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# Equatorial Guinea

## A parody of a trial in order to crush the opposition

### 1. INTRODUCTION

The trial of 144 people accused of attacking state security was held in Malabo, the capital of Equatorial Guinea, between 23 May and 9 June 2002. Statements made to the court by one of the defendants describe a trial which can only be termed a parody of justice: *“They interrogated me hanging up there with my eyes covered and my arms bound”*.

The people prosecuted at the trial were part of a group of over 150 people who were arrested from March 2002. They included members or former members of the armed forces, and relatives of leaders of the *Fuerza Demócrata Republicana (FDR)*, Republican Democratic Force, a political party which had not yet been legalized. All appeared to have been arrested solely because of their alleged links with the FDR.

In Amnesty International’s opinion, this trial was organized with the sole aim of eliminating the last peaceful political opponents resisting the permanent harassment to which they were subjected by the authorities of Equatorial Guinea. Amnesty International considers all those convicted at the trial to be prisoners of conscience who were imprisoned because of their political beliefs or their relationship with opposition leaders and who have not used or advocated violence. Amnesty International is therefore calling for the immediate and unconditional release of all those convicted at a trial in which the unfair and severe sentences passed were based solely on statements extracted from the accused by means of the torture to which they were submitted while being held in incommunicado detention.

The proceedings were open to the public and international observers, diplomats, journalists and representatives of non-governmental organizations (NGOs) were allowed to attend. The observer sent by Amnesty International had full access to the courtroom and was able to discuss how the trial was developing with counsel for the defence. However, he was not allowed access to the judges’ bench or the prosecution and, despite several attempts to see them, was not received either by the President of the Republic, General Teodoro Obiang Nguema Mbasogo, or by the Minister of Justice, Dr. Rubén Maye Nsue Mangué. Amnesty International had intended to convey to them the organization’s concerns about the alleged torture inflicted as a reprisal against defendants

who, in court, had retracted statements they had made previously.

Amnesty International's observer mission concluded that the trial was characterized by serious human rights violations and countless procedural irregularities, such as the use of confessions obtained under torture which were retracted by the accused when in court; the indifference of the bench to the complaints of torture made by the accused and evidenced by the marks that could be seen on their bodies; the lack of adequate defence due to the fact that, among other things, the defence lawyers only had one day to study the specific charges made against their clients; and the lack of independence of the bench of judges whose members had been directly appointed by the executive authorities. Despite these serious violations of the defendants' rights, the court convicted 64 of them (including three *in absentia*) to sentences ranging from six to 20 years' imprisonment.

The conditions of detention in which the prisoners were held before and during the trial amounted to torture. The detainees were stripped and crammed together in small cells. None was given medical attention and some were denied food which had been brought to them by their families. One of the prisoners, Juan Ondó Nguema, died after being transferred to the hospital in Malabo after suffering severe stomach pain, and at least two others were hospitalized. The wives of two of the prisoners who went to bring food to their husbands were also beaten and tortured and, one of them was raped by several soldiers, according to a statement made in court by her husband.

Amnesty International is calling on the international community to intervene to obtain the immediate and unconditional release of all those convicted in this unfair trial. Also, as a matter of urgency, all the prisoners in Black Beach Prison in Malabo must be given adequate food and, in most cases, medical attention. If this does not happen, Amnesty International fears that the health of several of those convicted will be seriously and irreversibly affected by the starvation and the injuries resulting from the torture and ill-treatment to which they were subjected in prison.

The wave of arrests that took place in the months leading up to the trial did not only affect people with alleged links to the FDR. The leaders of the two main legal opposition parties, both lawyers, Plácido Micó, Secretary General of *Convergencia par la Democracia Social (CPDS)*, Convergence for Social Democracy, and Fabián Nsué Nguema Obomo, leader of one of the factions within the *Unión Popular (UP)*, Popular Union, were also arrested. Plácido Micó was convicted in the May-June 2002 trial while Fabián Nsué was convicted on 30 July 2002 to one year's imprisonment for "defaming the Head of State".

With the arrest of the opposition leaders from the FDR, CPDS and one of the UP factions, the government went one step further in the policy of intimidation and repression that it has been operating for many years in order to stifle any voice of dissent.

The mass arrests and subsequent trial took place in a context of restriction on the independence of lawyers and threats to the little freedom of expression which still exists in Equatorial Guinea. In March 2002, the authorities decided to dissolve the *Colegio de Abogados*, Bar Association, on the pretext that some lawyers did not have the necessary training to exercise their profession. It seems that the Government intends to set up a new bar association, the fundamental difference being that one of the requirements for belonging to it will be not to be affiliated to any political party.

