

COUR INTERNATIONALE DE JUSTICE

# REQUÊTE

INTRODUCTIVE D'INSTANCE

enregistrée au Greffe de la Cour  
le 13 juin 2016

IMMUNITÉS ET PROCÉDURES PÉNALES

(GUINÉE ÉQUATORIALE c. FRANCE)

---

INTERNATIONAL COURT OF JUSTICE

# APPLICATION

INSTITUTING PROCEEDINGS

filed in the Registry of the Court  
on 13 June 2016

IMMUNITIES AND CRIMINAL PROCEEDINGS

(EQUATORIAL GUINEA v. FRANCE)

I. LETTER FROM THE AMBASSADOR OF THE REPUBLIC  
OF EQUATORIAL GUINEA TO THE KINGDOMS  
OF BELGIUM AND THE NETHERLANDS TO THE REGISTRAR  
OF THE INTERNATIONAL COURT OF JUSTICE

*[Translation]*

13 June 2016.

On the instructions of my Government, I have the honour to transmit to you herewith the Application of the Republic of Equatorial Guinea instituting proceedings against the French Republic.

As the Agent of the Republic of Equatorial Guinea, I am at the Court's disposal to attend, as soon as is convenient for the Court, the meeting of the Parties provided for in Article 31 of the Rules of Court.

*(Signed)* Carmelo NVONO NCA.

---

*Annex*

APPOINTMENT OF AGENT

I, the undersigned, Agapito Mba Mokuy, Minister for Foreign Affairs, in charge of international relations and co-operation, hereby certify that H.E. Mr. Carmelo Nvono Nka, Ambassador Extraordinary and Plenipotentiary of the Republic of Equatorial Guinea to the Kingdom of Belgium, the Kingdom of the Netherlands, the Kingdom of Denmark, the Grand Duchy of Luxembourg and the Republic of Turkey, has been appointed by the Government of the Republic of Equatorial Guinea as Agent for the purpose of filing the Application of the Republic of Equatorial Guinea instituting proceedings against the French Republic with the International Court of Justice in The Hague, and representing the Republic of Equatorial Guinea in the further proceedings.

Done at Malabo, 13 June 2016.

*(Signed)* Agapito MBA MOKUY.

---

## II. APPLICATION INSTITUTING PROCEEDINGS

1. The undersigned, being duly authorized by the Government of the Republic of Equatorial Guinea, has the honour to submit to the International Court of Justice, on behalf of the Republic of Equatorial Guinea, the present Application instituting proceedings against the French Republic in the following dispute.

### I. SUBJECT-MATTER OF THE DISPUTE

2. The dispute between Equatorial Guinea and France, arising from certain ongoing criminal proceedings in France, concerns the immunity from criminal jurisdiction of the Second Vice-President of the Republic of Equatorial Guinea in charge of Defence and State Security, and the legal status of the building which houses the Embassy of Equatorial Guinea, both as premises of the diplomatic mission and as State property.

3. The criminal proceedings against the Second Vice-President constitute a violation of the immunity to which he is entitled under international law and interfere with the exercise of his official functions as a holder of high-ranking office in the State of Equatorial Guinea. To date, these proceedings have also resulted, *inter alia*, in the attachment of the building located at 42 Avenue Foch in Paris, which is the property of Equatorial Guinea and used for the purposes of its diplomatic mission in France. These proceedings violate the Vienna Convention on Diplomatic Relations of 18 April 1961, the United Nations Convention against Transnational Organized Crime of 15 November 2000, and general international law.

### II. JURISDICTION OF THE COURT

4. The Court has jurisdiction in the present case, first, under the provisions of the Optional Protocol concerning the Compulsory Settlement of Disputes to the Vienna Convention on Diplomatic Relations of 18 April 1961 (hereinafter “the Optional Protocol”) and, second, under Article 35 of the United Nations Convention against Transnational Organized Crime of 15 November 2000 (hereinafter “the United Nations Convention”).

