

UNITED NATIONS SECURITY COUNCIL



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Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the Security Council the following report from his Special Representative in the Congo regarding certain actions taken against Mr. Patrice Lumumba. He transmits simultaneously as annexes to this report two messages which he has sent to Mr. Joseph Kasa-Vubu regarding this matter.

REPORT TO THE SECRETARY-GENERAL FROM HIS SPECIAL REPRESENTATIVE IN THE CONGO REGARDING CERTAIN ACTIONS TAKEN AGAINST MR. PATRICE LUMUMBA

1. Since the attempt to arrest Mr. Patrice Lumumba by the ANC on 11 October 1960, which was prevented by UN troops as an attempt at political violence without prior compliance with clear requirements of law, his residence was encircled by a ring of Congolese soldiers whose numbers often varied, and who maintained a strict control over persons entering or leaving. On numerous occasions Mr. Lumumba's servants had been prevented from going to market or his children from attending school, although normally an identity check was all that the ANC required. The United Nations had often to make representations on humanitarian grounds to facilitate Mr. Lumumba's personal household administration.

2. For a considerable time, United Nations troops have guarded the residences of President Kasa-Vubu and Mr. Lumumba and of other functionaries, at their own request, as well as a number of important government buildings. The purpose of the United Nations guard has always been to protect the safety of the persons or government property within. It has never had police responsibilities, nor has it exercised control over the identity of persons entering or leaving, or even the movements of the persons guarded. A United Nations guard at Mr. Lumumba's residence, was posted inside the ANC ring.

3. At no time had the United Nations assumed any responsibility for confining Mr. Lumumba to his quarters. Such a domestic police measure would not only have been improper for an international organization but would clearly have exceeded the ONUC mandate. On the contrary, ONUC had repeatedly assured the Congolese authorities that, while it must protect Mr. Lumumba from any act of force or violence within his quarters, it could not assume any responsibility for his protection or that of other personages outside their precincts. United Nations troops have on many occasions refused an escort to Mr. Lumumba, as well as to other dignitaries. The fact that Mr. Lumumba was free to leave his premises at his own risk, however, is demonstrated by his having appeared in the city a number of times - on one occasion in October he gave a press conference in the Regina Hotel.

4. After the death of his new born daughter, Mr. Lumumba on two occasions, on or about November 20, asked for special United Nations air transport for himself and his family to take the remains to Stanleyville for burial. This request had necessarily to be declined as the limited United Nations aircraft are available only for the transport and provisioning of United Nations troops and personnel. However, on humanitarian grounds the United Nations offered to transport the coffin with one relative, on the basis of space available. Mr. Lumumba refused this offer and informed us of his desire to proceed to Stanleyville in complete disregard of his own safety. After about two days Mr. Lumumba sent his daughter's coffin by air freight to Luluabourg (his ancestral home), presumably for burial there. The following morning Mrs. Lumumba, accompanied by a member of the household, attempted to leave Ndjili airport by Air Congo for Luluabourg, presumably to

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arrange for the burial. Mrs. Lumumba was detained by Congolese police but immediately set free, whereas her companion was arrested and was only released later through the good offices of the United Nations.

5. On the night of 27-28 November the United Nations guard reported to United Nations Headquarters that a car had left Mr. Lumumba's residence, but the identity of the persons in it was not known. The guard had seen Mr. Lumumba in the house some three or four minutes before the car had left. Verification of the identity of the persons within the car was not part of the functions of the ONUC guard. The area was as usual encircled by Congolese troops. It may be presumed that the facts or circumstances had been reported to the interested Congolese authorities by the ANC troops, since the office of the Chief of Staff of the Congolese National Army shortly thereafter communicated to ONUC Headquarters the demand that no aircraft should take off from Ndjili. Not only were the intentions of Mr. Lumumba unknown to this Headquarters, but the fact of his departure was not known to be more than a possibility until, on the afternoon of 28 November, a United Nations officer joined the Congolese Commissioner-General for Information who effected an entry into the house to establish his absence as a fact.