In addition, freedom of expression, which was already seriously limited in this country, again came under threat when, in May 2002, the Deputy Minister of Information called for the *Asociación de la Prensa de Guinea Ecuatorial (ASOPGE)*, Equatorial Guinea Press Association, to be made illegal. If it is also borne in mind that, despite the various requests that have been submitted, the authorities are continuing to refuse to allow local human rights organizations to be set up, it is easy to see that there is an almost total absence of the minimum space required for civil society to express itself freely in Equatorial Guinea.

## **2. ARRESTS**

The wave of arrests of people with alleged links to the FDR began on 14 March 2002 when Felipe Ondó Obiang, a former member of parliament and a leader of the FDR, and his brother-in-law Emilio Ndongo Biyogo, a UP member, were arrested in Malabo. Both had just come back from Bata, the main city on the mainland, to which they had been confined by the authorities for several weeks. Their whereabouts were unknown for a whole day, despite the fact that their relatives and the political opposition parties tried to find them in detention centres in Malabo and approached the authorities who denied having arrested the political leaders. Later it was discovered that they had been taken to Bata Public Prison.

Next day, another FDR leader, Guillermo Nguema Elá, a former Finance Minister, was arrested in Malabo and taken to Bata Prison.<sup>1</sup> In the days that followed,

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<sup>1</sup> Felipe Ondó Obiang and Guillermo Nguema Elá had been convicted in the past for their peaceful opposition to the government. Despite living in Gabon and having refugee status there, they had been arrested by the Gabonese security forces in November 1997 and transferred to Malabo in the Equatorial Guinea presidential plane. Both were ill-treated while on board the plane. They were held handcuffed for several days and released without charge on 14 November 1997. Felipe Ondó Obiang and Guillermo Nguema Elá made statements to the foreign media and were rearrested in March 1998 and sentenced to two and a half years' imprisonment in August 1998 for making "false reports and accusations". Their conviction was seen as a means of eliminating well-known political opponents months before the legislative elections. Amnesty International declared them to be prisoners of conscience.

dozens of relatives and friends of Felipe Ondó Obiang and Guillermo Nguema Elá, both civilians and members of the military, were arrested in Mongomo, near the Gabon border, where the Head of State and other senior government officials, come from. They were all taken to Bata Prison or Black Beach Prison in Malabo.

Most of the detainees come from the Mongomo region and have or have had some kind of family or professional relationship with the principal accused, Felipe Ondó Obiang. Some were apparently arrested for having occasionally transported the FDR leader by taxi, for having invited him to a wedding or even simply for having greeted him in the street. The only connection one of the detainees, and a subsequent defendant, had with the family of Felipe Ondó Obiang was that he went to retrieve some ducks which had escaped from his premises and were found in the premises of the house opposite where the wife of the FDR leader happened to be at the time.

Several of Felipe Ondó Obiang's relatives were arrested in Malabo, including some of his children, brothers and two nieces, Natalia Ondó and Marisol Mangué, who was pregnant.

Some people with immunity were also arrested without the immunity having been lifted. They were Benedicto Nsué Ndong, a judge at the Supreme Court, Ricardo Eló Mabale, a prosecutor at the Supreme Court; Father Jesús Ndong, Secretary of the *Conferencia Episcopal de Guinea Ecuatorial*, Equatorial Guinea Bishops' Conference, and Vice-President of the Human Rights Commission; and Feliciano Obama Nsué Mangué, known as *Bató*, a member of parliament and former diplomat who was arrested on 15 April 2002 at the Guinean Parliament building. The arrest of all of them was against the law since a person who has immunity can only be arrested if caught *in flagrante delicto*, which did not happen in any of these cases.

## **2.1. Detainees whose whereabouts were unclear**

It is difficult, if not impossible, to establish exactly how many people have been arrested since March 2002. It is known that 144 people were charged, although it is believed that only about 125 of them appeared in court. It was not clear whether those who were absent had been released or had escaped or were being held elsewhere.

Some reports put the number of those arrested since the wave of detentions began at 250. Several people were released but not everyone remaining in detention was identified.

During the trial, the whereabouts of several people who had been arrested by the security forces but who had been absent from the hearing were revealed. Among them were Pedro Ncumu Alogo, a school teacher in Alen-Angok, and several of his relatives. Pedro Ncumu Alogo had been in the company of Lorenzo Ondó, the brother of Guillermo Elá, shortly before Lorenzo Ondó fled to Gabon to escape arrest. Lorenzo Ondó was subsequently tried *in absentia*.