5. France and Equatorial Guinea are parties to the 1961 Vienna Convention on Diplomatic Relations: France ratified the Convention on 31 December 1970, and Equatorial Guinea acceded to it on 30 August 1976. Both States are also parties to the Optional Protocol: France ratified the Protocol on 31 December 1970, and Equatorial Guinea acceded to it on 4 November 2014.

6. Equatorial Guinea and France are also both parties to the United Nations Convention against Transnational Organized Crime of 15 November 2000: France ratified it on 29 October 2002, and Equatorial Guinea on 7 February 2003. The United Nations Convention entered into force on 29 September 2003.

7. Article I of the Optional Protocol provides that:

“Disputes arising out of the interpretation or application of the Convention shall lie within the compulsory jurisdiction of the International Court of Justice and may accordingly be brought before the Court by an application made by any party to the dispute being a Party to the present Protocol.”

8. Articles II and III of the Optional Protocol do not restrict the right of Equatorial Guinea to bring these proceedings before the Court.

9. Article 35, paragraph 2, of the United Nations Convention, for its part, provides that:

“2. Any dispute between two or more States Parties concerning the interpretation or application of this Convention that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.”

10. The jurisdiction of the Court exists under this provision in so far as the dispute between the two Parties, arising out of the application of Article 4 of the United Nations Convention, could not be settled through negotiation or arbitration. Indeed, France has given Equatorial Guinea official notification of its refusal to settle the dispute between the two States by means of negotiation and arbitration<sup>1</sup>.

### III. THE FACTS

11. The criminal proceedings against Mr. Teodoro Nguema Obiang Mangue were initiated before the French courts as of 2007, pursuant to a number of complaints lodged by associations and private individuals against certain African Heads of State, in respect of acts of “misappropriation of public funds in their country of origin, the proceeds of which have allegedly been invested in France”<sup>2</sup>. None of the proceedings were preceded by a complaint from Equatorial Guinea. On the contrary, Equatorial Guinea has strongly and consistently protested against these proceedings.

12. Some of these actions came to nothing. The French courts have nonetheless refused to give effect to the immunity from criminal jurisdiction to which the Second Vice-President is entitled. What is more, neither the courts nor the French Ministry of Foreign Affairs have recognized the inviolability of the building located at 42 Avenue Foch in Paris, as the premises of the diplomatic mission of Equatorial Guinea in France.

13. The reasons given by the French courts have no basis in international law. In particular, they disregard the Court’s jurisprudence, which recognizes that certain holders of high-ranking office in a State — a group wider than Heads of State, Heads of Government and Ministers for Foreign Affairs — enjoy immunity *ratione personae*<sup>3</sup>.

14. On 23 May 2016, the Financial Prosecutor at the Paris *Tribunal de grande instance* (hereinafter “the Prosecutor”) addressed her final submissions (*réquisitoire définitif*) to the senior investigating judges, seeking separation of the complaints, and either their dismissal or their referral to the *Tribunal correctionnel* (hereinafter “the final submissions”)<sup>4</sup>. In these final submissions, the Prosecutor

<sup>1</sup> See paragraph 34 of the present Application.

<sup>2</sup> Application for annulment, Judgment, Paris *Cour d’appel*, 13 June 2013, p. 4. [*This and subsequent translations from this document are by the Registry.*]

<sup>3</sup> *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)*, Judgment, I.C.J. Reports 2002, pp. 20-21, para. 51.

<sup>4</sup> Paris *Cour d’appel*, National Financial Prosecutor’s Office, final submissions seeking separation of the complaints, and either their dismissal or their referral to the *Tribunal correctionnel*, 23 May 2016, Annex 1.

found that the preliminary inquiry had produced sufficient evidence that Mr. Teodoro Nguema Obiang Mangue had “assisted in making hidden investments or in converting the direct or indirect proceeds of a felony or misdemeanour”. She rejected, for reasons which are not compelling, the argument that the Second Vice-President was entitled to jurisdictional immunity, concluding that “he enjoys no immunity that might bar prosecution”<sup>5</sup>.

