



# INTERNATIONAL COURT OF JUSTICE

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## Press Release

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### **Certain Criminal Proceedings in France (Republic of the Congo v. France)**

#### **Case removed from the Court's List at the request of the Republic of the Congo**

THE HAGUE, 17 November 2010. By an Order dated 16 November, the International Court of Justice (ICJ), the principal judicial organ of the United Nations, has removed the case concerning Certain Criminal Proceedings in France (Republic of the Congo v. France) from its General List, at the request of the Republic of the Congo.

By letter dated 5 November 2010 and received in the Registry the same day by facsimile, the Agent of the Republic of the Congo, referring to Article 89 of the Rules of Court, informed the Court that his Government “withdraws its Application instituting proceedings” and requested the Court “to make an order officially recording the discontinuance of the proceedings and directing the removal of the case from the list”.

A copy of that letter was immediately communicated to the Government of the French Republic, which was informed that the time-limit provided for in Article 89, paragraph 2, of the Rules of Court, within which the French Republic might state whether it opposed the discontinuance of the proceedings, had been fixed as 12 November 2010.

By letter dated 8 November 2010 and received in the Registry the same day by facsimile, the Agent of the French Republic informed the Court that her Government “has no objection to the discontinuance of the proceedings by the Republic of the Congo”.

On 16 November 2010, the Court, placing on record the discontinuance by the Republic of the Congo of the proceedings, ordered that the case be removed from the List.

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#### **History of the proceedings**

On 9 December 2002, the Congo filed an Application whereby it sought to introduce proceedings against France seeking the annulment of the investigation and prosecution measures taken by the French judicial authorities further to a complaint for crimes against humanity and torture filed by various associations against the President of the Republic of the Congo, Denis Sassou Nguesso, the Congolese Minister of the Interior, Pierre Oba, and other individuals

including General Norbert Dabira, Inspector-General of the Congolese Armed Forces. The Application further stated that, in connection with these proceedings, an investigating judge of the Meaux Tribunal de grande instance had issued a warrant for the President of the Republic of the Congo to be examined as witness. The Congo contended that, by “attributing to itself universal jurisdiction in criminal matters and by arrogating to itself the power to prosecute and try the Minister of the Interior of a foreign State for crimes allegedly committed by him in connection with the exercise of his powers for the maintenance of public order in his country”, France had violated “the principle that a State may not, in breach of the principle of sovereign equality among all Members of the United Nations . . . exercise its authority on the territory of another State”. The Congo further submitted that, in issuing a warrant instructing police officers to examine the President of the Republic of the Congo as witness in the case, France had violated “the criminal immunity of a foreign Head of State, an international customary rule recognized by the jurisprudence of the Court”.

In its Application, the Congo indicated that it was seeking to found the jurisdiction of the Court, pursuant to Article 38, paragraph 5, of the Rules of Court, “on the consent of the French Republic, which w[ould] certainly be given”. In accordance with that provision, the Application by the Congo was transmitted to the French Government and no further action was taken in the proceedings at that stage.

By a letter dated 8 April 2003 and received in the Registry on 11 April 2003, France stated that it “consent[ed] to the jurisdiction of the Court to entertain the Application pursuant to Article 38, paragraph 5”. This consent made it possible to enter the case in the Court’s List and to open the proceedings. In its letter, France added that its consent to the Court’s jurisdiction applied strictly within the limits “of the claims formulated by the Republic of the Congo” and that “Article 2 of the Treaty of Co-operation signed on 1 January 1974 by the French Republic and the People’s Republic of the Congo, to which the latter refers in its Application, does not constitute a basis of jurisdiction for the Court in the present case”.

The Application of the Congo was accompanied by a request for the indication of a provisional measure “seek[ing] an order for the immediate suspension of the proceedings being conducted by the investigating judge of the Meaux Tribunal de grande instance”.

Public hearings were held on the request for the indication of a provisional measure on 28 and 29 April 2003. In its Order of 17 June 2003, the Court declared that the circumstances, as they then presented themselves to it, were not such as to require the exercise of its power under Article 41 of the Statute to indicate provisional measures.

The Memorial of the Congo and the Counter-Memorial of France were filed within the time-limits fixed by the Order of 11 July 2003.

By an Order of 17 June 2004, the Court, taking account of the agreement of the Parties and of the particular circumstances of the case, authorized the submission of a Reply by the Congo and a Rejoinder by France, and fixed the time-limits for the filing of those pleadings. Following four successive requests for extensions of the time-limit for filing the Reply, the President of the Court fixed the time-limits for the filing of the Reply by the Congo and the Rejoinder by France as 11 July 2006 and 11 August 2008, respectively. Those pleadings were filed within the time-limits thus extended.

By an Order of 16 November 2009, the Court, specifically citing Article 101 of the Rules of Court and taking account of the agreement of the Parties and the exceptional circumstances of the case, authorized the submission of an additional pleading by the Congo, followed by an additional pleading by France. It fixed 16 February 2010 and 17 May 2010 as the respective time-limits for the filing of those pleadings, which were filed within the time-limits thus fixed.

By letter dated 9 February 2010, the Registrar, inter alia, informed the Parties that the Court had fixed Monday 6 December 2010 as the date for the opening of the oral proceedings in the case.

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The full text of the Order of 16 November 2010 will be available shortly on the Court's website.

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