Pedro Ncumu's family asked to visit their relatives after they were arrested in Bata but they were not allowed to do so. The family hoped to see them during the trial in Malabo but they were not among the defendants present in the courtroom. During the trial Pedro Ncumu's defence lawyer reported the absence of his client but did not receive any explanation at all from the bench. Eventually, after talking with the Amnesty International observer, Pedro Ncumu's wife was summoned to the Ministry of Defence. After being subjected to intimidating questioning, she was told that her relatives were in Bata Prison and that she could talk to them in the presence of the Minister. The relatives told her that they were awaiting trial but that they did not know the charges against them.

During the trial, one of the defence lawyers also reported the inexplicable absence from the courtroom of Domingo Engongo Edjang and Mariano Ovono Meñé, who were arrested in connection with this case. The lawyer found out shortly afterwards that his clients were in detention at Bata Prison with a group of people whose identity is not known to Amnesty International and who, according to the lawyer, were expected to be brought to trial shortly.

## **2.2. The arrest of Plácido Micó**

As well as those arrested for their alleged personal or political links with FDR leaders, a leader of one of the two main legal opposition parties was arrested, brought to trial and convicted in the same proceedings.

He is Plácido Micó, Secretary General of *CPDS*, who was questioned on several occasions in April and May 2002 before being placed under house arrest until the trial was held. Plácido Micó was accused of having participated in an alleged meeting at the house of Felipe Ondó Obiang in order to plan a coup. The only basis for this accusation turned out to be a statement made under torture by one of the sons of Felipe Ondó Obiang, César Elá Ondó, who admitted during the trial that he had invented the whole story in order to avoid being subjected to further torture.

### **3. TORTURE AND ILL-TREATMENT**

During the almost two months that they spent in detention prior to the trial, almost all the accused were held incommunicado in Bata Public Prison and Black Beach Prison in Malabo. Most of them were reportedly tortured in detention. Reports received by Amnesty International indicate that most of those held in Bata Public Prison were regularly transferred to unofficial places of detention, such as the “Africa” Presidential Palace in the same city, or an isolated house on a beach near the village of Utondé, to the north of Bata airport, where they were severely tortured.

At the trial the accused then explained how they had been tortured. Many of them were trussed and hung from a bar by a rope which was passed round their wrists, in front of their chests, bound their elbows behind their back and tied their legs together. After being held in this position for some time, the bones in their forearms as well as, in some cases, their legs, eventually broke. They were also given heavy blows while in this position. Some were severely beaten with sticks and whips. They were blindfolded so that they would become disoriented.

The torture and the victims’ desire for the ill-treatment to stop led them to make statements in which they incriminated themselves and implicated others in the alleged coup.

These are some of the statements made to the court by the accused:

- “With your eyes covered, your arms tied and hanging up there. What else can you do?” (Donato Ondó Ondó);
- “I invented everything. Four soldiers were hitting me. It is when you lie that they let go of you” (Cesar Elá Ondó);
- “You have to say some name or other in order to get some relief” (Santiago Elá Obiang);
- “When you are hanging up there and they ask you about someone and you say you know them, they make a note of it” (...) “They asked me for the names of the well-known people in all the villages near mine” (Roque Mbé Nzó);
- “I was hung up and they asked me to give the names of soldiers in my village and surrounding area” (Virgilio Nguema Oná);
- “I did not sign my statement because I had no hands (they were broken)” (Cándido Obiang Abia).

During the trial, the observers were able to see that many of the defendants had their arms broken, approximately half-way along the forearm, and that their hands were hanging down from there. Some also had broken legs, as well as deep leg wounds. During the trial, some of them reportedly still had sores on their chests and backs from the lashings they had been given.

The fact that the prisoners were held incommunicado both before and during the trial is a form of torture. They were crammed into tiny cells and were given insufficient amounts of food. They depended on provisions brought by their families and the guards did not always allow them to have access to this food. After they were tortured to get them to make statements, none of the prisoners received medical attention to alleviate the effects of the torture or any illnesses they were suffering from, despite the fact that some of the injuries they received may be irreversible if not appropriately treated.

### **3.1. Torture and ill-treatment of prisoners' relatives and people who attended the trial**

Amnesty International knows of at least two cases in which women who went to bring food to their husbands in prison were tortured and ill-treated. During the trial, defendant Hipólito Nsema Nodjambo stated that his wife, when she went to Black Beach Prison to take him food, had been taken by soldiers to a place near the airport and raped. In another case, the wife of lawyer and opposition party leader Fabián Nsue (see Section 6 below), who tried repeatedly to see her husband in Black Beach Prison in Malabo so that she could deliver food to him, was held, shaken and beaten by prison officials on at least three occasions.