15. The Prosecutor also found, without any relevant legal basis, that the property located at 42 Avenue Foch in Paris was not protected by immunity, since it did not form part of the diplomatic mission of the Republic of Equatorial Guinea in France. In this regard, she stated: “The investigations have thus established that the building is private property and is in no circumstances a diplomatic mission in French territory.”<sup>6</sup>

16. After a period of one month from the date of notification of the final submissions on 25 May 2016, namely as from 25 June 2016, the investigating judges will be able to issue an order referring the Second Vice-President of Equatorial Guinea in charge of Defence and State Security to the Paris *Tribunal correctionnel* for trial.

(a) *Regarding the Second Vice-President*

17. Mr. Teodoro Nguema Obiang Mangue was State Minister for Agriculture and Forestry of the Republic of Equatorial Guinea from 1997 to 2012. On 21 May 2012, as part of a government reshuffle undertaken pursuant to an amendment to the Basic Law (Constitution), he was appointed Second Vice-President in charge of Defence and State Security. As the holder of such a high-ranking office, and in that capacity, he has control and is head of the armed forces, the police and the immigration authorities in Equatorial Guinea. In practice, he ranks above the responsible ministers, who report to him. He “represents the State of Equatorial Guinea and has the capacity to act on behalf of the State before other States and international organizations in respect of matters falling under the sectors of which he is in charge”<sup>7</sup>.

18. The Second Vice-President in charge of Defence and State Security represents his country in international negotiations and intergovernmental meetings on a regular basis, and frequently has to travel abroad in that capacity and for such purposes<sup>8</sup>. In 2015, for example, he paid an official visit to São Tomé and Príncipe to participate in the commemoration of the anniversary of its independence. During his visit, he met the Head of State and the Prime Minister, with whom he discussed the establishment of air and sea links between the two countries. In September of the same year, “as a representative of the Head of State, His Excellency Obiang Nguema Mbasogo”, he headed the Equatorial Guinean delegation (which included the Minister for Foreign Affairs) at the Seventieth Session of the United Nations General Assembly<sup>9</sup>. That same year, he led a high-level delegation in response to an invitation from the King of Swaziland to take part in the anniversary celebrations of the founding of the Swaziland Royal Police Academy. This

<sup>5</sup> Final submissions, p. 34

<sup>6</sup> *Ibid.*, p. 33.

<sup>7</sup> Institutional declaration by the President of the Republic of Equatorial Guinea, 21 October 2015, Annex 2.

<sup>8</sup> For details of his official activities as Second Vice-President, see the website of Equatorial Guinea’s Press and Information Office: <http://www.guineaequatorialpress.com/buscaador.php?cat=11&lang=en>.

<sup>9</sup> Note Verbale to the United Nations Office of Protocol and Liaison Service from the Permanent Mission of the Republic of Equatorial Guinea to the United Nations, 7 October 2015, Annex 3.

was the Second Vice-President's second visit to that country, having led a delegation there in 2012 (which included the Vice-Ministers for Defence and National Security), when he held a number of meetings with the King and Queen of Swaziland. In 2014, he visited the Central African Republic at the head of a delegation which included, among others, the Minister for Defence and the Minister Delegate at the Presidency of the Republic in charge of External Security, to take part in the repatriation of Equatorial Guinea's troops which had participated in the African Union's international peace and stabilization mission in the Central African Republic (MISCA). In 2013, he paid an official visit to Côte d'Ivoire to participate in the commemoration of the 53rd anniversary of its independence. The Second Vice-President headed a delegation which notably included the Vice-Minister in charge of National Security. During this visit, he met the President of the National Assembly and the Prime Minister of Côte d'Ivoire, before being received by the Head of State. That same year, in Angola, he met the Head of State, to whom he transmitted a message from the President of Equatorial Guinea and with whom he discussed matters relating to co-operation in human resources training in the maritime security sector. In 2013, he went to China where he met the Chinese Vice-President to discuss bilateral co-operation in the area of defence and security. That same year, in South Africa, the Second Vice-President held a meeting with the Head of State, and had talks with South Africa's Defence Secretary about matters relating to military co-operation.

