

DECLARATION OF JUDGE GAJA

Over the years the Court has increased the transparency of its deliberations. In its judgments, the Court records in the operative part (*dispositif*) all the main decisions, whether it accepts or rejects the requests of the Parties. Moreover, it gives the names of the judges who voted in favour or against each decision. However, when it comes to orders on provisional measures, transparency is still wanting. The Court states in the *dispositif* the decisions which grant, possibly in a modified form, the requests of one of the Parties, but, when it indicates some measures, it does not record in the operative part the rejection of other requests. No reference is made by the Court in any part of the order to the opinions of individual judges with regard to the rejection of these requests.

Following this practice, in the present Order the *dispositif* only specifies the measures indicated by the Court, or more accurately most of them, since the indicated deferment of the execution of any measure of confiscation concerning the building at 42 Avenue Foch in Paris, which is stated in paragraph 95 of the Order, is hardly covered by the *dispositif*. What appears to be missing in particular is the decision on the request concerning the immunity of Mr. Teodoro Nguema Obiang Mangue from criminal jurisdiction, although the matter is discussed in a large part of the reasons. This way of proceeding may allow the Court, as in the case of the present Order, to reach unanimity in all the votes stated in the Order. However, it cannot hide that, as some individual opinions attached to the Order show, divergent views were expressed concerning the request for immunity.

It may be excessive to suggest that all the decisions concerning even minor requests of provisional measures should be recorded in the *dispositif*. However, when a large part of an order is devoted to discussing a certain issue, it would be reasonable, in the interest of greater transparency, for the Court to give due emphasis to its decision on that issue and state which judges were in favour and which were against.

(Signed) Giorgio GAJA.