Some relatives of prisoners as well as people who attended the trial were also subjected to ill-treatment by members of the security forces. On various occasions, when relatives approached the prisoners to hand over bags of food to them, the police used excessive force against them, even when there was no threat to security whatsoever.

During some sessions the tension in the courtroom mounted to such an extent that disturbances broke out amongst the public. On one occasion, the presiding judge ordered part of the chamber to be vacated. The security forces reportedly beat one person severely with a stick. In a clear example of excessive use of force, the Amnesty International observer witnessed one woman being dragged out by the hair.

## **4. THE TRIAL HELD IN MAY AND JUNE 2002**

The summary trial of the 144 people charged with “murdering the Head of State, attacking the form of government and rebellion” took place over two weeks in May and June 2002 at the Marfil Cinema in Malabo, one of the buildings in the city capable of holding large numbers of people.

During the trial it was obvious that the bench did not know how many detainees were present, which raised the issue of the whereabouts of those detained since March 2002 who were not brought to the trial. Officially there were 144 defendants but only about 125 people appeared in court during the trial. Neither the bench nor the prosecution offered any official explanation of these discrepancies<sup>2</sup>.

### **4.1. Charges**

In the order committing the defendants to trial, they were charged with a series of acts that took place in 2002. The following charges are listed:

- Murder of the Head of State (an offence under articles 142 and subsequent articles of the current Penal Code)
- Attack on the form of government (an offence under article 163)
- Rebellion (an offence under article 214 and subsequent articles).

The charges also indicated which defendants were being prosecuted as perpetrators, necessary accessories (accomplices) or accessories after the fact.

The Attorney-General’s Office, in keeping with such charges, asked for sentences of between 30 years’ imprisonment and death for eight defendants, including Felipe Ondó Obiang and Guillermo Nguema Elá; sentences of 20 years’ imprisonment for 18 defendants, including Plácido Micó; and sentences of eight and 10 years for two groups of people made up of 86 and 31 defendants respectively.

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<sup>2</sup> See the section dealing with “Detainees whose whereabouts was unclear” in chapter 2 of this document.

## **4.2. Procedural concerns**

At all stages of the proceedings there were numerous irregularities, both in terms of how the case was investigated and how the judges and the prosecution behaved, which resulted in guilty verdicts being passed for offences for which no proof was presented.

### **4.2.1 The investigative stage**

All the information obtained about this case indicates that those responsible for investigating it applied themselves to arresting and torturing relatives and friends of the alleged coup plotter, Felipe Ondó Obiang, in order to extract confessions or accusatory statements from them against other detainees rather than trying to establish a coherent account of the facts and identifying those suspected of carrying them out.

Statements were not taken from the detainees in a court, as required by law, but in prison or, in some cases, in police cells, which is in serious breach of Equatorial Guinean law. The special military investigating magistrate, specifically appointed by the authorities for this case, took statements in the presence of the torturers who had interrogated the detainees. When they were asked during the trial why they would not confirm their earlier statements, several of the defendants gave this as the reason.

Most of the defendants made two statements, one in Bata Prison and the other in Malabo. In numerous cases, the police substantially changed the statements taken on the second occasion. Several of the accused said that they had not signed their statements because they could not use their hands as a result of the torture inflicted on them. Others claimed that they had not made any statement at all and that the statements imputed to them had been drawn up by the police themselves.

The detainees were not informed of the charges against them until the order committing them for trial was read, thereby making it difficult for them to defend themselves. According to reports received by Amnesty International, the order was only read to them, they were not given a written copy of it despite the fact that this is mandatory and they had asked for one.

#### **4.2.2 The judges' bench and the prosecution**

The judges' bench was made up of five people, only two of whom had legal training. In addition, it is worth noting that judges in Equatorial Guinea have absolutely no job security because they are appointed and removed directly by the government, thereby compromising their independence and impartiality. All these factors violate numerous international legal principles such as article 14 of the International Covenant on Civil and Political Rights (ICCPR) and article 26 of the African Charter on Human and Peoples' Rights (African Charter). These treaties were ratified by the government in 1987 and 1986 respectively.<sup>3</sup>

The prosecution consisted of three members: Antonio Nzambi, Attorney General; Serafín Ondó Mate, prosecutor for Malabo; and the prosecutor for Bata. It is difficult to explain the participation of the Attorney General as part of the prosecution since his duties do not include acting as a prosecutor in the courts. Prosecutors, and in particular the Attorney General, are appointed directly by the government, thereby compromising their independence.

