 To the judicial authorities (Public Prosecutor's Office and Kolwezi High Court)

- **Order the immediate release** of Messrs Papy MUFUNGA, Benjamin BIYA, Christian MUKUBU and Frédéric KINEME, in the absence of serious indications of guilt and given the irregularity of the detention;
- Verify the regularity of every procedural act since 12 June 2026 (warrants, orders, extensions, notifications);
- Require the complainant to produce the medical report, the drone and camera images, and the incident report of 2 June 2026;
- Open an investigation into the circumstances of the arrests of 12 and 13 June 2026, in particular the incommunicado detention and the role of the SOC and the ANR.

5.2 To the Labour Inspectorate and the Ministry of Employment and Labour

- **Enforce the non-prosecution letter** of 1 June 2026, of which the Labour Inspectorate is a signatory and guarantor;
- **Launch an administrative investigation** into TFM's conduct towards the workers who took part in the work stoppage;

5.3 To the Provincial Government of Lualaba

- **Intervene with the security services** to end the involvement of the ANR in labour disputes;
- **Convene a tripartite meeting** (Government, TFM, unions) to restore trust and guarantee that no worker will suffer reprisals.

5.4 To TFM and CMOC Group

- Withdraw any complaint based on acts covered by the non-prosecution letter;
- Produce publicly, or failing that before the judge, the alleged evidence: images, videos, medical report, incident report of 2 June 2026;
- Restore the workers' rights (wages, seniority, benefits) upon their release;
- Guarantee in writing that no reprisals will be taken against participants in the movement of 1 June 2026.

5.5 To the trade unions represented within TFM

- Fully assume their role in defending the detained workers, in particular by retaining lawyers and following up on the proceedings;
- Report to the workers on the content of the negotiations on the collective agreement, the original cause of the conflict.

5.6 To TFM's financial partners, buyers and funders

- Question TFM and CMOC on the compliance of these practices with their human rights commitments: the United Nations Guiding Principles on Business and Human Rights, the OECD Guidelines, the IFC Performance Standards (Standard No. 2 on Labour and Working Conditions), and the ICMM and Responsible Minerals Initiative standards;
- Make the continuation of business relations conditional on the release of the workers and the establishment of safeguards against anti-union reprisals;
- Activate their grievance and due diligence mechanisms in this case.

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6. Conclusion

Four workers have been deprived of their liberty for nearly five months for taking part in a peaceful work stoppage whose outcome had been sealed by an agreement signed before the Labour Inspectorate. The charges against them are shifting, unsubstantiated and materially doubtful. The proceedings have disregarded the time limits and safeguards laid down by the Constitution and the Code of Criminal Procedure.

Congolese law is clear. It guarantees freedom of association, the right to strike, the presumption of innocence and the prohibition of arbitrary detention. We call on the institutions of the Republic to enforce it, on TFM to honour its signature, and on TFM's partners to exercise their responsibility.

The release of Papy MUFUNGA, Benjamin BIYA, Christian MUKUBU and Frédéric KINEME is not a favour: it is a requirement of law.

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Done at Kolwezi, on 05/11/2026

For IPDHOR;

Executive Director, Léonard ZAMA

Annexes to be attached

1. Copy of the non-prosecution letter of 2 June 2026
2. Nominal list of the workers arrested on 12 and 13 June 2026, indicating those released and those still detained
3. Testimonies from families on the lack of information at the time of the arrests
4. Any procedural act notified to the detainees or their counsel
5. Memo and List of Demands (Cahier de revendications)