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ANNEX 1

**Complaint with civil-party application filed by Transparency International  
France and Mr. Grégory Ngbwa Mintsa with the Paris  
Tribunal de grande instance, 2 December 2008**

**Complaint with civil-party application filed by Transparency International  
France and Mr. Grégory Ngbwa Mintsu with the Paris  
Tribunal de grande instance, 2 December 2008**

**COMPLAINT WITH CIVIL-PARTY APPLICATION**

(1) **Transparency International France**, an association governed by the Law of 1 July 1901, with its registered office located at 2 bis rue de Villiers, 92300 Levallois-Perret, acting through its President, Mr. Daniel LEBEGUE;

(2) **Grégory Ngbwa Mintsu**, residing at BP 2415 Libreville, Gabon, a Gabonese national.

**Counsel:** Mr. William BOURDON

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**HAVE THE HONOUR OF SETTING FORTH THE FOLLOWING FACTS**

**I. Factual background**

In an ordinary complaint lodged with the Paris Public Prosecutor's Office in March 2007, the associations Sherpa, Survie and *Fédération des congolais de la diaspora* set forth the following:

“(1) Over many years, various observers have gathered a certain amount of information showing that leaders of African States or certain members of their families had, during or after their terms of office, acquired or procured the acquisition of immovable property on French territory.

It is also clear that, at about the same time, some of those African leaders acquired movable assets, that is, they had bank holdings in France, at French banks and/or foreign banks with operations in France.

(2) It is also certain and indisputable that, in recent years, in the wake of regime changes, various African States have not hesitated to issue international letters rogatory or, more generally, to request the assistance of the international community in repatriating to the treasuries of the States concerned, sometimes with success, the bank holdings misappropriated by those African leaders who have been removed from office or lost elections, or who are deceased.

One could cite, *inter alia*, and simply as an example, the measures taken by the Nigerian Government with regard to the considerable bank holdings misappropriated by former President Sani Abacha.

These judicial measures not only targeted misappropriated bank holdings, they also aimed to identify any immovable property acquired by the African leaders in question.

It is true that these measures have not always been successful, since the real or apparent owners of the immovable assets took great care to take certain precautions in an attempt to conceal the actual ownership of the property and the financial arrangements.

Nevertheless, following their various investigations and by collating information gathered by different observers, the undersigned associations have in recent years been able to prove, or at least to establish with a very high degree of probability, that African leaders who are still in office and certain members of their families own immovable property of sometimes considerable value on French territory, and in Paris in particular.

They have also been able to acquire such proof with regard to immovable property previously owned by ousted or deceased leaders, the ownership of which was automatically passed on to their beneficiaries.

(3) Regardless of these leaders' merits and capabilities, no one can seriously believe that the immovable property in question, which in some cases is currently valued at several million euros, could have been acquired solely out of their remuneration.

This observation holds especially true for the family members of these African leaders, when they appear to own a number of properties, since in many instances they have no occupation or their occupation is unknown.

With regard to certain offences, such as money laundering, there is a presumption under the law that the offence has been committed if a person cannot provide proof of resources commensurate with his or her lifestyle (see for example *Cass. crim.*, 30 October 2002, No. 01-83.852).

In parallel, and with regard to the misuse of corporate assets, it has been recognized that corporate funds withdrawn by a chief executive are necessarily withdrawn in his own personal interest if there is nothing to show that the funds have been used in the sole interest of the company (see, for example, *Cass. crim.*, 11 January 1996, No. 95-81.776).

Such reasoning may be applied, by analogy, to a Head of State, with regard to the offences of misappropriation of public funds or handling misappropriated public funds.

It is recalled that the offence of misappropriation of public funds is provided for and punishable under Article 432-15 of the Penal Code, which states that:

‘The destruction, misappropriation or purloining of a document or security, of private or public funds, papers, documents or securities representing such funds, or of any other object entrusted to him, by reason of his functions or his mission, committed by a person holding public authority or discharging a public service mission, a public accountant, a public depositary or any of his subordinates, is punishable by ten years imprisonment and a fine of €150,000’.

Handling misappropriated public funds, for its part, is punishable under the combination of Article 432-15 and Article 321-1 of the same Code, which provides:

‘Handling is the act of concealing, possessing or transferring something, or acting as an intermediary in its transfer, with the knowledge that it was obtained through a felony or misdemeanour.

Handling is also the act of knowingly benefiting in any manner from the product of a felony or misdemeanour’.

Attached to this complaint, as required, is the most recent relevant jurisprudence (document 1).

It is acknowledged, however, that in certain cases some of the Heads of State in question may have received, non-transparently of course, rather extravagant remuneration.

Even though it is indisputable that the French courts cannot pass judgment on the remuneration of these African leaders, it must also be borne in mind — for each of the leaders and their families, whose situations will be examined below — that these French immovable assets were acquired at about the same time as immovable assets were acquired locally or in other countries, which, as will be shown, were sometimes quite considerable in terms of both volume and value.

Finally, and at this point, it is to be noted that there are strong grounds to believe that some of these African leaders, whose situations will be examined one by one, are or were the instigators of misappropriations of large amounts of public funds.

These suspicions are not simply the fruit of activist agitation, but are rather, as regards some of the leaders, corroborated by well-documented reports from, *inter alia*, international financial institutions or even creditors of the States in question.

(4) For this reason, we draw the Public Prosecutor’s attention more specifically to the following facts:

**(4.1) As regards Mr. Omar BONGO or members of his family:**

— General observations

There is a large body of documentation concerning the misappropriation of public funds committed by the BONGO clan.

In particular, we know that an attempt to block Mr. Omar BONGO’s accounts was made by investigating judge Paul Perraudin in Switzerland on 11 May 1998. An account opened in the name of one of President Bongo’s advisers, Samuel Dossou-Aworet, was attached at the Canadian Imperial Bank of Commerce in Geneva. The Head of State of Gabon declared that he was the actual beneficiary of the account at issue, which made it possible to claim presidential immunity in order to stop the investigating judge’s investigation (see documents listed below):

— ‘*Les comptes d’Omar Bongo*’, article in the newspaper *Sud-Ouest*, 28 August 1998 (document 2);

— ‘*Pas de comptes en Suisse . . .*’ *La Lettre du Continent*, 15 February 2001;

- articles in *Le Monde*, 6 August and 2 April 1997 (documents 4 and 5);
- article in *L'Express*, 21 January 1999 (document 6).

A United States Senate investigation published in June 2000 also shed light on Mr. Omar Bongo's secret accounts at City Bank.

Mr. Omar BONGO is suspected of having diverted US\$130 million into bank holdings in the United States between 1985 and 1997, not to mention City Bank's loans to the Bongo family, which total US\$50 million.

City Bank is said to have explained 'that the money came from a budget allocation, with 8.5 per cent of the Gabonese budget — US\$111 million — being reserved for the President each year'.

The Senate investigators, notably the Democratic Senator from the state of Michigan, Carl Levin, who sifted through the IMF's reviews of the Gabonese budget never found any trace of any 'presidential allocation' on that scale (see '*Vieux comptes gabonais*', *La Lettre du Continent*, 11 November 1999 — document 7).

Mr. Omar BONGO was also seriously implicated in the Elf affair, and it was only because of his immunity as Head of State that the investigating judges decided not to interview him, at least as a witness.

Significantly, on 3 July 2002, the 11th Chamber of the Paris *Cour d'appel* found that François-Xavier Verschave and his publisher, Les Arènes, were 'not guilty of the offence of affronting foreign Heads of State', even though they had referred to Omar Bongo as a '*parrain régional* [regional godfather]' and to his régime as a '*démocrature prédatrice* [predatory demagoguery]'.

The Court found that 'the documents adduced and the testimonies collected over the course of the proceedings . . . establish not only the importance and topicality of the subjects raised, but also the thoroughness of the investigations conducted'.

- The properties owned by Mr. Omar BONGO (or members of his family) in France, and Paris in particular, include:
  - a townhouse at 18 rue Dosne in Paris (16th arr.): located on a private street between 157 rue de la Pompe and 25 avenue Bugeaud (see '*DDV et Sarko chez Bongo à Paris*', *La Lettre du Continent*, 14 September 2006 — document 8), this townhouse purportedly belongs to his wife, Edith Bongo;
  - several apartments near avenue Foch in Paris, in the name of members of the Bongo family:
    - Albert Bongo: 5 rue Laurent Pichat, 75016 Paris;
    - Arthur Ondimba Bongo: 53 boulevard Lannes, 75016 Paris;
    - Nesta Bongo Ping: 6 rue Marbeau, 75016 Paris;
    - Nesta Bongo Ting: 52 avenue Foch, 75016 Paris.

Strong suspicions seriously suggest that this property belongs to the Bongo family or clan (as required, see extract from the Pages Blanches telephone directory — document 9).

It should be noted that Nesta Bongo Ping (the daughter or son born of the marriage between one of Omar Bongo's daughters and Jean Ping, the Gabonese Minister for Foreign Affairs; Nesta Bongo Ping is moreover doing a master's degree in management at Paris Dauphine) owns two apartments appearing in his/her name in the directory mentioned above.

In 1993, in his work entitled *L'or des dictatures*, Mr. Philippe Madelin listed the Bongo clan's various properties, including an apartment on avenue Foch and a property in Nice.

Ten years later, in March 2005, *La Lettre du Continent* revealed once again the existence of apartments on avenue Foch (€8 million for 1,000 m<sup>2</sup>) belonging to Omar Bongo's extended family (see '*Appartements gabonais à vendre avenue Foch*', *La Lettre du Continent*, 24 March 2005 — document 10).

#### **(4.2) As regards Mr. Denis SASSOU NGUESSO and his family:**

— General observations

Mr. Denis SASSOU NGUESSO is the current President of the Republic of Congo.

Like Mr. Omar BONGO, he has been seriously implicated, by senior World Bank officials among others, in the misappropriation of public funds.

Paul Wolfowitz, the former President of the World Bank, purportedly lambasted the Congolese President's staggering hotel bills.

Indeed, in connection with the ceremony for the 60th anniversary of the United Nations, Denis Sassou Nguesso allegedly ran up over €140,000 in hotel bills for a five-minute speech on poverty.