The prosecution based its case on the presumption of guilt, as became obvious when the defendants were cross-examined. The prosecutors repeatedly interrupted – sometimes with the collaboration of the presiding judge – any attempt by the defendants to deny or qualify their confessions or earlier statements. The stance adopted by the prosecution directly violates the principle of presumption of innocence as recognized in article 14(2)(g) of the ICCPR and article 7(1)(b) of the African Charter.

The prosecution recognized that torture had been committed and that the statements had been the result of it but they did not attribute the least importance to this fact.

#### **4.2.3 The defence**

The defence consisted of 14 lawyers who, however, were not freely chosen by the defendants. In fact, they were appointed directly by the authorities 24 hours before the trial was due to begin. Only Plácido Micó, who is a lawyer, was able to defend himself.

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<sup>3</sup>Article 14 of the International Covenant on Civil and Political Rights states that “All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law....”

The fact that the defendants were unable to select their own defence lawyer and prepare their defence in due time, is a violation of the right to be defended by a lawyer of one's choice and to have the necessary time and means to prepare one's defence, as provided in article 14 of the ICCPR and article 7 of the African Charter, in keeping with the unequivocal interpretation made of the latter by the African Commission on Human and Peoples' Rights<sup>4</sup>.

The following are some of the fundamental defence rights which were not observed:

- The defence were not notified of the committal to trial order five days in advance of the hearing as stipulated in Equatorial Guinean legislation. Notification arrived only a day and a half beforehand.
- The defence lawyers made it clear that the version they received of the statements made by the defendants was different from the version used by the prosecution to formulate their questions. The bench did not take this into account.
- The committal to trial order charged the defendants with a series of acts which took place in 2002. However, during the trial, they were also accused of other acts which occurred in 1997 and in 1992. The expansion of the charges without informing the defence in advance and without allowing them a reasonable period of time to prepare meant that the defendants were seriously prejudiced.
- The national legislation of Equatorial Guinea was also contravened when several people with immunity were prosecuted without this having been lifted in advance. That was the case for Benedicto Nsué Ndong, a judge at the Supreme Court; Ricardo Eló Mabale, a prosecutor in the Supreme Court; Jesús Ndong, Vice-President of the Human Rights Commission; and Feliciano Obama Nsué Mangué "Bató", a former diplomat and member of parliament. The defence asked for their cases to be dismissed for that reason but the request was denied. On 28 May 2002 a government decree dated 20 May was issued in which Jesús Ndong and Ricardo Eló Mabale were dismissed from their posts. They therefore lost their privileged status. Both had been interrogated by the court the day before.

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<sup>4</sup> Resolution on the Right to recourse Procedure and Fair Trial, adopted at the 8th meeting of the African Commission held from 2-9 March 1992, in Tunis, Tunisia, A CHPR/COMM/FIN (XI) Rev.1

- The bench obliged the defendants to give evidence under oath upon penalty of being charged with perjury, which is in breach of the internationally recognized right that no accused should be compelled to testify against himself.

Amnesty International is also concerned that several people, who were apparently arrested because of their alleged links with FDR leaders, were brought to the trial without having been charged with any offence.

In another instance where the right to defence was disregarded, Severo Moto, the leader of a party banned in 1998, the *Partido del Progreso (PP)*, Progress Party, was sentenced *in absentia* to 20 years' imprisonment despite not being on the list of defendants and therefore he had no legal representation.

#### **4.2.4 Torture and ill-treatment during the trial**

The torture and ill-treatment of the detainees continued during the trial. Some of the defendants who retracted before the court the statements they had made earlier were subsequently tortured in prison, apparently as a reprisal for the retraction. This all constitutes a violation of the fundamental rights of defendants during legal proceedings, as contained in several international legal instruments such as the Standard Minimum Rules for the Treatment of Prisoners, the Basic Principles for the Treatment of Prisoners and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

### **4.3. Concerns with regard to the grounds for the trial**

The Amnesty International representative who attended the trial detected grave procedural irregularities which were in breach of international standards regarding impartiality and which turned the proceedings into a parody of justice. The accused were indicted on questionable charges, statements made under torture were used to convict them, people against whom no charges had been laid were present with the accused in the trial, and no attention was paid to the defence's claims that detainees had been arbitrarily arrested, tortured or 'disappeared'.

#### **4.3.1 Questionable charges**

The aim of the charges and the case put forward by the prosecutor was to demonstrate that a coup d'état had been orchestrated. To support this thesis, the Attorney General pointed out that 62 of the 125 defendants present in the courtroom were soldiers and

wearing uniform, leading to the supposition that some branches of the armed forces were involved in this alleged coup attempt. One of the defence lawyers pointed out, however, that more than 50 of the uniformed defendants were relatives of Felipe Ondó, the principal defendant, and said that only one of the soldiers was not related to him.