19. As the Republic of Equatorial Guinea has always maintained to France, the nature of the functions of the Second Vice-President, Mr. Teodoro Nguema Obiang Mangué, requires France to respect his personal immunity, in accordance with customary international law, in particular since he is called upon to travel abroad on behalf of Equatorial Guinea in order to perform those functions effectively<sup>10</sup>.

*(b) Regarding the Building at 42 Avenue Foch in Paris*

20. The building located at 42 Avenue Foch in Paris was, until 15 September 2011, co-owned by five Swiss companies of which Mr. Teodoro Nguema Obiang Mangué had been the sole shareholder since 18 December 2004<sup>11</sup>. On 15 September 2011, he transferred his shareholder's rights in the companies to the State of Equatorial Guinea<sup>12</sup>. Since then, the building has been used by the diplomatic mission of Equatorial Guinea.

*(c) Criminal Proceedings in France*

21. In May 2007 and July 2008, the associations Sherpa, Survie and the Fédération des Congolais de la diaspora filed complaints with the Paris Public Prosecutor against a number of African Heads of State and members of their families for acts of handling misappropriated public funds. The President of Equatorial Guinea, His Excellency Mr. Teodoro Obiang Nguema Mbasogo, and his family members were included in the complaint<sup>13</sup>. On 12 November 2007, the Paris Public Prosecutor decided to take no further action in the case, finding that the offence of handling misappropriated public funds "was not sufficiently established"<sup>14</sup>.

<sup>10</sup> *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)*, Judgment, *I.C.J. Reports* 2002, p. 21, paras. 51 and 53.

<sup>11</sup> Annex 1, p. 15.

<sup>12</sup> *Ibid.*, p. 21.

<sup>13</sup> *Ibid.*, p. 5.

<sup>14</sup> Application for annulment, Judgment, Paris *Cour d'appel*, 13 June 2013, Annex 4, p. 4.

22. On 2 December 2008, Transparency International France and a Gabonese national filed a complaint with civil-party application before the senior investigating judge of the Paris *Tribunal de grande instance*. The complaint, which concerned the same acts, was against only the Presidents of the Republic of Gabon, the Republic of the Congo and the Republic of Equatorial Guinea<sup>15</sup>. By an Order of 5 May 2009, finding that Transparency International France was suffering personal economic harm, the senior investigating judge declared the association's civil-party application to be admissible and dismissed that of the Gabonese national. The senior investigating judge's decision was overturned by the Paris *Cour d'appel* on 29 October 2009, on the grounds that Transparency International France had not proved the existence of the alleged material harm. However, taking the view that the acts under criminal investigation were likely to cause direct and personal harm to Transparency International France, "on account of the specific object and purpose of its mission", the *Cour de cassation*, on the contrary, allowed the civil-party application on 9 November 2010<sup>16</sup>.

23. On 27 January 2011, the President of Transparency International France was heard by the investigating judges appointed to the case. On 1 February 2011, the association submitted further information in its complaint regarding assets located at 42 Avenue Foch in Paris, which were likely, in its view, to belong to Mr. Teodoro Nguema Obiang Mangue<sup>17</sup>.

24. The investigations focused on the alleged offences of complicity in the misappropriation of public funds, misuse of corporate assets and complicity in the misuse of corporate assets, breach of trust and complicity in breach of trust, money laundering and complicity in money laundering, handling of misappropriated public funds and of misused corporate assets, and concealing breach of trust. On 31 January 2012, the investigation into the "Equatorial Guinean chapter" was extended to acts of handling or laundering the proceeds of the offences set out above.