The former President of the World Bank purportedly told a journalist from *The New York Times*: 'It's an injustice to the developing countries and their people when we hide problems'.

The World Bank has long been reluctant to pursue negotiations to restructure Congo's national debt, owing to the fraudulent practices of its President.

More specifically, Denis Sassou Nguesso is suspected of having misappropriated a substantial portion of oil rents for his own benefit or that of his family and clan. These misappropriations purportedly began during his first term in power, from 1979 to 1992, by negotiating below-market sales of oil in exchange for payments to him. 'The World Bank pointed out in 1990 and 1991 that returns on oil exploitation [in the Congo] were among the world's lowest' (see the interview of Martial Cozette, conducted by the parliamentary fact-finding mission chaired by Marie-Hélène Aubert, '*Le rôle des compagnies pétrolières dans la politique internationale et son impact social et environnemental*', National Assembly report No. 1859, 1999, p. 228).

With regard to the Congo, the former CEO of Elf, Loïk Le Floch-Prigent, mentioned ‘phantom oil cargoes [that] are kept off the official books and divvied up among men in the shadows’ (cited in Nicolas Lambert, *Elf, la pompe d’Afrique: Lecture d’un procès*, Tribord, 2005, p. 82).

Mr. Le Floch-Prigent knows what he is talking about, considering that Elf, followed by Total, supplies the Congolese State with 70 per cent of its oil revenue.

To date, Denis Sassou-Nguesso’s fortune is estimated at over a billion dollars (see Mr. Xavier Harel’s work ‘*Afrique: le pillage à huis clos*’, pp. 37-45 — document 11).

A 2001 report by the International Monetary Fund (IMF) condemned the channelling of Congolese public funds into private accounts other than those of the Treasury. According to the IMF, there is no trace of US\$248 million from the extraction of crude oil between 1999 and 2002 in Congo’s accounting.

In the 2003 budget, of US\$800 million in oil rents, only US\$650 million was accounted for (see *Le Monde*, 25 March 2004 — document 12).

According to the observation of a vulture fund, FG Hemisphere, the Congolese authorities ‘forgot’ to record nearly a billion dollars between 2003 and 2005 (see work by Mr. Xavier Harel cited above, p. 152).

The Congolese President and his clan also took advantage of additional benefits — guaranteed loans and pre-financing — as well as various commissions on oil sales and the *provision pour investissements diversifiés* (PID) [provision for diversified investments], a veritable slush fund, which was not accounted for between 1997 and 2002.

In 2005, legal action taken by ‘vulture funds’, which had enabled part of the Congolese debt to be purchased at a discount, brought to light a system of shell companies controlled by men close to President Denis Sassou-Nguesso (see article ‘*Les millions envolés du Congo*’ in *La Tribune*, 13 December 2005, and ‘*Les fonds vautours multiplient les attaques contre les pays pauvres*’ in *Les Échos*, 14 March 2007).

According to British and American court judgments, these companies channelled a portion of oil proceeds into bank accounts in tax havens (see the judgment of the Commercial Court, Royal Courts of Justice, London, 28 November 2005, and the April 2006 decision of a United States federal judge admitting a complaint filed in May 2005 by Kensington International before the United States District Court [for the Southern District] of New York — documents 13 and 14).

On 28 November 2005, the Commercial Court at the Royal Courts of Justice in London ordered the Congo to repay debts owed to Kensington International, a vulture fund based in the tax haven of the Cayman Islands.

It was discovered that at the heart of the scheme was a small Bermuda-based company, Sphynx Bermuda, which had only US\$12,000 in share capital but carried out about US\$472 million worth of business! It would buy oil from the Société Nationale des Pétroles du Congo (SNPC) [Congo’s State-owned oil company], frequently at above-market prices, and sell it on the international market.

According to the Royal Courts of Justice in London, there is ‘no connection between the cash passing through its bank accounts and the sums it should have received for the oil it sold’ (document 15).

These two companies had the same chief executive: Denis Gokana, an adviser to Denis Sassou-Nguesso. The President’s son was also involved in the companies.

In April 2006, a United States federal judge then declared admissible a complaint filed by Kensington International against the French banking group BNP Paribas and SNPC for money laundering.

BNP Paribas and SNPC had allegedly worked together to knowingly hide oil proceeds from Congo’s creditors through a ‘complex and unusually structured’ pre-payment system.

Under the direction of Mr. Itoua, between 2001 and 2004 the Congo State-owned oil company used a dizzying series of complex fictitious transactions and smokescreen companies to plunder the country’s abundant oil resources. The supposed intermediaries include one company registered in the British Virgin Islands with ‘as its sole identifiable place of activity . . . a private residence in Monaco’.

— The properties owned by Mr. Denis SASSOU NGUESSO in France, and Paris in particular, include:

— Villa Suzette, 45 avenue Maurice Berteaux, 78110 Le Vésinet: 700 m<sup>2</sup> townhouse estimated at between €5 million and €10 million. Sumptuous works were carried out at a cost of over €800,000: ‘solid mahogany library, Aubusson tapestries, gold-leaf taps and door handles, even for the basement with its six bedrooms for domestic staff, cameras, bulletproof glass’, tile with ‘white Carrara marble’, ‘bathrooms with gold taps’;

— 19 avenue Rapp, 75007 Paris.

Members of his family also own immovable property in Paris:

— Wilfrid Nguesso, the President’s nephew, is reported to own an apartment located at 10 promenade Millénaire, 92400 Courbevoie (see Jean-François Julliard, *L’appartement d’un émule africain de Gaymard*, *Le Canard Enchaîné*, 16 March 2005: a 550 sq m luxury apartment (including a 100 sq m terrace) estimated at between €2.5 million and €3 million);

— other apartments in Courbevoie owned by the Nguesso family: Ines Nguesso, 10 promenade Millénaire, and Edna Ambendet Nguesso, 20 rue Clos Lucé (see Pages Blanches);

— Maurice Nguesso, the President’s brother and CEO of the oil company LIKOUALA SA, are reported to own a property at 38 rue Poirier Fourrier in Argenteuil (see Pages Blanches);

— Jean François Ndengue, head of the Congolese police, has a property in Meaux. He was implicated in the ‘Disappeared of the Beach’ case (see book by Xavier Harel, chapter ‘*Les disparus du Beach*’).

The associations draw the Public Prosecutor’s attention to a serious effort made by a group of Congolese citizens to itemize the ill-gotten gains that concern

Congo-Brazzaville. The list of implicated property and individuals can be found on the following website:

<http://congo-biensmalacquis.over-blog.com/> (copy of the website as of 21 March 2007 annexed hereto).

**(4.3) On the property in France purportedly owned by other African leaders**

The undersigned associations wish to point out that they have not been able to assemble sufficient factual elements to have the property discussed below included in the scope of the forthcoming investigations.

They underscore, however, that it would be particularly inappropriate for those who have acted with the least transparency also to receive the greatest rewards.

In other words, even though, as matters stand, the property discussed below is not very precisely itemized and has sometimes only been alluded to in certain news clippings, it is extremely likely that it exists and is effectively owned by the African leaders in question.

In these circumstances, it falls to the Public Prosecutor to assess whether, as the associations believe, despite the limited information concerning this property, it is nonetheless justified, in light of France's commitments (as recalled below), to include the property in the scope of the forthcoming investigations.

**(a) As regards Mr. Blaise COMPAORE and his family:**

Mr. Blaise COMPAORE is the President of Burkina Faso.

Even though, in comparison with the previous two individuals, there is less documentation indicating that he misappropriated public funds, the fact remains that he owns (through his wife, Ms Chantal COMPAORE) an apartment located at 2 rue Capitaine Olchanski in Paris (16th arr.).

The Public Prosecutor's attention is also drawn to a few references which demonstrate the misappropriation of funds, such as *L'ère Compaoré : crimes, politique et gestion du pouvoir*, Vincent Ouattara (Klanba, December 2006). The 1-15 March 2007 edition of the bimonthly publication *Afrique Éducation* contains an article entitled "*Compaoré, chef de l'État ou chef de la mafia*", which discusses, *inter alia*, his role alongside Charles TAYLOR, the former Head of State/dictator of Liberia, who was prosecuted before an international criminal tribunal in The Hague and whose assets were frozen in Europe under a regulation adopted by the European Union in 2004.

**(b) As regards Mr. Teodoro OBIANG and his family:**

Mr. Teodoro OBIANG is the President of Equatorial Guinea.

According to the 12 April 2006 edition of *Le Figaro* (see article by Stéphane Bern, '*Drapeau rouge et billet vert*', 12 May 2006 — document 16), he acquired a townhouse located on avenue Foch. It is evident that Mr. Teodoro OBIANG took pains not to be named as the apparent owner of the property, but the verifications to be made in the forthcoming investigations will undoubtedly establish that he is.

Mr. Teodoro OBIANG has been branded as one of the most corrupt Heads of State in Africa (see the 15 July 2004 report by Senators Carl Levin and Norm Coleman entitled “Money laundering and foreign corruption: enforcement and effectiveness of the Patriot Act”, Permanent Subcommittee on Investigations — document 17. See also the Global Witness report cited above with regard to Congo-Brazzaville).

According to the most recent ranking by Forbes magazine, his fortune is estimated at over US\$600 million.

**(c) As regards Mr. Eduardo DOS SANTOS and his family:**

Mr. Eduardo DOS SANTOS is the President of the Republic of Angola.

For years, he has been branded as one of the most corrupt Heads of State in the world (see the Global Witness report ‘*L’histoire accablante du pétrole en Angola*’).

Mr. Eduardo Dos Santos has been identified as the owner, undoubtedly in the same non-transparent circumstances as President Teodoro Obiang, of an absolutely sumptuous villa in Cap d’Antibes (see *La Lettre du Continent* of 11 December 2002 — document 18).