The charge of “*murder of the Head of State*” is inadmissible. This charge can only be considered if the Head of State had died. Nor would attempted murder be applicable since the President had not been the victim of any attempt on his life.

The defence repeatedly urged the prosecution to show evidence of guilt, but the bench rejected these requests, without giving any grounds for doing so, and relied solely on the *careos* – bringing defendants and witnesses face-to-face in court.

The defence had initially requested that the testimony of the person who had allegedly made the complaint giving rise to the proceedings and who was therefore a key witness should be entered in evidence. This was not done. The defence also requested the bench to order this witness to be brought before the court. However, the bench responded that, since the witness was not present in the courtroom, his testimony could not be obtained. The defence reminded the bench that it was their responsibility to ensure that witnesses summoned to give evidence should appear in court during the trial. The bench disregarded the objection.

The defence requested the prosecution to present before the court the pistol with which the coup was allegedly to be carried out. The prosecution ignored the request.

The prosecution was unable to present any solid evidence implicating any of the defendants in the alleged coup attempt. The prosecutors only presented statements from two defendants to support their charges but those concerned claimed that they had made their statements under torture. During the trial there was also reference to a sketch of a military barracks called *Rabat*, which, as in the case of the pistol already mentioned, was not presented in evidence.

The *careos*, confrontations, called for by the prosecution only produced contradictory statements from the two parties concerned. Given the lack of additional evidence to support the prosecution’s position, the defendants cannot be said to have committed the offence. The fact that, nevertheless, the defendants were found guilty contradicts the principle, to be found in criminal law, of *in dubio pro reo* and violates the presumption of innocence of the accused.

In conclusion, the only basis for the convictions are the statements made by the defendants when they were in pre-trial detention and which, in most cases, were obtained under torture. However, despite the fact that the prosecutor was unable to present any substantial evidence against any of the accused, he asked in his final conclusions for the sentences to be increased and ended up requesting up to 18 death sentences for, among others, Felipe Ondó Obiang and Guillermo Nguema Elá.

#### **4.3.2 Admission in evidence of statements made under torture**

The court accepted statements made under torture as proof of guilt for most of the defendants and refused to call for investigations to be opened into these serious allegations.

Fifty-two of the defendants expressly stated before the court that their statements had been obtained under torture and others also displayed obvious marks of ill-treatment. One of them showed the bench, at the request of his lawyer, wounds he had on his chest under his T-shirt. When the lawyers also asked him to show them to the public, the presiding judge told him not to do so and ordered him to leave the courtroom. One of the detainees stated that three generals from the Equatorial Guinean army were present during the interrogation session in which he was tortured.

The defence lawyers tried to ask the defendants questions about these torture allegations but the bench interrupted the questioning claiming that it was the coup attempt and not torture which was the subject of the trial. The lawyers replied that if the statements had been obtained under torture, they should not be taken into account. However, the bench again refused to examine the allegations.

By accepting statements made under torture, the court violated article 14(3)(g) of the ICCPR concerning the presumption of innocence according to which no one can “be compelled to testify against himself or to confess guilt.” This serious violation of the right to defence also contravenes article 15 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which the Government of Equatorial Guinea recently claimed it had ratified, although the appropriate UN bodies do not appear to have received confirmation of such ratification.

### **4.3.3 Sentences**

The verdict was announced on Sunday, 9 June 2002. Sixty-seven people were convicted (including three *in absentia*) and the rest were acquitted. The sentences ranged from six years eight months' to 20 years' imprisonment.

1. 15 people were sentenced to 20 years' imprisonment as perpetrators;
2. 18 people were sentenced to 14 years eight months' imprisonment as accomplices;
3. 34 people were sentenced to six years eight months' imprisonment as accessories after the fact.

(See the appendix for the list of all those convicted)

Despite being a summary trial, those convicted have the right to appeal against their sentences. The defence lawyers have already presented the applications which have to be studied by the Supreme Court.

## **5. CONDITIONS OF DETENTION FOR THOSE CONVICTED**

Conditions of detention for the defendants drastically deteriorated on 26 June when the authorities decided to ban relatives from visiting the prisoners and bringing them food. The authorities said that in the future the government would take responsibility for supplying food to the prisoners, in order to prevent possible poisoning originating from outside for which the government could be blamed.

