

## **CONGO-BRAZZAVILLE:**

### **Miscarriage of justice against Modeste Boukadia, president of the Circle of Democrats and Republicans of Congo (CDRC)**

We all remember the arrest of Modeste Boukadia, President of the Circle of Democrats and Republicans of Congo (CDRC), on January 15th 2016 as he stepped off the plane at the Brazzaville airport at 18:30 that evening. The Hollywood movie style arrest was not publicised in the media, (especially in France which raises questions), as he was so impressively "welcomed" by 1900 soldiers and police officers, not to mention the 10 armoured vehicles and helicopters circling above Maya Maya airport. It was as if they were expecting a military attack or a terrorist leader when President Boukadia was only returning home to the country of his birth.

Mr. Boukadia was reproached for the crime of organising an authorised meeting in Pointe-Noire on June 29th 2013 during which he requested the formation of a national unity government and informed the segregationist clan authority that if Mr. Sassou Nguesso modified the 2002 constitution to allow himself to run for office again in July 2016, he would request the division of the country into two states: the state of North Congo and the state of South Congo. This, because of the ethno-tribal clan-based regime that was instituted by General Sassou Nguesso after his coup d'état in June 1997 and the war he waged against civilians from 1997 to 2005 after the establishment of Tribal/clan segregation and the monopoly of civil and military posts in favour of people from the north of the country. This is Modeste Boukadia's alleged crime, the crime of using his freedom of opinion and expression in relation to the history of his country.

As a consequence of this meeting in June 2013 to request a national unity government between the North and the South, which in itself implies a fair sharing of power with the cessation of the current government and discrimination, 28 members and executives of the CDRC were kidnapped from their homes and thrown into prison in Pointe-Noire on August 21st 2013. They were sent directly to the Court of Appeal [i] on April 9th 2014 to be judged without even standing trial in a Court of First Instance or criminal court, and were given 2 - 7 year prison sentences for brandishing placards which read "Red Card", "The Government ought to resign", and "National Unity Government". President Boukadia was exfiltrated to France on September 5th 2013 and sentenced in absentia on April 9th 2014 to 30 years hard labour for these same actions; a concept previously inexistent in Congo [ii].

Today, no one really knows if Mr. Boukadia's companions are still alive especially as they were split up and incarcerated as hostages in the prisons in the North. Those with 2 year sentences which should have ended on August 21st 2015 have still not been freed. What does the rest of the world deduce from this mafia-like behaviour and the level of silence and complicity? How do you explain the lack of media coverage, almost a political statement in itself, outside of underground collusion?

After exhausting every possible legal recourse with the highest Mbochi authorities, stating the weakness of their arguments, President Boukadia informed the international authorities and organisations of the lawless situation at Brazzaville in the arrest of his party members without just cause, calling upon the UN and the Human Rights Commission in October 2013. The Commission issued its conclusions on November 29th 2014 via an opinion in which it recognised the arbitrary detention of the 14 prisoners contrary to the most fundamental regulations of International Law and requesting that the situation be resolved.

### **What was the opinion issued by the Human Rights Commission?**

The United Nations Working Group on Arbitrary Detention opinion is an enforceable supranational decision, as is stipulated in point 38 of said opinion which was adopted during the 71st session No. 22/2014 held November 17th to 21st 2014 (Republic of Congo), which states: “**Consequently, the Working Group implores the Government of the Republic of Congo to release these persons without further delay...**”, among other things. Note that the verb “implore” is here employed as litotes, a figure of speech and and attenuation which serves as a way of communicating more by saying less, implying an order that is worthy of execution between high quality moral entities without need for revisiting the matter except by practice of casus belli.

The President of the United Nations Human Rights Council for Central Africa, Mrs. Florengel, reminded Brazzaville of this on February 1st 2016 during her speech.