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In conclusion, the present complaint and the documents attached hereto demonstrate the following:

- (1) the existence in France, and in Paris in particular, of immovable assets of considerable value which, regardless of the circumstances in which they were acquired, could not have been financed solely through the remuneration paid to the leaders of the countries concerned.
- (2) Some of these same leaders have been identified as having perpetuated a culture of bribery and corruption.
- (3) As regards third parties who are the legal owners of the properties in question or those who have benefited from them, that is, those who enjoy their use — be they members of the families concerned or other individuals — there are very strong grounds to believe that they have committed the offence of handling misappropriated public funds, over a period not covered by prescription since the offence is continuing.

France, through declarations made by its highest representatives, has in recent years consistently voiced its intention to focus on combating any behaviour that is likely to impoverish the peoples of Africa, in particular as a result of such misappropriations of public funds.

Indeed, the consequences of this siphoning of considerable amounts of money — needed to acquire such immovable assets — reflect the extent to which public resources have been diminished in Africa.

It should be recalled that:

- at the G8 summit in Evian (in June 2003), France spearheaded efforts to seek the repatriation of misappropriated funds to the countries concerned;
- France was also the first G8 country to ratify the United Nations Convention against Corruption, the so-called Merida Convention, which establishes the return of misappropriated property and monies as a fundamental principle of international law.

Furthermore, Mr. Prosecutor, before our very eyes, normative as well as customary international law is being formed which, with each passing day, places every State in the world under an increasingly stringent obligation to do whatever they can to combat threats to the major economic and political balances, namely, financial crime, regardless of who benefits from it or how it is carried out.

At the same time, and in response to this increasingly universal concern, there is no question that the principles which, for many years, have protected incumbent Heads of State, in respect of either their criminal or civil immunity, have been gradually been eroding and crumbling.

This movement in treaty and customary international law has, moreover, led a number of national courts to consider that an incumbent Head of State cannot claim immunity of any kind with regard to such property (movable or real), if there are strong grounds to believe that it was acquired through a criminal offence. This is precisely the situation in the present case.

The undersigned associations recall that, in any event, the family members of the African leaders concerned cannot claim any form of immunity.

What is more, it appears extremely likely that the offence of laundering misappropriated public funds has also been committed, this offence having accompanied, preceded or coincided with the financial flows needed to acquire the real properties in question (or at least some of them).

As the Public Prosecutor is aware, the offence of laundering misappropriated public funds applies to the perpetrator of the predicate offence.

Finally, the forthcoming investigations will ascertain whether certain third parties, who offered their expertise or assistance in arranging the financial flows needed to acquire property, have committed either the offence of complicity in the misappropriation of public funds or the offence of laundering misappropriated public funds.

While it is true that the prescription period for these related offences may have expired, the undersigned associations are unsure of the dates on which some of the properties mentioned above were acquired.

By the same token, the lack of transparency which surrounds these offences could lead to it being considered, during the forthcoming investigations and as regards these related offences, that the prescription period has not expired as far as the perpetrators are concerned.

Moreover, the forthcoming investigations alone will ascertain (since the prescription period has not expired for the offence of handling misappropriated public

funds) whether the prescription period for the predicate offence — misappropriation of public funds (which was committed in connection with the acquisition of the real property) — has expired with regard to the perpetrators.

Finally, this court must be aware that even if all or part of the predicate offence were committed in a foreign country, according to jurisprudence and the law, the French courts retain jurisdiction over handling offences.

In these circumstances, the undersigned complainants have the honour to file a complaint before the Public Prosecutor, as matters stand, solely for handling misappropriated public funds, an offence provided for and punishable under Articles 432-15 and 321-1 of the Penal Code, and complicity, provided for under Articles 121-6 and 121-7 of the Penal Code.”

It was decided on 12 November 2007 that no further action would be taken in relation to this first complaint.

On 9 July 2008, a second complaint alleging the exact same facts was filed by TRANSPARENCY INTERNATIONAL FRANCE, Béatrice TOUNGAMANI née MIAKAKELA, Abdoul Aziz MAIGA and Grégory NGBWA MINTSA, and in early September 2008 it was again decided that no further action would be taken.

A preliminary investigation (the full report of which is annexed hereto) was initially launched by the Paris Public Prosecutor on 18 May 2007. The investigation corroborated most of the facts alleged by the complainants. For this reason, we believe the complete conclusions reached by the police bear repeating:

#### **THE FACTS**

On 18 June 2007, Mr. ALDEBERT, Deputy Prosecutor at the Paris *Tribunal de grande instance*, Financial Division, addressed an investigation request (*soit-transmis*) to the OCRGDF (serious financial crime squad). The request was in response to a complaint filed with the Paris Public Prosecutor’s Office by three associations (SHERPA, SURVIE and Fédération des Congolais de la Diaspora).

In their application, the associations filed a complaint against person(s) unknown for handling misappropriated public funds. They mentioned considerable assets acquired over a number of years by five African Heads of State and their families. The funds used to acquire these assets in France were allegedly derived from misappropriations carried out in their own countries. To support their allegations, the associations provided substantial documentation, primarily news articles, mentioning some of the immovable properties owned by the Heads of State in question.

The five countries cited in the complaint are Gabon, the Congo, Burkina Faso, Equatorial Guinea and Angola. For reasons of convenience, it was decided to classify the acts covered by our investigations into separate sub-files: sub-file A for Gabon, sub-file B for the Congo, sub-file C for Burkina Faso, sub-file D for Equatorial Guinea and sub-file E for Angola. An initial partial transmission was made on 27 September 2007.

#### **THE INVESTIGATION**

The mission entrusted to the OCRGDF’s criminal asset identification platform (PIAC) involved the following tasks:

- identifying the immovable assets in Paris and on national territory belonging to Omar BONGO, President of Gabon, Denis SASSOU NGUESSO, President of the Congo, Blaise COMPAORE, President of Burkina Faso, Teodoro OBIANG, President of Equatorial Guinea, and Eduardo DOS SANTOS, President of Angola;
- ascertaining the circumstances in which the assets were acquired and identifying the corresponding financial flows;
- identifying the family members, third parties and official owners of the immovable property thus identified who were likely to have benefited from it;
- checking whether each of these persons enjoys diplomatic immunity.

Our initial investigations make it possible to pinpoint the identities of the persons named in the file; this personal information is the only way to identify any movable or immovable assets. The associations' letter/complaint gives only a surname, and sometimes a first name, but no date of birth; what is more, the relationships between the persons are not always specified.

A list of natural persons is drawn up with regard to each country for use in the investigations (see record No. 1 in each sub-file).

Our inquiries revealed a considerable vehicle collection, in particular in the names of Wilfrid NGUESSO, the nephew of the President of the Congo, and Teodoro NGUEMA, the son of the President of Equatorial Guinea. Teodoro NGUEMA had, *inter alia*, purchased some fifteen vehicles in France for an amount estimated at more than €5,700,000. For example, he ordered three BUGATTI Veyron vehicles from the manufacturer in Alsace for a unit price of more than €1 million (see record No. 132/2007/D/5 of 6 August 2007).

The financing of certain vehicles appeared unusual, to say the least: in 2006, Pascaline BONGO, who is believed to be the daughter of the President of Gabon, purchased a Mercedes vehicle paid for with three cheques drawn on the bank accounts of Ms Joannie ARTIGA, Mr. François MEYER and the Treasury Office of Gabon in France (see record No. 132/2007/A/4 of 20 July 2007). Similarly, some of the vehicles purchased by Teodoro NGUEMA were paid for through transfers from SOMAGUI FORESTAL (see records No. 132/2007/D/5 of 6 August 2007 and No. 132/2007/D/8 of 26 October 2007). Wilfrid NGUESSO paid the balance of an Aston Martin DB9 vehicle through a transfer made by MATSIP CONSULTING (see record No. 132/2007/B/28 of 5 November 2007).

Substantial immovable assets were identified, in particular in the names of individuals who were likely to be members of the families of Omar BONGO and Denis SASSOU NGUESSO:

- concerning the President of Gabon, a property in his name was discovered at 3 boulevard Frédéric Sterling in Nice (Alpes-Maritimes). The property is not mentioned in the letter of 10 July 2007 from Mr. François MEYER to the Paris Public Prosecutor, which provides a summary of Omar BONGO's assets. The property comprises two apartments (170 sq m and 100 sq m), three houses (67 sq m, 215 sq m and 176 sq m) and a swimming pool (see record No. 132/2007/A/8 of 17 September 2007).
- concerning the members of the BONGO and SASSOU NGUESSO family, the tax authorities found a *société civile immobilière* (non-commercial property

company), SCI De la Baume, whose shareholders include Edith SASSOU NGUESSO, who is the daughter of Denis SASSOU NGUESSO and wife of Omar BONGO. On 15 June 2007, the company purchased a townhouse located at 4 rue de la Baume in the 8th arrondissement of Paris for **€18,875,000** (see record No. 132/2007/B/9 of 17 September 2007).

Lastly, it would appear that the majority of the immovable property owned by the individuals identified is located in high-end neighbourhoods: the 16th and 7th arrondissements of Paris for Omar BONGO and his wife, the 16th arrondissement of Paris and Neuilly-sur-Seine (Hauts-de-Seine) for Jeff BONGO, Le Vésinet (Yvelines) for Denis SASSOU NGUESSO's brother, Courbevoie (Hauts-de-Seine) for Wilfrid NGUESSO, and the 16th arrondissement of Paris for Chantal CAMPAORE.

Numerous active bank accounts were identified in the names of natural persons likely to be members of the families of the Heads of State concerned. A list for each person is set out in a record. It states the account number, the date on which the account was opened, the type of account, the exact address of the bank and branch office, and the address of the account holder.

With regard to the possible immunities enjoyed by the persons appearing in the file, the Protocol Department of the Ministry of Foreign Affairs sent a letter stating that only incumbent Heads of State enjoy inviolability and absolute immunity from criminal jurisdiction when abroad. Their family members may enjoy immunity if they accompany the Head of State on a visit that is official (see record No. 132/2007/7 of 24 October 2007).

In accordance with the express instructions of the issuing judge, these proceedings are transmitted as they stand.