25. On 13 July 2012, an arrest warrant was issued against Mr. Teodoro Nguema Obiang Mangue, who, at the time the warrant was issued, held the post of Second Vice-President in charge of Defence and State Security<sup>18</sup>. The arrest warrant came in the wake of summonses to attend a first appearance and for judicial examination, to which the Second Vice-President could not respond on account of the immunity accorded by international law to holders of high-ranking office in a State<sup>19</sup>.

26. On 19 July 2012, after the premises at 42 Avenue Foch in Paris had been searched, the French investigating judges ordered the attachment of the building under the Code of Criminal Procedure, alleging that it had been financed out of the proceeds of the offences of which Mr. Teodoro Nguema Obiang Mangue was suspected, and stating as grounds that he enjoyed free disposal of the said building as its real owner. Ruling on the appeal lodged by Mr. Teodoro Nguema Obiang Mangue, the investigating chamber upheld the order of attachment under the Code of Criminal Procedure<sup>20</sup>.

27. On 7 February 2014, the case file was transferred by the Paris Public Prosecutor to the Financial Prosecutor on account of "its great complexity"<sup>21</sup>.

<sup>15</sup> Annex 1, p. 6.

<sup>16</sup> Judgment of 9 November 2010, *Cour de cassation*, Annex 5, p. 8.

<sup>17</sup> Annex 1, pp. 7-8.

<sup>18</sup> Republic of Equatorial Guinea, Decree of the President of the Republic No. 64/2012 of 21 May 2012, Annex 6.

<sup>19</sup> The arrest warrant was subsequently annulled.

<sup>20</sup> Annex 1, p. 31.

<sup>21</sup> *Ibid.*, p. 8.

28. On 18 March 2014, Mr. Teodoro Nguema Obiang Mangue was examined in the context of an international letter rogatory,

“for having in Paris and on national territory during 1997 and until October 2011, in any event for a period not covered by prescription, assisted in making hidden investments or in converting the direct or indirect proceeds of a felony or misdemeanour, in this instance offences of misuse of corporate assets, misappropriation of public funds, breach of trust and corruption, by acquiring a number of movable and immovable assets and paying for a number of services out of the funds of the firms EDUM, SODAGE and SOMAGUI FORESTAL, acts characterized as laundering of the proceeds of the above-mentioned offences”<sup>22</sup>.

29. On 15 December 2015, the *Cour de cassation* rejected the immunities of Mr. Teodoro Nguema Obiang Mangue, and confirmed the decision that he be placed under judicial examination<sup>23</sup>. In its judgment, the *Cour de cassation* asserted, in respect of Mr. Teodoro Nguema Obiang Mangue’s personal immunity, that “the functions of the applicant are not those of a Head of State, Head of Government or Minister for Foreign Affairs”. Regarding substantive immunity, it stated that “all the alleged offences, the proceeds thereof having been laundered in France, and should they be established, were committed for personal gain before he took up his current functions, at a time when he was performing the functions of the Minister for Agriculture and Forestry”<sup>24</sup>.

30. The final submissions of 23 May 2016, seeking the referral of Mr. Teodoro Nguema Obiang Mangue before the *Tribunal correctionnel*, further state that the property at 42 Avenue Foch in Paris “does not enjoy any legal protection since it is not part of the diplomatic mission of the Republic of Equatorial Guinea”<sup>25</sup>.

(d) *Diplomatic Exchanges Aimed at Settling the Dispute*

31. In parallel with the proceedings before the French courts, there have been multiple exchanges between Equatorial Guinea and France regarding the immunity of the Second Vice-President in charge of Defence and State Security, and in respect of the legal status of the property at 42 Avenue Foch. It is apparent from these exchanges that there is a conflict of legal views between the Parties, and that all attempts initiated by Equatorial Guinea to settle it have failed.