6. On 29 November reports were received that Mr. Lumumba had probably reached a place north of Kikwit. The Congolese Security Chief had already flown to Kikwit where on arrival he requested United Nations transport to facilitate the arrest of Mr. Lumumba. This was naturally refused. As Mr. Lumumba had left on his own responsibility, orders were issued to United Nations troops to refrain from any interference in regard to Mr. Lumumba's movements or those of his official pursuers.

7. During the morning of 30 November, following reports that Mr. Lumumba had gone to Tshikapa, the Congolese Security Chief proceeded there, and on not finding him, returned to Leopoldville on 1 December. That night reports were received that Mr. Lumumba had arrived at Port Francqui. The Congolese authorities alleged that the local ANC had attempted to arrest Mr. Lumumba, but that United Nations Ghana troops had interfered, enabling Mr. Lumumba to escape. An immediate inquiry was made, and the Congolese allegation proved to be totally unfounded.

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8. Later, on 1 December, the Congolese authorities again claimed that the ANC had arrested Mr. Lumumba at Mweka, but that through alleged intervention of United Nations Ghana troops, he had again escaped. This report was later corrected by the Congolese authorities by their stating that Mr. Lumumba had finally been arrested by the ANC at Mweka. In spite of this, a written protest was received by the Special Representative to the Secretary-General from President Kasavubu on 2 December 1960, making unfounded allegations as already mentioned above, which was suitably answered.
9. The Congolese Security Chief left for Luluabourg by an Air Congo DC-3 early next morning, 2nd December. There on arrival, his party was confined to the airfield under orders of the President of Kasai. The Kasai Provincial Government decided not to intervene in Mr. Lumumba's arrest and in order to avoid any disturbances in Luluabourg, requested the local ANC that Mr. Lumumba not be brought to the town for his onward transportation to Leopoldville. It would appear that the ANC agreed to these arrangements and the Congolese Chief of Security flew to Port Francqui where he collected Mr. Lumumba. He brought him to Leopoldville at 5.15 p.m. on the same day (2 December).
10. The Chief of Staff of the Congolese Army, in his announcement to the press on the afternoon of the arrest of Mr. Lumumba, stated that a patrol of 40 ANC from Port Francqui had followed Mr. Lumumba and had effected the arrest at Bulongo, about five miles north-west of Mweka. He added that his men had reported that if arrangements could not be made to take over Mr. Lumumba by 2 p.m. that afternoon, they intended to shoot him. The Chief of Staff said that he had issued orders that Mr. Lumumba was not to be killed under any circumstances.
11. Press and radio reports indicated that at the time of Mr. Lumumba's arrest he was brutally manhandled and struck with rifle butts by the ANC soldiers. When he came out of the aircraft at Ndjili airport, United Nations observers reported that he was without his glasses and wearing a soiled shirt; his hair was in disorder; he had a blood clot on his cheek and his hands were tied behind his back. He was roughly pushed into an ANC truck with rifle butts and driven off. The press reports state that

Mr. Lumumba was taken to the residence of the Chief of Staff of the Congolese Army where he was surrounded by Congolese soldiers with machine guns trained upon him. The Chief of Staff of the Congolese Army declined to see him and ordered that he be placed under arrest in Camp Binza, where he was removed for the night.

12. The following morning, 3 December, he was removed under a very heavy escort of armoured cars and heavily armed Congolese soldiers in vehicles to Thysville. His departure was witnessed by members of the international Press who report that Mr. Lumumba walked to the truck with considerable difficulty. He was in a dishevelled condition and his face showed signs of recent blows.