## **II. Discussion**

### **(1) Information gathered from the preliminary investigation**

The investigations carried out by the investigation units revealed the following:

#### **As regards Mr. Omar BONGO and his entourage:**

- immovable assets comprising thirty-nine (39) properties, of which seventeen (17) are in the name of Mr. Omar Bongo, most of those properties being located in the 16th arrondissement of Paris;
- the identification of seventy (70) bank accounts (BNP, Société Générale, Crédit Lyonnais, Barclays, etc.), of which eleven (11) are in the name of Mr. Omar Bongo;
- a vehicle collection comprising at least nine (9) vehicles, estimated at a total of €1,493,443.

#### **As regards Mr. Denis SASSOU NGUESSO and his entourage:**

- immovable assets comprising eighteen (18) properties;
- the identification of a hundred and twelve 112 bank accounts (BNP, Crédit du Nord, Société Générale, Crédit Lyonnais, Barclays, etc.);
- a vehicle collection comprising at least one (1) vehicle, valued at €172,321.

**As regards Mr. Teodoro OBIANG and his entourage:**

- immovable assets comprising at least one (1) property in the name of Mr. Teodoro Obiang (born 5 June 1942);
- the identification of one (1) bank account with Barclays in the name of Mr. Teodoro Nguema Obiang (born 24 June 1969);
- a vehicle collection comprising at least eight (8) vehicles owned by Mr. Teodoro Nguema Obiang (born 24 June 1969), estimated at a total of €4,213,618.

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Considering the magnitude of the movable and immovable assets owned by Mr. Omar BONGO and Mr. Denis SASSOU NGUESSO in France, it is difficult to believe that they could have acquired such assets solely through their salaries and emoluments. True, they have held on to power for many years. Even so, it is rather unlikely that they have saved up enough money to amass assets such as these.

The preliminary investigation also confirmed the presence in France of considerable assets held by various members of the leaders' entourages (family and close associates). This revelation is particularly surprising given that some of them do not hold public office.

The preliminary investigation revealed, moreover, the existence of assets of considerable value — primarily luxury vehicles — benefitting the OBIANG family.

In any event, given the conditions in which some of the property targeted by the police was financed, one could reasonably question the lawful provenance of the funds and the property thus accumulated on French territory.

In particular, as regards the vehicle collection, it has to be recognized that the means by which certain vehicles were financed are particularly "unusual", to quote the term used in the summary report of the police.

For example, a number of the vehicles purchased by Teodoro NGUEMA OBIANG were paid for by transfers from SOMAGUI FORESTAL, a logging company based in Equatorial Guinea and run by Teodoro NGUEMA OBIANG.

TRACFIN (the national anti-money laundering unit), which investigated the company, considers that:

"in the light of all of these elements, both financial and environmental, it can be considered that the operations set out above could reflect laundering of the proceeds of the misappropriation of public funds by a person in a position of public authority, through the acquisition of vehicles of considerable value" (p. 3 of the TRACFIN memorandum).

This analysis is shared by the Immigration and Customs Enforcement Office in Miami, United States, which is tasked with an investigation in the United States concerning Mr. Teodoro Nguema Obiang, the son of the President of Equatorial Guinea: "The American investigation into the activities of Mr. Teodoro Nguema Obiang and his associates identified a

number of suspicious transactions originating in or transiting through the French financial system” (Point 2 of the request for assistance in the investigation of Teodoro Nguema Obiang and his associates).

Similarly, the preliminary investigation shows that two vehicles purchased by Edith Bongo and Pascaline Bongo, respectively, were paid for with cheques drawn on accounts opened in the name of the Treasury of Gabon.

In conclusion, there is evidence of the existence on French territory of substantial movable and immovable assets acquired in particularly dubious circumstances.

A judicial investigation must be opened to determine the provenance of the funds the above-mentioned persons used to acquire those assets. Furthermore, the full extent of the role played by various intermediaries in carrying out these operations should also be brought to light.

## **(2) On the standing of Transparency International France**

Transparency International France is a non-profit association that has been duly registered with the relevant prefecture since 1995.

Its mission is to combat all forms of corruption, in accordance with the association’s purpose as recalled below:

### Article 2 — Purpose

The mission of Transparency International (France) is to combat and prevent corruption at the national and international levels, in relations between States, between States and natural or legal persons, whether public or private, and between such persons themselves.

To that end, its purpose is to:

- raise awareness of all forms of corruption in order to develop tools and processes to curb and restrict their expansion and assess their impact;
- develop and implement programmes of action and reviews in France and countries afflicted by corruption;
- educate and train professional technicians, administrators and decision-makers;
- advise public authorities and natural and legal persons, whether public or private, on subjects relating to the many facets of corruption;
- provide support, particularly financial support, to Transparency International and back efforts to pursue its purpose;
- assemble documentation on all aspects of corruption;
- engage the professional, social and political spheres in pursuing greater accountability in economic and financial affairs;
- **take any action to prevent, deter or combat illegal practices or any form of corruption;**
- **provide assistance and support to the victims of illegal practices after examining the cases submitted to the association;**

- organize events intended to advance individual, collective and professional ethics, particularly through the use of communications;
- disseminate information which raises awareness about problems that lead to corruption in public and business relations.

The *Cour de cassation* has for many years recognized the admissibility of civil-party applications filed by associations in instances where the offence in question undermines the interests that they have a legal or statutory duty to defend. The examples are legion:

- regarding the admissibility of the application of the association “Aide à tout détresse”, which provides care for destitute individuals who are unable to safeguard their own interests and rights: Colmar *Cour d’appel*, 10 February 1977;
- regarding the admissibility of the application of the association “Choisir” in rape proceedings, on the grounds that the purpose of the association, according to its charter, is to ensure respect for human beings and protect women who are in danger: Paris *Cour d’assises*, 15 December 1977;
- regarding an anti-smoking association whose civil-party application relating to tobacco advertising was found admissible: *Cass. crim.*, 7 February 1984, Bull. crim. No. 41; *Cass. crim.*, 29 April 1986, Bull. crim. No. 146; *Cass. crim.*, 29 June 1994, Bull. crim., No. 260;
- regarding a French football federation, whose civil-party application was found admissible in proceedings relating to the corruption of professional sportspersons in the Valenciennes/Olympique de Marseilles scandal: *Cass. crim.*, 4 February 1997, Bull. crim. No. 45;
- regarding the Union fédérale des consommateurs Que Choisir, whose civil-party application based on Article L. 221-1 of the Consumer Code relating to the requirement of safe services was found admissible in proceedings for homicide and involuntary injuries following the collapse of a stand at Furiani stadium: *Cass. crim.*, 24 June 1997, Bull. crim. No. 251;
- regarding an association that defends beef industry interests in proceedings for the offence of misleading advertising as to beef origin: *Cass. crim.*, 26 October 1999, Bull. crim., No. 233.

More recently, the *Cour de cassation* had occasion to find admissible the civil-party application of an unaccredited environmental protection association. The *Chambre criminelle* found that the association had suffered direct and personal harm through the undermining of the collective interests which, under its charter, it was intended to defend.

As mentioned above, the purpose of Transparency International France is to combat all forms of corruption. The misappropriation of public funds and the handling thereof clearly fall within the scope of corruption. This is moreover the approach taken in the United Nations Convention against Corruption (Articles 17 and 24).

Therefore, if the legal interests defended by associations are not to be given unjustified differential treatment, the possibility for Transparency International France to bring legal proceedings must be recognized. Indeed, it would be quite surprising if an anti-corruption association were denied something that has been granted to unaccredited environmental protection associations or anti-smoking associations.

As a final note, Transparency International France satisfies the requirements of Article 5 of the Law of 1 July 1901 (registration with the prefecture), which all associations must comply with

in order to have the right to take part in court proceedings, hence there are no impediments to the admissibility of the association's civil-party application: *Cass. crim.*, 12 April 2005, Appeal No. 0485.982.

It follows from the foregoing that Transparency International France has suffered direct and personal harm as a result of the offences alleged in this complaint, with regard to which it is entitled, under Article 2 of the Code of Criminal Procedure, to seek redress by filing a civil-party application with the criminal courts.

### **(3) On the standing of Mr. Grégory Ngbwa Mintsa**

First of all, considering the pressure placed on the complainants<sup>1</sup>, it is important to emphasize that Mr. Grégory Ngbwa Mintsa has demonstrated great bravery in filing the present civil-party application.

Mr. Grégory Ngbwa Mintsa is a Gabonese national. He has provided documentation proving that, during a period corresponding to all or part of the period relating to the alleged facts, he paid taxes to the Public Treasury of Gabon (see documents annexed hereto) and is filing the present civil-party application in that capacity.

The complainant puts forward two grounds for his action.

#### **The first ground: the harm suffered by the body politic of Gabon**

Firstly, Mr. Grégory Ngbwa Mintsa seeks to file a civil-party application in the name and on behalf of the State of Gabon with the aim of obtaining redress for the harm suffered by Gabon as a result of the misconduct committed by Mr. Omar Bongo and the members of his entourage.

#### **— On the existence of the harm claimed by the complainants:**

It has long been recognized that “*Articles 2 and 3 of the Code of Criminal Procedure open civil-party actions to anyone who has personally suffered material or moral harm resulting from acts which are the subject of prosecution, without excluding public-law corporations*” (*Cass. crim.*, 7 April 1999, Parc national des Écrins).

In the present case, the State of Gabon suffered harm as a result of the misconduct committed by Mr. Omar Bongo and members of his entourage. This harm is both direct and personal.

Direct because it is clear that the ownership on French territory by the leader of Gabon and members of his entourage of property or funds derived from the misappropriation of public funds harms the body politic as a whole.

— From a material perspective, this harm consists of diminished government revenues;

— from a moral perspective, harm is caused in so far as the facts at issue — since they were in part carried out by persons performing public functions and in connection with the performance of those functions — are liable to bring discredit upon the entire body politic: *Cass. crim.*, 10 March 2007, Bull. crim. No. 64; *Cass. crim.*, 8 February 2006, Appeal No. 05-80.488;

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<sup>1</sup>In this regard, it should be noted that two complainants (Ms Béatrice Tougamani and Mr. Abdoul Aziz Maiga) decided not to file civil-party applications after receiving threats — facts which are the subject of two complaints filed with the police.