Since the arrest and imprisonment of President Modeste Boukadia on the 15th of January, the RESEAU CONGO-MFOA team has learned that a meeting was held in Brazzaville at the Ministry of Foreign Affairs and Cooperation on February 3rd 2016 with “**Allegation of arrest of political opposition: Boukadia case**” as the item on the agenda. The meeting was called by Mr. Cyprien Sylvestre Mamina, the Secretary-General of the Ministry of Foreign Affairs and Cooperation. Attached is the fax currently in our possession confirming the holding of this meeting and the veracity of these facts.

### **Conclusion reached:**

*“Immediate release of Modeste Boukadia and all the members of his party. This is accompanied by a prohibition to leave Congolese territory until further notice for Modeste Boukadia”*, note that this prohibition is still arbitrary!

For this reason, the United Nations have declared that if the Republic of Congo does not comply, the UN will apply law 196 of the Lomé Convention, namely economic and financial sanctions.

Despite the decision taken during the meeting on February 3rd 2016 referenced above, the Attorney General of Pointe-Noire, Mr. Norbert Koukouli has rejected the UN opinion, viewing it as advisory.

According to the information received from the Public Prosecutor's department in Pointe-Noire, he refuses, under orders from Dennis Sassou and the Lord Chancellor, Mr. Aimé Emmanuel Yoka, to release Modeste Boukadia and the 14 members of his party, thus going against International Law by overriding the decision of his superiors and requesting in his closing speech that President Modeste Boukadia be kept in custody. This request is based on the same reasons that were rejected by the UN being dilatory actions coming from the highest level of government, in this case, Mr. Sassou Nguesso himself and his uncle Mr. Aimé Emmanuel Yoka who serves as Lord Chancellor, Minister of Justice and Human Rights, and the Mbochi MP for the Pool region in the Vindza district.

Furthermore, the President of the Court of Criminal Appeal would have a lot of difficulty bringing magistrates together to give a court decision concerning the case of Mr. Modeste Boukadia.

Thus, Modeste Boukadia's lawyer [iii] informed his client's wife that no magistrate from the North or the South wants to preside over his case. The magistrates from the north would refuse under the pretext that they do not want to be accused of judging a political leader from the south. Those from the south would respond that they do not want to judge one of their own. The segregationist justice of this country doesn't even follow the same ethics that it professes anymore. (§ article by Daniel Nkouta referenced in Note ii)

For the time being, the Crown prosecutor Mr. David Osseke, representative of the authorities of Oyo, has yet to speak on this case which evidences a miscarriage of justice against President Modeste Boukadia which Sassou admits and says "it's complicated!". This is a huge admission which shows to what extent the segregationist clan president is caught between his Mbochi clan and President Boukadia who he knows is in the right based on his statement. The only solution for Denis Sassou is to order the release of Modeste Boukadia so that things can stop being "complicated", especially for him!

### **Reminder:**

President Boukadia has not called for a popular uprising.

President Boukadia has never called for war. He has never shed any blood in Congo, seeing as he has saved the life of his current persecutor.

### **Conclusion**

The RESEAU CONGO-MFOA team is calling for the Congolese people, the International Community, and all who are willing to intervene with the Congo-Brazzaville authorities who are disregarding the decision of the UN, a supranational institution, so that Modeste Boukadia and the

14 members of his party who have been languishing in prison since August 21st 2013 can be released immediately.

Paris, February 13th 2016

**On behalf of the RESEAU CONGO-MFOA team**

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[i] Only in Congo-Brazzaville is it possible to send a person directly to the Court of Appeal without even going through criminal court as in this case, and without the individual even being able to submit at appeal. This is the dictatorial, apartheidist regime that Mr. Sassou Nguesso has established in Congo-Brazzaville.

[ii] <https://blogs.mediapart.fr/jecmaus/blog/060116/congo-brazzaville-la-condamnation-par-contumace-de-m-boukadia-est-une-honteuse-bavure-judiciaire>

<https://blogs.mediapart.fr/jecmaus/blog/220116/congo-brazzaville-le-transferement-de-modeste-boukadia-la-maison-darret-de-pointe-noire-est-une-seconde>

[iii] Maître Magloire Senga, tel. +242 06 974 58 81.