



INTERNATIONAL COURT OF JUSTICE

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Press Release

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The Republic of Equatorial Guinea institutes proceedings against France with regard to “the immunity from criminal jurisdiction of [its] Second Vice-President in charge of Defence and State Security, and the legal status of the building which houses [its] Embassy in France”

THE HAGUE, 14 June 2016. Yesterday the Republic of Equatorial Guinea (hereinafter “Equatorial Guinea”) instituted proceedings against the French Republic (hereinafter “France”) before the International Court of Justice (ICJ), the principal judicial organ of the United Nations, with regard to a dispute concerning “the immunity from criminal jurisdiction of the Second Vice-President of the Republic of Equatorial Guinea in charge of Defence and State Security [Mr. Teodoro Nguema Obiang Mangue], and the legal status of the building which houses the Embassy of Equatorial Guinea in France”.

In its Application, Equatorial Guinea states that the case arises from the criminal proceedings instituted against Mr. Teodoro Nguema Obiang Mangue before French courts from 2007, pursuant to a number of complaints lodged by associations and private individuals against certain African Heads of State and members of their families, in respect of acts of “misappropriation of public funds in their country of origin, the proceeds of which have allegedly been invested in France”. According to Equatorial Guinea, these proceedings “constitute a violation of the immunity to which [Mr. Teodoro Nguema Obiang Mangue] is entitled under international law”. It considers that, in his capacity as Second Vice-President in charge of Defence and State Security, the individual concerned represents the State and acts on its behalf. Equatorial Guinea argues that, throughout the proceedings in question, “the French courts have refused to give effect to the immunity from criminal jurisdiction to which the Second Vice-President is entitled”. It states, *inter alia*, that an international arrest warrant for Mr. Teodoro Nguema Obiang Mangue was issued on 13 July 2012, that he was placed under judicial examination (*mis en examen*) on 18 March 2014, and that on 23 May 2016 the *Procureur de la République* filed his final submissions seeking separation of the complaints, with a view to either their dismissal or their referral to the *Tribunal correctionnel*. The *Procureur* found that the individual concerned “enjoys no immunity that might bar prosecution”. Equatorial Guinea notes that, consequently, as from 25 June 2016, the investigating judges could issue an order referring the case against Mr. Teodoro Nguema Obiang Mangue to the *Tribunal correctionnel* of Paris for hearing.

Furthermore, in its Application, Equatorial Guinea notes that the case pertains to the question of the legal status of a building located on avenue Foch in Paris. It asserts that Mr. Teodoro Nguema Obiang Mangue, the former owner of the premises, sold this building to the State of Equatorial Guinea in September 2011 and that since then the property “has been used by the diplomatic mission of Equatorial Guinea”. The Applicant therefore considers that this building

should enjoy the immunities accorded to official premises by international law. It points out, however, that, taking the view that it had been financed out of proceeds from offences of which Mr. Teodoro Nguema Obiang Mangue is suspected, the French investigating judges ordered the seizure of the building in 2012, and that, in his submissions of 23 May 2016, the Procureur de la République asserted that it was “not protected by immunity in so far as it did not form part of the diplomatic mission of the Republic of Equatorial Guinea in France”.

Finally, Equatorial Guinea notes that “multiple exchanges have taken place between [itself] and France regarding the immunity of the Second Vice-President in charge of Defence and State Security, and the legal status of the [above-mentioned] property”, but that “all attempts at settlement initiated by [it] have failed”.