*Cass. crim.*, 14 March 2007, Appeal No. 06-81.010. In these various cases, the *Chambre criminelle* found that the body politic had suffered moral harm separate from the public interest which is safeguarded by the Public Prosecutor's Office.

It has indeed long been recognized that breaches of the duty of probity not only undermine the public interest, they can also undermine individual interests: "Although the offence of passive corruption established by Article 177 of the Penal Code was primarily established in the public interest, it also aims to protect individuals who might . . . suffer direct and personal harm for which they are entitled to seek redress before the criminal courts" (*Cass. crim.*, 1 December 1992; *Dr. pén.* 1993, comm. 126).

Since then, in such cases, the *Chambre criminelle* has recognized the admissibility of civil-party applications filed by both natural persons and legal persons, regardless of whether they are governed by private law, as in the case of a sporting federation (*Cass. crim.*, 4 February 1997: *Juris-Data* No. 1997-000569; *Bull. crim.* 1997, No. 45), or public law, as in the case of a public housing office (*Cass. crim.*, 21 May 1997: *Juris-Data* No. 1997-003328; *Bull. crim.* 1997, No. 193).

As regards the person of the State, the *Chambre criminelle* specifically declared admissible the State's civil-party action against civil servants who engaged in favouritism and influence peddling (*Cass. crim.*, 10 March 2004, *Bull. crim.* No. 64).

#### — **On the complainants' ability to file a civil-party application in the name and on behalf of Gabon**

We know that company law recognizes shareholders' and members' right to seek, in the name and on behalf of the company, compensation for any harm caused to the company, which will be awarded damages as appropriate: this is known as an *ut singuli action*.

This individual action may be brought by any shareholder or member, regardless of the number of shares they own or the extent of their ownership interest.

This is an alternative action which presupposes that the corporate executive responsible for legally representing the company has failed to act (*Cass. crim.*, 12 December 2000, Appeal No. 97-83.470) and/or is implicated in the proceedings.

In the present case, the claimant is asserting his right to bring an action not, of course, in his capacity as a shareholder, but rather as a taxpayer. Nonetheless, in each of these situations, the complainants' standing arises from the contributions they have made (shares, ownership interests or mandatory withholdings) to the group whose legal representation they intend to ensure.

What is at issue, moreover, is not the harm caused to a private-law company but rather the harm caused to a State-society, a legal person governed by public law. Yet in both situations, the harm has been caused to an organized group that has legal personality.

This reasoning is not at variance with our own positive law, as Article L. 2132-5 of the General Code of Territorial Communities (CGCT) specifically allows taxpayers registered with a municipality to bring any action that they believe falls to the municipality and which the municipality has refused or neglected to take— which measure has also been extended to departmental taxpayers (Article L. 3133-1 of the CGCT) and regional taxpayers (Article L. 4143-1 of the CGCT) under the Act of 12 April 2000.

The term "action" refers equally to proceedings to obtain payment, actions for rescission based on inadequate consideration, and civil-party actions: the *Chambre criminelle* thus found that

Article L. 316-5 of the Municipalities Code (formerly Article L. 2132-5 of the CGCT) does not distinguish between the various actions the municipality may be entitled to bring and its provisions do not exclude civil-party actions seeking redress for an offence (*Cass. crim.*, 12 May 1992).

Accordingly, any taxpayer can apply to the administrative court, acting as an administrative authority in this instance, for the right to file a civil-party application in the place and stead of the municipality, in order to institute criminal proceedings and obtain redress for any harm the latter has incurred.

According to the jurisprudence of the *Conseil d'état* in this respect, authorization is subject to two conditions: authorization is granted if the action is of sufficient material interest to the municipality and the municipality has a prospect of success. In civil-party actions, the second condition is satisfied where the evidence in the case-file leads to the suspicion that a criminal offence has been committed (CE, 26 March 1999, Ville de Paris, Juris data No. 1999-050213).

These different measures provide a basis for solutions that can be readily applied to the facts which are the subject of this complaint:

- Gabon has suffered direct and personal harm as a result of the offences perpetrated on French territory;
- the legal representatives of Gabon have neglected to bring legal proceedings, and for good reason, since the misconduct at issue is specifically attributed to the highest ruling authority of the State of Gabon;
- the Public Prosecutor's Office refused to lend its support to the complainants;
- since the action brought by Mr. Grégory Ngbwa Mintsa is a subsidiary action, it aims to serve the pecuniary and moral interests of the body politic.

For all of these reasons, it would be deeply unfair to cite a lack of special authorization as grounds for denying the complainant the right to file a civil-party application aimed at seeking redress for the harm caused to the complainant's community.

With this in mind, the reasons given in the judgment of the Colmar *Cour d'appel* of 10 February 1977, cited above, bear mentioning. After recalling that the criminal courts had in two situations entertained civil-party actions brought by associations that did not have the legal authority to do so, the appeal judges decided that:

“by analogy and *a fortiori* considering the interest at stake, the same should apply to the complaint filed by ‘Aide à toute détresse’ since, by definition, this group provides care only for individuals who are completely destitute, incapable of safeguarding their own rights and interests, and rejected by society, and to whom, as in the present case, the judicial and administrative authorities refuse to lend their support”.

Accordingly, even though there was no law at that time which allowed an association to bring a collective civil-party action before the criminal courts, the appeal court nonetheless found the civil-party application of the association “Aide à toute détresse” admissible. In the absence of any grounding in written law, this solution is based on grounds of equity. Indeed, since the Public Prosecutor's Office refused to lend the victims its support, a finding to the contrary would have had the effect of depriving them of a judicial remedy and their right to redress. That is precisely the risk in the present case.

It follows from the foregoing that, as a result of the criminal misconduct committed by Mr. Omar Bongo and the members of his entourage, Gabon has suffered direct and personal harm

for which, in accordance with Article 2 of the Code of Criminal Procedure, it is entitled to seek redress by filing a civil-party application before the criminal courts, albeit through the intermediary of one of its citizens.

**The second ground: the harm suffered by Mr. Grégory Ngbwa Mintsa himself**

Secondly, there is no doubt that Mr. Grégory Ngbwa Mintsa himself suffered harm as a result of the misconduct claimed in this complaint.

The taxpayers of Gabon are the first to lose out as a result of the criminal operations asserted in this complaint:

- from a material standpoint, harm was caused by the fact that Mr. Grégory Ngbwa Mintsa's taxes were used for purposes other than those intended. The misappropriations that were committed resulted in him being deprived of public spending in the same proportion;
- from a moral standpoint, harm was caused by the fact that the misconduct undermined Mr. Grégory Ngbwa Mintsa's legitimate confidence in the integrity of the State apparatus.

Separate from the harm caused to the legal person of the State, the harm suffered by Mr. Grégory Ngbwa Mintsa is also distinct from the public interest. As noted above, it has been recognized that offences consisting in breaches of the duty of probity are liable to undermine the interests of individuals who could suffer personal harm for which "they have grounds for obtaining redress before the criminal courts" (*Crim.*, 1 December 1992).

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Lastly, it should be recalled that Article 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms provides: "Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity" (Right to an effective remedy).

Yet there is no doubt that depriving Mr. Grégory Ngbwa Mintsa of the right to file a civil-party application would violate Article 1 of the Protocol of 1952, which provides that every natural or legal person is entitled to the peaceful enjoyment of his possessions — bearing in mind that the notion of "possessions" in European law covers assets of all kinds, regardless of their formal classification under domestic law.

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Under these circumstances, the undersigned complainants have the honour to file a complaint with the Senior Investigating Judge against the following natural persons, having regard to Article 121-1 of the Penal Code:

**As regards Mr. Omar Bongo and his entourage**

- Albert Bernard Bongo, known as Omar Bongo Ondimba, Head of State of Gabon;
- Edith Lucie Bongo, daughter of Denis Sassou Nguesso and wife of Omar Bongo;
- Pascaline Bongo, daughter of Omar Bongo and chief of staff of the Head of State;
- Ali Bongo Ondimba, son of Omar Bongo and Minister for Defence of Gabon;
- Arthur Ondimba Bongo, son of Omar Bongo;
- Omar Denis Junior Bongo Ondimba (born 19 July 1964), son of Omar Bongo;
- Omar Ben Bongo (born 1 February 1978), son of Omar Bongo;
- Jeff Thierry Arsène Jaffar Bongo, son of Omar Bongo;
- Yacine Queenie Bongo, daughter of Omar Bongo;
- Audrey Blanche Bongo Ondimba, daughter of Omar Bongo;
- Jean Ping, former State Minister, Chairperson of the African Union Commission;
- Nesta Shatika Bongo Ping, daughter of Jean Ping, granddaughter of Omar Bongo;

**As regards Mr. Denis Sassou Nguesso and his entourage**

- Denis Sassou Nguesso (born 1 January 1943), Head of State of Congo-Brazzaville;
- Antoinette Sassou Nguesso, wife of Denis Sassou Nguesso;
- Denis Christel Sassou Nguesso (born 14 January 1975), son of Denis Sassou Nguesso and CEO of Cotrade (subsidiary of the State-owned oil company SNPC);
- Denis Nguesso (born 8 March 1967), son of Denis Sassou Nguesso;
- Julienne Sassou Nguesso, daughter of Denis Sassou Nguesso;
- Maurice Nguesso, older brother to Denis Sassou Nguesso;
- Wilfrid Nguesso, son of Maurice Nguesso and nephew of Denis Sassou Nguesso;
- Edgar Serge Ruphin Nguesso, son of the late Eugène Nguesso (brother of Denis Sassou Nguesso);
- Jean-François Ndengue, former director of the Congolese police, implicated in the “Disappeared of the Beach” case;
- Claudia Carole Ikia Lemboumba (married name Sassou Nguesso), advisor to the Head of State;
- Marguerite Ambendet Nguesso;

**As regards Mr. Teodoro OBIANG and his entourage**

- Teodoro Obiang Mbasogo (born 5 June 1942), Head of State of Equatorial Guinea;
- Teodoro Nguema Obiang (born 24 June 1969), son of Teodoro Obiang, Minister for Agriculture and Forestry and chief executive of the company SOMAGUI FORESTAL;