32. In a diplomatic Note of 4 October 2011, the Embassy of Equatorial Guinea informed the French Ministry of Foreign and European Affairs that the building located at 42 Avenue Foch was used for the performance of the functions of its diplomatic mission<sup>26</sup>. On 11 October 2011, the Ministry of Foreign Affairs replied that the building “d[id] not form part of the premises of Equatorial Guinea’s diplomatic mission”, since it was privately owned<sup>27</sup>. On 6 August 2012, in response to a further request from Equatorial Guinea, the Ministry of Foreign Affairs stated that it could not recognize the status of the building as the premises of the diplomatic mission, because it had been seized under the Code of Criminal Procedure<sup>28</sup>. A number of further diplomatic exchanges then ensued.

<sup>22</sup> Annex 1, p. 9.

<sup>23</sup> Judgment of 15 December 2015, *Cour de cassation*, Annex 7.

<sup>24</sup> *Ibid.*

<sup>25</sup> Annex 1, p. 33.

<sup>26</sup> Note Verbale of 4 October 2011, Annex 8.

<sup>27</sup> Note Verbale of 11 October 2011, Annex 9.

<sup>28</sup> Note Verbale of 6 August 2012, Annex 10.



33. In a Note Verbale of 6 January 2016 to the Ministry of Foreign Affairs of the French Republic, the Embassy of Equatorial Guinea proposed settling the entire dispute arising from the so-called “ill-gotten gains” case through conciliation and arbitration, in accordance with Articles I and II of the Optional Protocol concerning the Compulsory Settlement of Disputes to the Vienna Convention on Diplomatic Relations of 18 April 1961 and Article 35 of the United Nations Convention against Transnational Organized Crime<sup>29</sup>. On 2 February 2016, the Embassy of Equatorial Guinea transmitted to the Ministry of Foreign Affairs a Note including a Memorandum setting out Equatorial Guinea’s position on the questions forming the subject of the dispute<sup>30</sup>.

34. On 17 March 2016, the Ministry of Foreign Affairs explained that it was “unable to accept the offer of settlement by the means proposed by the Republic of Equatorial Guinea” on the grounds that “the facts mentioned . . . have been the subject of court decisions in France and remain the subject of ongoing legal proceedings”<sup>31</sup>.

#### IV. LEGAL BASES OF EQUATORIAL GUINEA’S APPLICATION

35. International law sets out the principles of the sovereign equality of States and non-interference in the internal affairs of another State, principles which are reflected in the United Nations Charter. As the Court has held, the rule of State immunity “derives from the principle of sovereign equality of States, which, as Article 2, paragraph 1, of the Charter of the United Nations makes clear, is one of the fundamental principles of the international legal order”<sup>32</sup>.

36. Also applicable in the present dispute are the provisions of the Vienna Convention on Diplomatic Relations of 18 April 1961 and those of the United Nations Convention against Transnational Organized Crime of 15 November 2000, as well as general international law relating to the immunity from foreign criminal proceedings of holders of high-ranking office in a State and the immunities of States and their property.

37. The legal proceedings initiated in France against the Second Vice-President of Equatorial Guinea in charge of Defence and State Security, who for the duration of his term of office enjoys immunity *ratione personae*, constitute a breach of France’s obligations under international law.

38. Moreover, by the fact that its judicial authorities have seized a building used for the purposes of the diplomatic mission of Equatorial Guinea in France, and by failing to recognize the building as the premises of the diplomatic mission, the French Republic has breached its obligations owed to Equatorial Guinea under the Vienna Convention on Diplomatic Relations of 18 April 1961, in particular Article 22 thereof<sup>33</sup>.

<sup>29</sup> Note Verbale of 6 January 2016, Annex 11.

<sup>30</sup> Note Verbale of 2 February 2016 and Memorandum, Annex 12.

<sup>31</sup> Note Verbale of 17 March 2016, Annex 13.

<sup>32</sup> *Jurisdictional Immunities of the State (Germany v. Italy: Greece intervening)*, Judgment, *I.C.J. Reports 2012 (I)*, p. 123, para. 57.

<sup>33</sup> Article 22 reads as follows:

“1. The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission.

2. The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.

3. The premises of the mission, their furnishings and other property thereon and the means of transport of the mission shall be immune from search, requisition, attachment or execution.”

