



INTERNATIONAL COURT OF JUSTICE

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Press Release

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Immunities and Criminal Proceedings (Equatorial Guinea v. France)

The Court delivers its Judgment on the merits of the case

The Court finds that the building at 42 avenue Foch in Paris has never acquired the status of “premises of the mission” within the meaning of Article 1 (i) of the Vienna Convention on Diplomatic Relations, and that France has not breached its obligations under that Convention

THE HAGUE, 11 December 2020. The International Court of Justice (ICJ), the principal judicial organ of the United Nations, has today delivered its Judgment on the merits of the case concerning *Immunities and Criminal Proceedings (Equatorial Guinea v. France)*.

In its Judgment, which is final, without appeal and binding on the Parties, the Court

- (1) *Finds*, by nine votes to seven, that the building at 42 avenue Foch in Paris has never acquired the status of “premises of the mission” of the Republic of Equatorial Guinea in the French Republic within the meaning of Article 1 (i) of the Vienna Convention on Diplomatic Relations (the “Vienna Convention”);
- (2) *Declares*, by twelve votes to four, that the French Republic has not breached its obligations under the Vienna Convention;
- (3) *Rejects*, by twelve votes to four, all other submissions of the Republic of Equatorial Guinea.

Before reaching this decision, the Court notes that the Parties disagree on whether the building at 42 avenue Foch in Paris constitutes part of the premises of Equatorial Guinea’s diplomatic mission in France and is thus entitled to the treatment afforded under Article 22 of the Vienna Convention. The Parties also disagree on whether France, by the actions of its authorities in relation to the building, breached its obligations under that article.

The Court begins by examining the circumstances in which a property acquires the status of “premises of the mission” within the meaning of Article 1 (i) of the Vienna Convention. In this regard, it considers that the Convention cannot be interpreted so as to allow a sending State unilaterally to impose its choice of mission premises upon the receiving State where the latter has objected to this choice. The Court further considers that any such objection must be timely and not arbitrary. Further, it must not be discriminatory in character. Consequently, where the receiving

State objects to the designation by the sending State of certain property as forming part of the premises of its diplomatic mission, and this objection is communicated in a timely manner and is neither arbitrary nor discriminatory in character, that property does not acquire the status of “premises of the mission”, and therefore does not benefit from protection under Article 22 of the Convention. Whether or not the aforementioned criteria have been met is a matter to be assessed in the circumstances of each case.

The Court thus proceeds to examine whether, on the facts before the Court in the present case, France objected to the designation of the building at 42 avenue Foch in Paris as premises of Equatorial Guinea’s diplomatic mission and whether any such objection was communicated in a timely manner, and was neither arbitrary nor discriminatory in character.

It begins by examining the diplomatic exchanges of the Parties in the period between 4 October 2011, when Equatorial Guinea first notified France that the property “form[ed] part of the premises of the diplomatic mission”, and 6 August 2012, shortly after the “attachment of the building” (*saisie pénale immobilière*) by the French authorities on 19 July 2012. The Court considers that the facts recounted demonstrate that, during this period, France consistently expressed its objection to the designation of the building in question as part of the premises of Equatorial Guinea’s diplomatic mission.

With regard to the question whether France’s objection was made in a timely manner, the Court notes that France promptly communicated its objection to the designation of the building at 42 avenue Foch in Paris as premises of Equatorial Guinea’s diplomatic mission following the notification of 4 October 2011. France then consistently objected to each assertion, on the part of Equatorial Guinea, that the building constituted the premises of the diplomatic mission, and maintained its objection to the designation of the building as such. The Court considers that, in the circumstances of the present case, France objected to the designation by Equatorial Guinea of the building as premises of its diplomatic mission in a timely manner.

Regarding the question whether France’s objection was non-arbitrary and non-discriminatory in character, the Court concludes that there existed reasonable grounds, which were known or should have been known to Equatorial Guinea, for France’s objection to Equatorial Guinea’s designation of the building as premises of its diplomatic mission. In light of these grounds, the Court does not consider that the objection by France was arbitrary in character. Additionally, Equatorial Guinea has not demonstrated that France, in objecting to the designation, has acted in a discriminatory manner. Therefore, the Court considers that France objected to Equatorial Guinea’s designation of the building as premises of its diplomatic mission in a timely manner, and that this objection was neither arbitrary nor discriminatory in character.

For these reasons, the Court concludes that the building at 42 avenue Foch in Paris has never acquired the status of “premises of the mission” under the Vienna Convention, and states that the acts complained of by Equatorial Guinea cannot therefore constitute a breach by France of its obligations under that Convention. Consequently, the Court concludes that it cannot uphold Equatorial Guinea’s submissions requesting it to declare that France has an obligation to make reparation for the harm suffered by Equatorial Guinea and that France must recognize the status of the building as premises of Equatorial Guinea’s diplomatic mission.

History of the proceedings

The history of the proceedings can be found in press releases Nos. 2016/18, 2016/28, 2016/38, 2018/24 and 2020/34, which are available on the Court's website (www.icj-cij.org).

Composition of the Court

The Court was composed as follows: *President* Yusuf; *Vice-President* Xue; *Judges* Tomka, Abraham, Bennouna, Cançado Trindade, Donoghue, Gaja, Sebutinde, Bhandari, Robinson, Crawford, Gevorgian, Salam, Iwasawa; *Judge ad hoc* Kateka; *Registrar* Gautier.

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President YUSUF appends a separate opinion to the Judgment of the Court; Vice-President XUE appends a dissenting opinion to the Judgment of the Court; Judge GAJA appends a declaration to the Judgment of the Court; Judge SEBUTINDE appends a separate opinion to the Judgment of the Court; Judges BHANDARI and ROBINSON append dissenting opinions to the Judgment of the Court; Judge *ad hoc* KATEKA appends a dissenting opinion to the Judgment of the Court.

A summary of the Judgment appears in the document entitled "Summary 2020/4", to which summaries of the opinions and declaration are annexed. This press release and the summary and full text of the Judgment are available on the Court's website (www.icj-cij.org), under the heading "Cases".

Note: The Court's press releases are prepared by its Registry for information purposes only and do not constitute official documents.

The International Court of Justice (ICJ) is the principal judicial organ of the United Nations. It was established by the United Nations Charter in June 1945 and began its activities in April 1946. The Court is composed of 15 judges elected for a nine-year term by the General Assembly and the Security Council of the United Nations. The seat of the Court is at the Peace Palace in The Hague (Netherlands). The Court has a twofold role: first, to settle, in accordance with international law, through judgments which have binding force and are without appeal for the parties concerned, legal disputes submitted to it by States; and, second, to give advisory opinions on legal questions referred to it by duly authorized United Nations organs and agencies of the system.

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