For handling misappropriated public funds, offences provided for and punishable under Articles 321-1 and 432-15 of the Penal Code;

The investigating judge should also determine whether the bank accounts identified during the police investigation were funded through unlawful financial flows characteristic of the offence of handling misappropriated public funds;

Moreover, a close look should be taken at the role played by various intermediaries, be they natural or legal persons, which facilitated and/or benefited from the commission of the criminal acts — with regard to which the present complaint is also filed for complicity in handling misappropriated public funds, complicity in the misappropriation of public funds, money laundering, complicity in money laundering, misuse of corporate assets, complicity in misuse of corporate assets, breach of trust, complicity in breach of trust, and concealment of each of these offences, offences provided for and punishable under Articles 121-6, 121-7, 321-1 and 432-15 of the Penal Code (complicity in handling misappropriated public funds), Articles 121-6, 121-7 and 432-15 of the Penal Code (complicity in the misappropriation of public funds), Article 324-1 of the Penal Code (money laundering), Articles 121-6, 121-7 and 324-1 of the Penal Code (complicity in money laundering), Article 241-3 of the Commercial Code (misuse of corporate assets), Article 121-6 and 121-7 of the Penal Code and Article 241-3 of the Commercial Code (complicity in misuse of corporate assets); Article 314-1 of the Penal Code (breach of trust), Articles 121-6, 121-7 and 314-1 of the Penal Code (complicity in breach of trust) and Article 321-1 of the Penal Code (concealment);

For all of these reasons, a complaint is also filed against person(s) unknown.

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**ANNEX 2**

**Note Verbale No. 158/865 from the Ministry of Foreign Affairs of the French Republic  
to the Embassy of the Republic of Equatorial Guinea,  
2 March 2017**

**Note Verbale No. 158/865 from the Ministry of Foreign Affairs of the French Republic  
to the Embassy of the Republic of Equatorial Guinea, 2 March 2017**

*[Translation]*

The Ministry of Foreign Affairs and International Development, Protocol Department, presents its compliments to the Embassy of the Republic of Equatorial Guinea and, with reference to its Note Verbale No. 069/2017 dated 15 February 2017, has the honour to advise it of the following:

The Protocol Department wishes to point out that the question of the status of the building located at 42 avenue Foch in Paris (16th arr.) is at the centre of the dispute which Equatorial Guinea has brought before the International Court of Justice. In keeping with its consistent position, France does not consider the building located at 42 avenue Foch in Paris (16th arr.) as forming part of the premises of the diplomatic mission of the Republic of Equatorial Guinea in France.

In accordance with the Order made by the International Court of Justice on 7 December 2016, and pending the Court's final decision in the case, France will ensure that the premises located at 42 avenue Foch receive treatment equivalent to that required by Article 22 of the Vienna Convention on Diplomatic Relations, in order to ensure their inviolability.

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**ANNEX 3**

**Note Verbale No. 628/12 from the Embassy of the Republic of Equatorial Guinea to the  
Ministry of Foreign Affairs of the French Republic, 19 September 2012**

**Note Verbale No. 628/12 from the Embassy of the Republic of Equatorial Guinea to the  
Ministry of Foreign Affairs of the French Republic, 19 September 2012**

*[Translation]*

The Embassy of the Republic of Equatorial Guinea in France presents its compliments to the Ministry of Foreign and European Affairs (Protocol Department, Diplomatic Privileges and Immunities Division) and, with reference to its Note Verbale No. 3345/PRO/PID of 25 July 2012, has the honour to request a special residence permit for H.E. Ms Mariola BINDANG OBIANG, Ambassador Extraordinary and Plenipotentiary of the Republic of Equatorial Guinea in France, and her family. The notification forms regarding the assumption of her duties and the members of her family are annexed hereto.

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**25 SEP. 2012**  
**ARRIVÉE**

**NOTIFICATION DE NOMINATION ET DE PRISE DE FONCTIONS D'UN TITULAIRE**

<input checked="" type="checkbox"/> Ambassade	<input type="checkbox"/> Consulat	<input type="checkbox"/> Organisation internationale	<input type="checkbox"/> Délégation permanente
De(s)/Dv/D'		Ville	
GUINEE EQUATORIALE		PARIS	

Titre	<input type="checkbox"/> M. <input checked="" type="checkbox"/> Mme <input type="checkbox"/> Mlle	Situation familiale	<input type="checkbox"/> Célibataire <input checked="" type="checkbox"/> Mariée <input type="checkbox"/> Divorcée <input type="checkbox"/> Veuf(ve)
Nom de naissance	BINDANG OBIANG		Prénoms
Nom marital			Né(e) le
		23/3/66	
Lieu de naissance	NLOYONG-ESANGU, ANSORA		Pays
		GUINEE EQUATORIALE	
Nationalité	GUINEE EQUATORIALE		Acquise par
		<input checked="" type="checkbox"/> Filiation <input type="checkbox"/> Mariage <input type="checkbox"/> Naturalisation	

(insérer une photo individuelle n° 137P avec photo récente surblanc et récente en noir)

Fonction	AMBASSADEUR EXTRAORDINAIRE ET PLENIPOTENTIAIRE		Grade	AMBASSADEUR
Service	<input checked="" type="checkbox"/> Chancellerie <input type="checkbox"/> Défense <input type="checkbox"/> Culturel <input type="checkbox"/> Commercial	<input type="checkbox"/> Consulaire	<input type="checkbox"/> Résidence	<input type="checkbox"/> Autre
Remplace (*)	FEDERICO EDIO OVDNO		Carte n°	CMD/A-38748

(\*) préciser création de poste si c'est un emploi nouveau)

Passport	<input checked="" type="checkbox"/> diplomatique <input type="checkbox"/> de service <input type="checkbox"/> officiel <input type="checkbox"/> ordinaire	Visa	
Autre	<input type="checkbox"/> Carte Nationale Identité <input type="checkbox"/> Carte de résident	Type	<input checked="" type="checkbox"/> «D» <input type="checkbox"/> «C» <input type="checkbox"/> Autre
Numéro	D0004342	Délivré à	MALABO
Délivré à	MALABO	Le	22.08.2012
Le	17.05.2012	Valable jusqu'au	16.05.2017

(joindre une photocopie du passeport avec le visa et le cachet de la date d'entrée en France ou de la C.N.I. ou de la carte de résident)

Date d'arrivée en France	09.06.2012	Date de prise de fonctions	11.07.2012
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Adresse en France (*)	Code postal	Ville
Rue	75017	PARIS
8 BIS AVENUE DE VERZY		

(\*) à faire connaître impérativement au Protocole dans les meilleurs délais pour faciliter les démarches d'inscription de taxes

 Signature du titulaire		 Signature de l'officier mission et cachet	
Fait à	Le		

Cadre réservé au Protocole	Carte n°	Enregistrée le
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ANNEX 4

**Record of failure to appear before the Paris *Tribunal de grande instance*, 1 March 2012**

**Record of failure to appear before the Paris *Tribunal de grande instance*, 1 March 2012**

*[Translation]*

Paris *Cour d'appel*

Paris *Tribunal de grande instance*

Chambers of Roger Le Loire

Senior judge in charge of the investigation

**RECORD OF FAILURE TO APPEAR**

Prosecution No. 0833796017

Investigation No. 2292/10/12

**CRIMINAL PROCEEDINGS  
1 MARCH 2012**

We, Roger LE LOIRE and René GROUMAN, senior judges in charge of the investigation at the Paris *Tribunal de grande instance*, sitting in chambers, assisted by Françoise LE MEST, clerk,

Note that **Mr. Teodoro NGUEMA OBIANG MANGUE, choosing as his address for service the offices of Mr. Emmanuel MARSIGNY, 100 rue de l'Université, 75007 PARIS**, who was summoned to appear in chambers today at 2.30 p.m. for questioning at first appearance, has failed to appear.

Done in chambers,

*(Signed)* Roger LE LOIRE

*(Signed)* René GROUMAN

Senior judges in charge of the investigation

*(Signed)* Clerk.

*Paris Cour d'appel*

*Paris Tribunal de grande instance*

CHAMBERS OF MR. ROGER LE LOIRE

SENIOR JUDGE IN CHARGE OF THE INVESTIGATION

RENÉ GROUMAN

JOINTLY ASSIGNED SENIOR JUDGE IN CHARGE OF THE INVESTIGATION

Prosecution No. 0833796017

Investigation No. 2292/10/1

**SUMMONS TO ATTEND A FIRST APPEARANCE**

The senior judges in charge of the investigation

to

**Mr. Teodoro NGUEMA OBIANG MANGUE**

State Minister for Agriculture and Forestry

Ministry of Agriculture

Malabo

Equatorial Guinea

Summons delivered to Mr. MARSIGNY on 24 January 2012

Received in person this 24 January 2012

Paris, 23 January 2012

Dear Sir,

In accordance with Article 80-2 of the Code of Criminal Procedure, please be informed that we are considering placing you under judicial examination. To that end, we are summoning you to attend a first appearance, in an investigation opened:

FOR HAVING IN PARIS AND ON NATIONAL TERRITORY DURING 1997 AND UNTIL NOVEMBER 2008, 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, THE UNLAWFUL TAKING OF INTEREST AND BREACH OF TRUST, BY ACQUIRING A NUMBER OF MOVABLE AND IMMOVABLE ASSETS OUT OF THE FUNDS OF THE FIRMS EDUM, SOCAGE AND SOMAGUI FORESTAL, ACTS CHARACTERIZED AS LAUNDERING OF THE PROCEEDS OF THE ABOVE-MENTIONED OFFENCES, ACTS WHICH ARE DEFINED AND PUNISHABLE UNDER ARTICLES 432-12, 432-15, 324-1 AND 314-1 OF THE PENAL CODE AND ARTICLE 241-3 OF THE COMMERCIAL CODE.

Pursuant to a judgment of the *Cour de cassation (Chambre criminelle)* dated 9 November 2010,

**You are summoned to appear on 1 March 2012 at 2.30 p.m.**

In our chambers at the Paris *TRIBUNAL de GRANDE INSTANCE*, 5/7 rue des Italiens, 75009 Paris, Chambers No. 303

**VERY IMPORTANT**

You have the right to be assisted by a lawyer.