39. France is also in breach of its obligations, under general international law, to ensure that no pre-judgment measures of constraint, such as attachment or arrest, are taken against the property of a State in connection with a proceeding before a court of another State, unless the State has consented to the taking of such measures. The rules of customary international law governing States' immunities in relation to the attachment of their property are reflected in the 2004 United Nations Convention on Jurisdictional Immunities of States and Their Property. These establish strict limitations on the attachment of State property, as the Court confirmed in its Judgment in the case concerning *Jurisdictional Immunities of the State*<sup>34</sup>.

40. All of these proceedings were conducted in violation of Article 4 of the United Nations Convention, which provides that:

- “1. States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.
2. Nothing in this Convention entitles a State Party to undertake in the territory of another State the exercise of jurisdiction and performance of functions that are reserved exclusively for the authorities of that other State by its domestic law.”

#### SUBMISSIONS

41. In light of the foregoing, 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 attachment 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;

<sup>34</sup> *Jurisdictional Immunities of the State (Germany v. Italy: Greece intervening)*, Judgment, I.C.J. Reports 2012 (I), p. 148, paras. 117-118.

- (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 located at 42 Avenue Foch in Paris,
- (i) to adjudge and declare that, by attaching the building located 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, as well as general international law;
  - (ii) to order the French Republic to recognize the status of the building located 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.

\*

42. Equatorial Guinea reserves the right to supplement or amend the present Application.

43. In accordance with Article 35, paragraph 1, of the Rules of Court, Equatorial Guinea declares its intention to choose a judge *ad hoc* as provided for in Article 31 of the Statute of the Court.

44. The President of the Republic of Equatorial Guinea has appointed His Excellency Mr. Carmelo Nvono Nca, Ambassador of Equatorial Guinea to the Kingdoms of Belgium and the Netherlands, as its Agent for the present proceedings.

45. It is requested that all communications relating to this case be transmitted to the Agent at the following address: Place Guy d'Arezzo 6, 1180 Brussels, Belgium.

The Hague, 13 June 2016.

(Signed) Mr. Carmelo NVONO NCA,  
Ambassador of the Republic of Equatorial Guinea  
to the Kingdoms of Belgium and the Netherlands,  
Agent of the Republic of Equatorial Guinea.

---

## LIST OF ANNEXES\*

- Annex 1.* Paris *Cour d'appel*, National Financial Prosecutor's Office, final submissions seeking separation of the complaints, and either their dismissal or their referral to the *Tribunal correctionnel*, 23 May 2016.
- Annex 2.* Institutional declaration by the President of the Republic of Equatorial Guinea, 21 October 2015.
- Annex 3.* Note Verbale to the United Nations Office of Protocol and Liaison Service from the Permanent Mission of the Republic of Equatorial Guinea to the United Nations, 7 October 2015.
- Annex 4.* Application for annulment, Judgment, Paris *Cour d'appel*, 13 June 2013.
- Annex 5.* Judgment of 9 November 2010, *Cour de cassation*.
- Annex 6.* Republic of Equatorial Guinea, Decree of the President of the Republic No. 64/2012 of 21 May 2012.
- Annex 7.* Judgment of 15 December 2015, *Cour de cassation*.
- Annex 8.* Note Verbale dated 4 October 2011 from the Embassy of Equatorial Guinea.
- Annex 9.* Note Verbale dated 11 October 2011 from the French Ministry of Foreign and European Affairs.
- Annex 10.* Note Verbale dated 6 August 2012 from the French Ministry of Foreign Affairs.
- Annex 11.* Note Verbale dated 6 January 2016 from the Embassy of Equatorial Guinea.
- Annex 12.* Note Verbale dated 2 February 2016 and Memorandum from the Republic of Equatorial Guinea.
- Annex 13.* Note Verbale dated 17 March 2016 from the French Ministry of Foreign Affairs and International Development.

---

\* Annexes not reproduced in print version, but available in electronic version on the Court's website (<http://www.icj-cij.org>, under "cases").