13. United Nations troops in Thysville have reported that Mr. Lumumba is under detention in Camp Hardy. He is said to be suffering from serious injuries received before his arrival. His head has been shaven and his hands remain tied. He is being kept in a cell under conditions reported to be inhumane in respect of health and hygiene. An attempt is being made by the Special Representative of the Secretary-General to arrange for a representative of the International Red Cross to visit Mr. Lumumba.

14. The Chief of Staff of the Congolese Army, in a further announcement, has stated that Mrs. Lumumba is known to be on a river steamer en route to Coquilhatville where the ANC are awaiting her. He also claims that two other members of the Parliament were arrested in company with Mr. Lumumba, and that Mr. Okito, Vice-President of the Senate, had been arrested separately.

15. It is said that Mr. Lumumba will be put to trial. But it has not been disclosed on what charges or under what law, or by which court the trial will be conducted.

16. On 3 December the Special Representative of the Secretary-General lodged a verbal protest with Mr. Bomboko, the President of the College of Commissioners, on the arbitrary arrest and brutal treatment meted out by the Congolese National Army to Mr. Lumumba. He urged that Mr. Lumumba be treated with justice, dignity and humanity. Mr. Bomboko was asked to convey the concern of the United Nations to the Chief of State and for strict instructions to be issued to the Congolese National Army to exercise restraint and accord Mr. Lumumba proper treatment commensurate with his position and human dignity, in accordance with the requirements of the Universal Declaration of Human Rights.

17. The Secretary-General had, the same day, sent a demarche concerning the case of Mr. Lumumba to President Kasavubu through his Special Representative in the Congo. On learning that President Kasavubu had left for the Matadi area for the week-end, the Special Representative of the Secretary-General sent a senior United Nations official by special plane to Matadi who later travelled by helicopter to Tshela and delivered the Secretary-General's personal message to President Kasavubu at 0800 hours on 4 December. The President, after reading the Secretary-General's message, stated that he would send a written reply to the Secretary-General on Monday or Tuesday (5 or 6 December). A second message from the Secretary-General to Mr. Kasavubu was handed to Mr. Bomboko for the President at 12.45 hours 5 December.

ANNEX 1

Letter from the Secretary-General, Mr. Dag Hammarskjold, dated
3 December 1960, to Mr. Kasa-Vubu, President of the Republic
of the Congo (Leopoldville)

Mr. President,

I have learnt about arrest of Mr. Lumumba and note that according to newspaper reports Mr. Lumumba has now been brought to Leopoldville "for trial".

A great number of delegations have approached me expressing their grave concern that a situation might develop in which action against Mr. Lumumba would be taken contrary to recognized rules of law and order and outside the framework of due process of law. It is felt that such a development -- which it is widely trusted would be entirely against your intentions and views -- would put seriously in jeopardy the international prestige of the Republic of the Congo and mean a most serious blow to principles to be upheld by the United Nations and by its Members. In view of the co-operation established between the Congo and the United Nations and in view of our personal contacts, I have considered it my duty to bring these views to your urgent attention. I feel entitled to do so especially as the United Nations has been entrusted by you to assist in upholding law and order in the Congo.

To the views of a number of delegations which I have thus felt I should bring to your attention, you will permit me to add my own reaction. Trusting your wisdom and fairmindedness, I feel sure that you share my view as to the imperative need for the young Republic firmly to uphold those general principles by which it wishes to live and to which it has put its signature when it became a Member of the United Nations. This is of special significance now, when you personally are the recognized Head of the Congo Delegation to the United Nations. I feel therefore that you will use your decisive influence to see to it that in the further developments due process of law is observed taking into account the special circumstances which, in the view of large sectors of international opinion, characterize Mr. Lumumba's status. In saying this I do not, of course,

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in any way wish to express an opinion on any internal problems in the Congo or to exercise any influence on how those problems should be solved; as in many other cases during my term of office as Secretary-General, I have only wished, faithful to the principles of the Charter, to emphasize those principles as the only basis on which a fruitful national and international co-operation in our present world can be built. The sad cases of departures from those principles which we have had to witness in the past do not change anything in their significance in each new situation in which a country and its government have to decide on an issue to which those principles apply.