You may choose the lawyer who will assist you or request that the Chairman of the Bar choose a lawyer registered with the Bar for you.

You must inform me of your choice as soon as possible.

*(Signed)* Roger LE LOIRE

*(Signed)* René GROUMAN.

Senior judges in charge of the investigation

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**ANNEX 5**

**Summons to attend a first appearance, 22 May 2012**

**Summons to attend a first appearance, 22 May 2012**

[Translation]

**Paris Cour d'appel**

**Paris Tribunal de grande instance**

Chambers of Mr. Roger Le Loire  
Senior Judge in charge of the investigation

(Mr. René Grouman, Jointly assigned Senior  
Judge in charge of the investigation)

Prosecution No.: **08 337 9601/ 7**

Investigation No.: **2292/10/12**

The investigating judge

to

**Mr. Teodoro NGUEMA OBIANG MANGUE**

State Minister for Agriculture and Forestry

Ministry of Agriculture

MALABO

**EQUATORIAL GUINEA**

Paris, 22 May 2012

Dear Sir,

In accordance with Article 80-2 of the Code of Criminal Procedure, please be informed that I am considering placing you under judicial examination. To that end, I am summoning you to attend a first appearance, in an investigation opened:

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 INVESTING, CONCEALING OR CONVERTING THE DIRECT OR INDIRECT PROCEEDS OF A FELONY OR MISDEMEANOUR, IN THIS INSTANCE **OFFENCES OF MISUSE OF CORPORATE ASSETS, MISAPPROPRIATION OF PUBLIC FUNDS, THE UNLAWFUL TAKING OF INTEREST AND BREACH OF TRUST**, BY ACQUIRING A NUMBER OF MOVABLE AND IMMOVABLE ASSETS AND PAYING FOR A NUMBER OF SERVICES OUT OF THE FUNDS OF THE FIRMS EDUM, SOCAGE AND SOMAGUI FORESTAL, ACTS CHARACTERIZED AS LAUNDERING OF THE PROCEEDS OF THE ABOVE-MENTIONED OFFENCES,

ACTS WHICH ARE DEFINED AND PUNISHABLE UNDER ARTICLES 432-12, 432-15, 324-1 AND 314-1 OF THE PENAL CODE AND ARTICLE L 241-3 OF THE COMMERCIAL CODE.

Pursuant to a judgment of the *Cour de Cassation (Chambre criminelle)* dated 9 November 2010 and the Public Prosecutor's application to extend the investigation dated 31 January 2012,

**You are summoned to appear on 11 July 2012 at 3 p.m.**

In my chambers at the Paris *TRIBUNAL de GRANDE INSTANCE*, 5/7 rue des Italiens 75009 Paris, Chambers No. 303.

**VERY IMPORTANT**

You have the right to be assisted by a lawyer.

You may choose the lawyer who will assist you or request that the Chairman of the Bar choose a lawyer registered with the Bar for you.

You must inform me of your choice as soon as possible.

*(Signed)* Mr. René GROUMAN.

Senior Judge in charge of the investigation

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**ANNEX 6**

**Record of failure to appear before the Paris *Tribunal de grande instance*, 11 July 2012**

**Record of failure to appear before the Paris *Tribunal de grande instance*, 11 July 2012**

*[Translation]*

Paris *Cour d'appel*

Paris *Tribunal de grande instance*

Chambers of **Roger Le Loire**

Senior judge in charge of the investigation

**RECORD OF FAILURE TO APPEAR**

Prosecution No. **0833796017**

Investigation No. **2292/10/12**

*CRIMINAL PROCEEDINGS*

11 July 2012

We, Roger LE LOIRE, senior judge in charge of the investigation at the Paris *Tribunal de grande instance*, sitting in chambers, assisted by Françoise LE MEST, clerk,

Note that **Mr. Teodoro NGUEMA OBIANG MANGUE**, who was summoned to appear in chambers today at 3 p.m. for questioning at first appearance, has failed to appear.

Done in chambers,

*(Signed)* Senior judge in charge of the investigation

*(Signed)* Clerk.

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ANNEX 7

**Letter No. 140831 from the Registrar of the Court to the Minister for Foreign Affairs of the French Republic, 25 September 2012**

**Letter No. 140831 from the Registrar of the Court to the Minister for Foreign Affairs of the French Republic, 25 September 2012**

*[Translation]*

I have the honour to inform you that the Republic of Equatorial Guinea has today filed in the Registry of the Court a document with annexes, entitled “Application instituting proceedings including a request for provisional measures”.

It is stated on page 18, point VI of the document that “the Republic of Equatorial Guinea seeks to found the jurisdiction of the Court, in accordance with Article 38, paragraph 5, of the Rules of Court, on the consent of the French Republic, which will certainly be given”.

Article 38, paragraph 5, of the Rules of Court therefore applies. It provides:

“When the applicant State proposes to found the jurisdiction of the Court upon a consent thereto yet to be given or manifested by the State against which such application is made, the application shall be transmitted to that State. It shall not however be entered in the General List, nor any action be taken in the proceedings, unless and until the State against which such application is made consents to the Court’s jurisdiction for the purposes of the case.”

Please find enclosed herewith a duly signed copy of the document and its annexes.

As regards the “Request for provisional measures”, the situation is as follows: as long as there is no *prima facie* jurisdiction, but only an invitation to accept jurisdiction, the provisions of the Rules of Court governing the procedure for registering requests for the indication of provisional measures are waived in favour of the above-mentioned Article 38, paragraph 5, which provides that no action shall be taken in the proceedings unless and until the jurisdiction of the Court has been accepted.

I also have the honour to transmit to you herewith a copy of a letter dated 22 September 2012 which accompanied the “Application”, from H.E. Mr. Pedro Ela Nguema Buna, Minister for Foreign Affairs of the Republic of Equatorial Guinea, and a copy of a document dated 19 September 2012 in which H.E. Mr. Obiang Nguema Mbasogo, President of the Republic of Equatorial Guinea, gives full powers to H.E. Ms Mariola Bindang Obiang.

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ANNEX 8

**Article published in *Jeune Afrique*, 13 March 2015.**  
***“France – Guinée Equatoriale : porte de sortie en vue pour Teodorin ?”***

Available at the following address:

<http://www.jeuneafrique.com/226650/politique/france-guin-e-quatoriale-porte-de-sortie-en-vue-pour-teodor-n/> (site consulted 21 March 2017).

**Article published in *Jeune Afrique*, 13 March 2015**

*[Translation]*

**FRANCE V. EQUATORIAL GUINEA: EXIT IN SIGHT FOR TEODORIN?**

Are we heading towards a dignified exit for Teodoro Nguema Obiang Mangue, who is facing prosecution in France for “ill-gotten gains”? His counsel would like to believe so.

Jean-Charles Tchikaya, counsel for Equatorial Guinea in the thorny “ill-gotten gains” case, hopes in the coming months to see an end to the two-year feud between France and Teodoro Nguema Obiang Mangue (Teodorin), Vice-President and son of the President of Equatorial Guinea.

Disappointed by the outcome of negotiations between Teodorin’s defence team and the French judicial authorities — which purportedly called for his client to plead guilty, abandon attached property and pay a fine of up to €50 million — Mr. Tchikaya intends to rely on the International Court of Justice to recognize the Vice-President’s diplomatic immunity and thus bring the proceedings to an end.

A solution made possible by Equatorial Guinea’s ratification, in November 2014 at United Nations Headquarters in New York, of the 1961 Optional Protocol to the Vienna Convention on Diplomatic Relations, concerning the Compulsory Settlement of Disputes.

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**ANNEX 9**

**Press release of the spokesperson for the Government of the Republic of Equatorial Guinea,  
7 December 2016, Malabo**

**Press release of the spokesperson for the Government of the Republic of Equatorial Guinea,  
7 December 2016, Malabo**

(English version from the official website of the Government of the Republic of Equatorial Guinea at <http://www.guineaecuatorialpress.com/noticia.php?id=9000&lang=en>; original text in Spanish available at <http://www.guineaecuatorialpress.com/noticia.php?id=9000&lang=es>; site consulted on 24 August 2017)

**GOVERNMENT RESPONSE FOLLOWING RULING FROM INTERNATIONAL  
COURT OF JUSTICE IN THE HAGUE**

The Minister for Information, Press and Radio, and Spokesperson for the Government of the Republic of Equatorial Guinea, Eugenio Nze Obiang, signed a communique in response to the ruling passed by the International Court of Justice, in The Hague.

Malabo, 7 December 2016

The Government of Equatorial Guinea has received the decision by the International Court in The Hague, regarding the complaint lodged by our country against France.

We recall that the process settled in the Court in The Hague, began as a result of the previous accusation against some African Heads of State and their families, in the case known as “dishonestly acquired goods”. However, the case finally focussed solely on the person of the Vice-President of Equatorial Guinea, H. E. Nguema Obiang Mangué. For that reason, the State of Equatorial Guinea lodged a complaint against France before the International Court of The Hague, regarding attacks on the immunity of the Vice-President of Equatorial Guinea.

Following the ruling by the International Court in The Hague, the Government of Equatorial Guinea officially declares that:

The Government of Equatorial Guinea has always considered that the action by the French court is a unilateral, unjustified action, as a local court cannot seek to exercise extra-national judicial power over bodies, institutions and persons extraneous to France which fall completely outside its power and jurisdiction, especially when dealing with a senior representative of a State, as in this case is the Vice-President of the Republic of Equatorial Guinea. For that reason, our Executive entrusted the matter to the International Court of Justice, as an institution created by the United Nations to solve judicial disputes between different countries.

The Government of Equatorial Guinea is disappointed that the International Court in The Hague has not given a definitive ruling on the matter, which lacks a solid base and which, however, shows bad faith.

However, the Government of Equatorial Guinea is satisfied because, in the ruling given by the International Court of Justice in The Hague this 7th December 2016, there is clear recognition of the diplomatic nature of the building located at 42, Avenida Foch, in Paris, and as such, recognition that the property does not constitute “dishonestly acquired goods”. The Equatoguinean State has reiterated its claim to ownership of this property, which was the property of the Equatoguinean State, but the French party refused to recognise this, refusing to yield on this point.