Following the ban, the prisoners received insufficient amounts of food and the risk of starvation increased. In the first two days of July, two of the prisoners, Juan Ondó Nguema and Cándido Obiang Abia, were taken to the Malabo hospital suffering from stomach pains and a high temperature as a result of the lack of adequate food. Despite being admitted, Juan Ondó Nguema, the nephew of Felipe Ondó Obiang, died on the morning of 5 July 2002. The lives of many of the other prisoners were also threatened by starvation and conditions of detention, which must be deemed to constitute torture and ill-treatment. There were reports that the prisoners' conditions deteriorated even further: the FDR leaders spent the whole day handcuffed in their cells and the prison authorities

confiscated mattresses, sheets and towels brought to the prisoners by their relatives.

## **6. THE CASE OF FABIÁN NSUÉ NGUEMA OBOMO**

Apart from those detained for their alleged involvement in the attack on state security, another opposition leader, Fabián Nsué Nguema Obomo, a lawyer and leader of one of the factions within the political party *UP*, was arrested on 29 April 2002 and imprisoned in Black Beach Prison. Fabián Nsué was accused of “defaming the Head of State” for having allegedly sent an electronic mail message signed by himself in which he had criticized the policies of the Head of State, in particular, a salary increase (initially announced but later suspended) for Equatorial Guinean civil servants.

The *UP* leader was tortured while being held incommunicado and his hands were reportedly broken as a result of beatings. The trial of Fabián Nsué began on 4 July. The prosecutor asked for two years four months’ imprisonment for “defaming the Head of State” and a further six months for “slandering the Head of State”. When questioned by the court, Fabián Nsué denied being the author of the document or any other letter which could be seen as defamatory to the Head of State. The court adjourned the hearing the day after it opened so that the original document could be submitted to it within 15 days . When the hearing resumed, the original document was not presented. Despite this, Fabian Nsue was convicted on 30 July 2002 to one year’s imprisonment following a trial that was full of irregularities. Amnesty International believes this opposition leader to be a prisoner of conscience and is calling for his immediate and unconditional release.

## **7. INTERNATIONAL REACTION**

Amnesty International has expressed its concern about the trial to the media on many occasions both before and after the sentences were announced.

Several bodies within the European Union have also publicly protested against this trial, both because of its unfairness and the treatment received by the prisoners. In a note published on 10 June 2002, the European Union expressed its concern “at the procedural irregularities observed during the trial, at the allegations of torture and ill-treatment of the accused, and at the flimsiness of the evidence, which contrasts with the severity of the sentence” and requested the Equatorial Guinea Government to ensure that “the sentence [is] reviewed, in order to ensure that the fundamental rights of the accused are respected, and in particular that statements which they may have made under duress have not

been used against them.”

Three days later, the European Parliament unanimously adopted a resolution in which it “calls for this political trial to be annulled and demands the immediate release of all the political prisoners and the members of their families” and “condemns in the strongest possible terms the torture and ill-treatment to which the political prisoners and their families have been subjected (including during the trial, in reprisal for the statements made to the court), in breach of all the human rights conventions signed by Equatorial Guinea.”

Amnesty International welcomes the reaction from the European Union and sees it as a positive signal from the international community. This is particularly necessary after the disappointing decision taken by the United Nations Commission on Human Rights in April 2002, which ended the mandate of the Special Representative for Equatorial Guinea who had been monitoring the human rights situation in the country for over 20 years. The organization believes that only the mobilization of the whole of the international community can save the lives and ensure the physical safety of the people convicted in this trial and held since then in deplorable conditions.

## **8. RECOMMENDATIONS**

Amnesty International has, on numerous occasions submitted its concerns about human rights violations to the Equatorial Guinean authorities and has urged them to approve and implement safeguards to prevent arbitrary detention, torture, ill-treatment and trials which do not comply with due process of law. These recommendations are based largely on the provisions of the African Charter on Human and Peoples’ Rights and the International Covenant on Civil and Political Rights, which were ratified by the government in 1986 and 1987 respectively. However, as this report shows, human rights are still being violated with impunity.

### **8.1 Recommendations to the Government of Equatorial Guinea**

The authorities should take the following measures immediately:

1. unconditionally release all those convicted at the trial held in May-June 2002, as well as Fabián Nsué, who was sentenced to one year’s

imprisonment on 30 July 2002. Amnesty International considers them to be prisoners of conscience against whom there is no evidence that they have used or advocated violence;

2. end the incommunicado detention of all these prisoners and provide them with adequate food and medical attention;
3. substantially improve conditions for the prisoners. They should be treated in accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners, which include transfer to another appropriate institution if necessary ;
4. allow an international humanitarian organization, such as the International Committee of the Red Cross to have access to the prisoners;
5. invite the United Nations Special Rapporteur on Torture and Special Rapporteur on the Independence of Judges and Lawyers to visit Equatorial Guinea and investigate allegations of torture and unfair trial described in this report.