I have the honour to be, etc.

ANNEX 2

Letter from the Secretary-General, Mr. Dag Hammarskjöld, dated
5 December 1960, to Mr. Kasa-Vubu, President of the Republic of
the Congo (Leopoldville)

Mr. President,

I should like to refer to my letter to you of 3 December 1960 and to the approaches made to me on behalf of numerous delegations to the General Assembly of the United Nations, including the entire group of Afro-Asian delegations, expressing their grave concern at reports which have figured in the world press concerning the arrest and detention of Mr. Patrice Lumumba.

As I stressed in my previous letter, it is obviously not for me to seek to influence in any way the solution of any internal political problem of the Republic of the Congo. However, I know you would wish me to elaborate on the points which have given rise to special disquiet at a time when the attention of the world is so strongly focused upon the Congo and upon the scope of the effort which the international community, in the first place your African sister nations, can furnish by way of further assistance.

I am sure you will already have given your closest examination to the effect upon world opinion of any departure from the observance of the principles of the United Nations Charter concerning "Le respect des droits de l'homme et liberté fondamentale pour tous". This respect is reflected in the provisions of the fundamental law on the structures of the Congo and on public liberties in the Congo, as well as in the Universal Declaration of Human Rights.

In this connexion may I be permitted to note that Mr. Lumumba and others who recently have been seized and are now detained are members of one or the other chamber of Parliament. According to available information, persons in that position may not be prosecuted or arrested in any penal matter without prior compliance with the parliamentary procedures provided in Article 66 of the fundamental law on the structures of the Congo. You will in this context, regarding the exception made in that article for arrest in "le cas de flagrant délit", note the interpretation given to that formula according to universal

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principles of law. Inasmuch as the principle of parliamentary immunity exists throughout the world as a means of protecting not the private interests of the individual but rather the structure of parliamentary democracy, world public opinion will be certain to give to this point great attention, without regard to the political positions of the various personages detained.

It has been widely noted with appreciation that you have pronounced yourself in favour of an amicable and nation wide settlement of the Congolese political crisis, to embrace all the leading political figures including, according to reported public statements by you, Mr. Lumumba. I am sure that you are in a better position than I am to evaluate the full significance for such a solution of any action taken in the present case.

Approaching you again, I wish to invite your attention also to the reports of a number of independent eye-witnesses which give ground for fearing that the detainees, in particular Mr. Lumumba, have suffered physical violence and degrading treatment. In making various efforts to use its good offices for the freeing from illegal detention of Mr. Songolo and other parliamentarians, to our great regret still held in Stanleyville, the United Nations has suggested that the International Red Cross be asked to examine the detained persons and their places and conditions of detention and otherwise to obtain the necessary assurances for their safety. It is natural for me to propose for your serious and urgent consideration that immediate recourse should be had to the same procedure in the case of Mr. Lumumba and the other detainees.

In my previous letter, representing the immediate and serious reaction of myself and the great number of delegates who had approached me regarding the matter, I made a strong appeal for application of due process of law, as generally understood in law. I felt sure that it was your own wish and intention to apply the rules of such due process which, as you know, applies to every stage of police action or legal action, including arrest and detention. Of special importance in this context is the concept of due process of law as developed in general recognized law and the fundamental law of public liberties. I refer in particular to the questions of the necessity for and legality of the warrant of arrest, the requirements that the detainee be informed, with 24 hours at the

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latest, of the reasons for his arrest and of the formal charges in detail entered against him, that he shall not be prosecuted except in the cases provided for by legislation and in accordance with the procedures in force at the time when the offence was perpetrated, that he may have counsel of his own choice, and further, that he shall be entitled in full equality to a fair and public hearing by an independent and impartial tribunal in the determination of any criminal charge against him.

I have the honour to be, etc.