The recognition that the State of Equatorial Guinea is the legitimate owner of the building, with all the objects it contains, is thus recognition that it is not “dishonestly acquired goods”, and it is also evidently proof of the judicial farce that French justice is unilaterally trying to serve up.

On demonstrating that the building is not “dishonestly acquired goods”, the French party should have finally withdrawn the accusation against the Vice-President of the Republic of Equatorial Guinea, as it was unsupported by the basis of the main accusation, and thus recognise unambiguously the immunity of H.E. Nguema Obiang Mangué. To not act in this way would confirm the attempt to implement a destabilisation plan by the Government of France against the Republic of Equatorial Guinea.

In any case, the Government and the People of Equatorial Guinea, as a free, independent, sovereign State, will pursue its fight until the end, in defence of its legitimate interests and its honour, using to that end the resources of International Justice and Diplomacy between States that respect International Law, and advocated by the United Nations.

*(Signed)* His Excellency Eugenio NZE OBIANG

Spokesperson for the Government of the  
Republic of Equatorial Guinea

Equatorial Guinea Press and Information Office.

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**ANNEX 10**

**Press release of the Representation of Equatorial Guinea in The Hague, 8 December 201[6]**

## **Press release of the Representation of Equatorial Guinea in The Hague, 8 December 2016**

(English version from the official website of the Government of the Republic of Equatorial Guinea at <http://www.guineaecuatorialpress.com/noticia.php?id=9002&lang=en>; original text in Spanish available at <http://www.guineaecuatorialpress.com/noticia.php?id=9002&lang=es>)

### **EQUATORIAL GUINEA WINS FIRST BATTLE AGAINST FRANCE IN THE INTERNATIONAL COURT OF JUSTICE**

On the afternoon of 7th December, a press conference by the judicial leaders was called, after the International Court of Justice in The Hague presented its conclusions following the complaint lodged by Equatorial Guinea against France.

Our country was represented by a Commission made up of the Deputy Minister for Justice, Worship and Penitentiary Institutions, Juan Olo Mba Nseng, and the accredited Equatorial Guinea Plenipotentiary Extraordinary Ambassador to Belgium and the European Union, Carmelo Nvono-Ncá, together with the State lawyers, Francisco Evuy Nguema and Francisco Moro Mba, who have been dealing with the case for several years.

Strangely, the lawyers from the French party did not appear at this press conference, and their representatives left with their heads down. The acting President based his speech on various articles of the Convention against trans-national organised crime and the optional signing protocol for the Vienna Convention regarding diplomatic relations, and not only spoke of the noble motives why the Republic of Equatorial Guinea began this process, but finally, together with all these attorneys, imposed on France the following measures:

The International Court, through a unanimous decision by its members, calls on France to take all the necessary measures to guarantee security, respect and adequate treatment of everything relating to the diplomatic headquarters at 42, Avenida Foch, in Paris.

The French nations is also urged to abstain from practices of confiscation of goods and other objects belonging to Equatorial Guinea.

Likewise, the International Court rejects the petition brought by the French State to remove this case from the general list.

For the first time, an African country has brought a great European and world power before International Justice. This ruling by the highest body of International Justice has shown that neither the geographical size, nor the small population, nor the fact of being African, should stop the fight against harmful intentions against our countries.

Text: Deogracias Ekomo Ndong Asue (Presidential Press)

Source: Equatorial Guinea Representation in The Hague

Equatorial Guinea Press and Information Office

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**ANNEX 11**

**Press release of the Equatorial Guinea Press and Information Office, 9 December 2016**

**Press release of the Equatorial Guinea Press and Information Office, 9 December 2016**

(English version from the official website of the Government of the Republic of Equatorial Guinea at <http://www.guineaecuatorialpress.com/noticia.php?id=9005&lang=en>; original text in Spanish available at <http://www.guineaecuatorialpress.com/noticia.php?id=9005&lang=es>)

**EQUATORIAL GUINEA WINS FIRST ROUND AGAINST FRANCE**

Following the presentation by the International Court of Justice in The Hague of their conclusions on 7 December, the media have viewed the ruling from various angles, but even the most strident opponents of Equatorial Guinea have had to recognise the overwhelming rulings by the Court in favour of the Equatoguinean complaint.

The decision adopted by the International Court which mentions the Diplomatic Mission is the one most clearly reflecting the justice of the demand by Equatorial Guinea. The verdict is clear that the building in Foch Avenue in Paris is part of the Equatorial Guinea Diplomatic Mission, and must be respected as such.

“France is obliged, pending a final decision, to take all the necessary measures within their power to ensure that the Equatorial Guinea Diplomatic Mission building at No. 42 Foch Avenue, in Paris, receives the treatment outlined in article 22 of the Vienna Convention, guaranteeing its inviolability.”

Furthermore, the French nation is also urged to abstain from practices of confiscation of goods and other objects belonging to Equatorial Guinea.

In addition, The Hague Court rejected the claim by France to shelve the case due to the lack of legal competence of the Court to rule on this litigation, as it considers to be within its jurisdiction, in virtue of article I of the Optional Protocol of the Vienna Convention, to hear the case.

As published in “*La Cuarta Columna*” and expressed through other media outlets, “Equatorial Guinea has won the first round against France”.

Institutional Web Page General Directorate (DPGWIGE)  
Equatorial Guinea Press and Information Office

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**ANNEX 12**

**Letter from the President of Equatorial Guinea to the French President,  
19 January 2017**

**Letter from the President of Equatorial Guinea to the French President,**  
**19 January 2017**

*[Translation]*

In the spirit of strengthening our political relations, I wish to advise you of the protracted judicial proceedings instituted by the French association “Transparency International” against the Vice-President of the Republic, in charge of Defence and State Security, which, in our view, are procedurally flawed and currently damaging the excellent relations of friendship and co-operation that our countries have long maintained.

Indeed, the proceedings in this dispute have failed to take into consideration the international conventions governing diplomatic relations to which our two countries are parties, not to mention the bilateral conventions concluded between the French Republic and the Republic of Equatorial Guinea.

The situation I am bringing to your attention has been ongoing for several years now, and I have always wished to discuss it with you personally since, as we see it, while respecting the independence of the French judges, Your Excellency, as guarantor of the interests of your Government, has the ability to mediate between the French courts and the Government of Equatorial Guinea in order to avoid pointless confrontation.

In a similar vein, I agree with Your Excellency that this dispute could be resolved diplomatically, if we relied on the Agreement on the protection of investments signed by our Governments. For this reason, I am sending to Your Excellency Mr. Miguel OYONO NDONG MIFUMU, Ambassador Extraordinary and Plenipotentiary of Equatorial Guinea, accredited to your Government, with a petition for Your Excellency to mediate in this case. This would lead us to suspend the proceedings instituted before the International Court of Justice, while safeguarding judicial independence.

I take this occasion to renew my wishes of happiness and prosperity in 2017, and please accept, Mr. President and dear friend, the assurances of my highest consideration.

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### **Note seeking a diplomatic resolution of the dispute**

#### **Regarding the seat of the diplomatic mission of the Republic of Equatorial Guinea**

In response to the Order issued by the International Court of Justice on 7 December 2016, whereby France was unanimously ordered to ensure the inviolability of the building at 42 avenue Foch, it might be appropriate for France to notify the Embassy that it has taken note of the Order and that the address is now regarded by both States as being that of the seat of the mission of the Republic of Equatorial Guinea in France.

The Republic of Equatorial Guinea will then inform the International Court of Justice that it is therefore no longer necessary to rule on that aspect of the dispute to which the two States have found a permanent solution.

#### **Regarding the situation of the Vice-President of Equatorial Guinea**

The Agreement on the mutual protection of investments dated 3 March 1982, by which both States are bound, provides for inter-State disputes concerning its interpretation and application to be resolved by diplomatic means.

Since Equatorial Guinea has consistently maintained that the assets attached by the French courts were all acquired lawfully and do not represent the proceeds of misappropriated public funds or of an offence of any kind, consideration must be given to the question of their protection by France under the aforementioned Agreement.

That being the case, in the context of diplomatic discussions between the two States provided for under Article 11 of the said Agreement, and before any decision by the French courts on the substance of the dispute, the two States could agree to consider that the assets lawfully acquired in France meet the definition of “investments” within the meaning of Article 1 of the same Agreement and that, consequently, France has a duty to protect them.

Thus, a permanent solution to the dispute between the two States having been found, it will only remain for the Republic of Equatorial Guinea to end the proceedings pending before the International Court of Justice.

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**ANNEX 13**

**Letter from the President of the French Republic to the  
President of the Republic of Equatorial Guinea, 16 February 2017**

**Letter from the President of the French Republic to the  
President of the Republic of Equatorial Guinea, 16 February 2017**

*[Translation]*

Thank you for your letter, which I read with interest.

I share your view of the quality of the bilateral relationship that unites our countries and which is not altered by the dispute to which you referred. As I mentioned at the recent Africa-France summit in Bamako, I am committed to dialogue and co-operation between our countries, particularly with regard to regional security.

As regards the facts mentioned in your letter, they are the subject of court decisions in France and judicial proceedings are ongoing.

As the guarantor of judicial independence, I cannot challenge these decisions or influence the proceedings. I therefore regret that I am unable to accept the offer to settle the matter through the channels proposed by the Republic of Equatorial Guinea, which from a legal standpoint would subvert this independence.

Your country has, moreover, decided to bring the dispute before the International Court of Justice and request provisional measures.

In this regard, I can assure you that France will comply with the Order of 7 December 2016 of the International Court of Justice in the case concerning *Immunities and Criminal Proceedings* and that, pending the Court's final decision, it will ensure that the premises at 42 avenue Foch in Paris receive treatment equivalent to that required by Article 22 of the Vienna Convention on Diplomatic Relations, in order to ensure their inviolability.

In any event, I would like to assure you that I am committed to working with you to build a forward-looking partnership between our countries.

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