Therefore, Equatorial Guinea “respectfully requests the Court:

(a) With regard to the French Republic’s failure to respect the sovereignty of the Republic of Equatorial Guinea

(i) to adjudge and declare that the French Republic has breached its obligation to respect the principles of the sovereign equality of States and non-interference in the internal affairs of another State, owed to the Republic of Equatorial Guinea in accordance with international law, by permitting its courts to initiate criminal legal proceedings against the Second Vice-President of Equatorial Guinea for alleged offences which, even if they were established, quod non, would fall solely within the jurisdiction of the courts of Equatorial Guinea, and by allowing its courts to order the seizure of a building belonging to the Republic of Equatorial Guinea and used for the purposes of that country’s diplomatic mission in France;

(b) With regard to the Second Vice-President of the Republic of Equatorial Guinea in charge of Defence and State Security

(i) to adjudge and declare that, by initiating criminal proceedings against the Second Vice-President of the Republic of Equatorial Guinea in charge of Defence and State Security, His Excellency Mr. Teodoro Nguema Obiang Mangue, the French Republic has acted and is continuing to act in violation of its obligations under international law, notably the United Nations Convention against Transnational Organized Crime and general international law;

(ii) to order the French Republic to take all necessary measures to put an end to any ongoing proceedings against the Second Vice-President of the Republic of Equatorial Guinea in charge of Defence and State Security;

(iii) to order the French Republic to take all necessary measures to prevent further violations of the immunity of the Second Vice-President of Equatorial Guinea in charge of Defence and State Security and to ensure, in particular, that its courts do not initiate any criminal proceedings against the Second Vice-President of the Republic of Equatorial Guinea in the future;

(c) With regard to the building situated at 42, avenue Foch in Paris

(i) to adjudge and declare that, by seizing the building situated at 42, avenue Foch in Paris, the property of the Republic of Equatorial Guinea and used for the purposes of that country’s diplomatic mission in France, the French Republic is in breach of its obligations under international law, notably the

Vienna Convention on Diplomatic Relations and the United Nations Convention [against Transnational Organized Crime], as well as general international law;

- (ii) to order the French Republic to recognize the status of the building situated at 42, avenue Foch in Paris as the property of the Republic of Equatorial Guinea, and as the premises of its diplomatic mission in Paris, and, accordingly, to ensure its protection as required by international law;

(d) In view of all the violations by the French Republic of international obligations owed to the Republic of Equatorial Guinea

- (i) to adjudge and declare that the responsibility of the French Republic is engaged on account of the harm that the violations of its international obligations have caused and are continuing to cause to the Republic of Equatorial Guinea;
- (ii) to order the French Republic to make full reparation to the Republic of Equatorial Guinea for the harm suffered, the amount of which shall be determined at a later stage.”

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As basis for the Court’s jurisdiction, the Applicant invokes two instruments to which both States are parties. The first is the Optional Protocol to the Vienna Convention on Diplomatic Relations, concerning the Compulsory Settlement of Disputes, of 18 April 1961; the second is the United Nations Convention against Transnational Organized Crime of 15 November 2000.

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

The full text of Equatorial Guinea’s Application instituting proceedings will be available shortly on the Court’s website (www.icj-cij.org).

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 seat of the Court is at the Peace Palace in The Hague (Netherlands). Of the six principal organs of the United Nations, it is the only one not located in New York. The Court has a twofold role: first, to settle, in accordance with international law, legal disputes submitted to it by States (its judgments have binding force and are without appeal for the parties concerned); and, second, to give advisory opinions on legal questions referred to it by duly authorized United Nations organs and agencies of the system. 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. Independent of the United Nations Secretariat, it is assisted by a Registry, its own international secretariat, whose activities are both judicial and diplomatic, as well as administrative. The official languages of the Court are French and English. Also known as the “World Court”, it is the only court of a universal character with general jurisdiction.

The ICJ, a court open only to States for contentious proceedings, and to certain organs and institutions of the United Nations system for advisory proceedings, should not be confused with the other — mostly criminal — judicial institutions based in The Hague and adjacent areas, such as the International Criminal Tribunal for the former Yugoslavia (ICTY, an ad hoc court created by the Security Council), the International Criminal Court (ICC, the first permanent international criminal court, established by treaty, which does not belong to the United Nations system), the Special Tribunal for Lebanon (STL, an international judicial body with an independent legal personality, established by the United Nations Security Council upon the request of the Lebanese Government and composed of Lebanese and international judges), or the Permanent Court of Arbitration (PCA, an independent institution which assists in the establishment of arbitral tribunals and facilitates their work, in accordance with the Hague Convention of 1899).

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