The authorities should also:

6. incorporate basic human rights standards into domestic legislation and put them into practice;
7. give clear orders to all members of the security forces to ensure that they behave in accordance with the UN Code of Conduct for Law Enforcement Officials and ensure that all security force personnel receive appropriate training in the Code of Conduct and other human rights standards;
8. investigate all reports of torture (including the allegation that the wife of one of the prisoners was raped by several soldiers) and cases of those arrested but whose current whereabouts are unknown. The investigations must be carried out immediately, impartially and effectively by an independent body and should conform to the United Nations Principles on the Effective Prevention and Investigation of Extrajudicial, Summary or Arbitrary Executions;

9. bring to justice those shown as a result of such independent investigations, to be responsible for human rights violations and compensate the victims of human rights violations carried out by people acting on behalf of the Government of Equatorial Guinea

## **8.2 Recommendations to the international community**

10. The Office of the High Commissioner for Human Rights should take into account the recommendations made by the former United Nations Special Representative on the situation of human rights in Equatorial Guinea as well as the recommendations made above and work in collaboration with the government to determine in which areas technical assistance can be provided to improve the current situation of human rights in the country;
11. The European Union and the International Organization of Francophone Countries (to which Equatorial Guinea belongs) should take into account the above recommendations and exercise their influence to ensure that the Government of Equatorial Guinea implements them and immediately releases all the prisoners mentioned in this report, as well as providing them with adequate food and medical attention;
12. Governments which give economic or any other type of aid to Equatorial Guinea should take account of the above recommendations and exercise their influence with the Government of Equatorial Guinea to ensure that they implement them and immediately release all the prisoners mentioned in this report, as well as providing them with adequate food and medical attention.

## **APPENDIX**

### **LIST OF THOSE CONVICTED IN THE TRIAL HELD IN MAY- JUNE 2002**

#### **Those convicted to 20 years' imprisonment as perpetrators:**

- Felipe Ondó Obiang
- Donato Ondó Ondó
- Pablo Nguema Mba
- Mariano Oyono Nsue
- Francisco Abeso Mba
- Antonio Oyono Ondó
- Primo Micha Obiang
- Ismael Nze Ndong
- Ernesto Nguema Monsuy
- Severo Moto Nsá (*in absentia*)
- Alfonso Milam (*in absentia*)
- Lucas Oyono Nsue (*in absentia*)

#### **Those convicted to 14 years eight months' imprisonment as accomplices:**

- Cesar Elá Ondó
- Guillermo Nguema Elá
- Emilio Ndong Biyogo
- Angel Ovono Akumbega
- Patricio Ndong Bee
- Salomón Avenga Mba
- Moises Esono Mba
- Mariano Ekua Sima
- Laureano Ondo Monsuy

- Santiago Ela Obiang
- Pedro Alogo Monsuy
- Norberto Evuna Miko
- Santiago Ntutumu Ndong
- Diosdado Genovio Nguema
- Santiago Asu Ondo
- Juan Ovono Obiang
- Marcelo Zeme Nze
- Ruben Alogo

**Those convicted to six years eight months' imprisonment as accessories after the fact:**

- Carmelo Biko Ngua
- Domingo Nfa Nve
- Benito Ntutumu Eyegue
- Jeremías Nkulu Abaga
- Plácido Miko Abogo
- Loremzo Ondo Ebang
- Isaac Ondo Monsuy
- Santiago Ovono Moro
- Juan Asumu Sima
- Faustino Ondo Ebang
- Melchor Obama Ndumu
- Mario Mba Ntutumu
- Florencio Edjang Ondo
- Jesus Nguema Obiang
- Luis Ela Akue
- Macario Esimi Mañana
- Luis Nzo Ondo
- Lorenzo Asu Ngume
- Ismael Nve Ndong

- Baltasar Nsue Oyono
- Domingo Edjang Nsue
- Jose Primo Obama
- Heraclio Owono Nsogo
- Cayetano Monsuy Obama
- Rubén Monsuy Ngume
- Jermías Nguema Mba
- Gaspar Owono Nguema
- Cándido Obiang Abia
- Juan Ondó Nguema
- Roque Nve Nso
- Rafael Obama Ondo
- Miguel Angel Micha Obama
- Melchor Ndong Mondu
- Julio Ndong Elá.