

Request relating to the Return of Property Confiscated in Criminal Proceedings
Equatorial Guinea vs France

Date filed: September 29, 2022

Court: International Court of Justice (ICJ)

Dispute: Is France violating the 2003 UN Convention Against Corruption (UNCAC) by failing to return assets confiscated in their conviction of Teodoro Ngueme Obiang Mangué?

In 2010, French criminal proceedings began against the Second Vice-President of Equatorial Guinea, Teodoro Ngueme Obiang Mangué. Obiang Mangué was charged with laundering and misappropriation of public funds. A lavish spender, Obiang Mangué was known for amassing significant material wealth. One of his most important purchases was that of a business building at 40-42 avenue Foch in Paris, France. During the criminal proceedings, France confiscated this building and many other assets equaling roughly 150 million Euros. Equatorial Guinea brought this case to the ICJ in June of 2016, titled Immunities and Criminal Proceedings (Equatorial Guinea vs France). Specifically debated was the legal status of the building in France. Equatorial Guinea claimed that the building was within the premises of its mission in France, therefore it could not be confiscated. In December 2020, the ICJ ruled that the building had never acclaimed the status of being within the premises of the mission according to Article 1 of the Vienna Convention on Diplomatic Relations, and therefore France had not violated its obligations. In July of 2021, the French *Cour de cassation* upheld the charges and the confiscation of the assets taken during the proceedings.

What prompted the new case against France was the announcement in July of 2022 that France would be selling the building. Equatorial Guinea now claims that France has violated UNCAC by failing to return confiscated property requested by Equatorial Guinea. They also accuse France of failing to cooperate with Equatorial Guinea during the process of these criminal proceedings. Equatorial Guinea filed a request for provisional measures stopping the auction for the building, claiming that their right to recover the property would be lost through its sale. This request was ordered to be withdrawn on 21 October, 2022. Additionally, Equatorial Guinea states that France may return this property “by means of its own choosing”.

According to UNCAC Article 57, the “requested state” (France) is only required to return confiscated property from embezzled funds if the requested state confiscated the funds as a result of a request for international cooperation and if the funds were confiscated on the basis of a final judgment in the requesting state (Equatorial Guinea). If these conditions are not met, it is up to the discretion of the state. In order to secure the mandate, Equatorial Guinea must prove that it not only complied with France in the transfer of the assets but also that it has reached a ruling on the case regarding Obiang Mangué’s embezzlement of public funds, something it has not yet

done.

Article 57 of UNCAC includes that if there is no mandate to return assets, it must still be given priority consideration. Equatorial Guinea argues that not only do they have the mandate, France has failed to give the return of the assets priority consideration and as such violates UNCAC. France, however, claims that it has taken steps to make the criminal proceedings go smoothly while holding onto the assets both due to legal ability and a lack of desire to return funds to a corrupt state government.

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