

Mme. Irina Bokova
Director-General
United Nations Educational, Scientific and Cultural Organization
(UNESCO)
7 Place de Fontenoy
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France

Paris, March 16, 2012

Re: Appointment of Teodoro Nguema Obiang Mangue as Deputy Permanent Delegate of Equatorial Guinea to UNESCO.

Madame Director-General,

We write to express our deep concern about the surrounding circumstances and the potential consequences of the decision made on October 13, 2012 by the government of Equatorial Guinea to appoint Mr. Teodoro Nguema Obiang to the post of Deputy Permanent Delegate of Equatorial Guinea to UNESCO.¹ We are particularly anxious to ensure that this appointment not serve to dangerously undermine the global norms relating to diplomatic privileges and immunities, which are universally recognized as existing to enable the proper functioning of international diplomacy and international organizations, and not to benefit any individual personally.

Taken only a few days after the seizure of some fifteen of Mr. Nguema Obiang's automobiles by the French police in connection with a judicial investigation into suspected receipt and laundering of the proceeds of corruption,² the decision to appoint Mr. Nguema Obiang to the post of Deputy Permanent Delegate of Equatorial Guinea to UNESCO raises important questions suggesting the possibility that the appointment might involve an attempt to hinder the investigation. Specifically, the circumstances of this appointment reveal troubling similarities with those surrounding the appointment of Mr. Pierre Falcone. As you will remember, on June 10, 2003, Mr. Falcone was "opportunistically named"³ Minister Plenipotentiary

¹ See the press release dated October 19, 2011 issued by the government of Equatorial Guinea: <http://www.guineaequatorialpress.com/noticia.php?id=1994>

² On September 28, 2011, the magistrates in charge of the investigation conducted a search of 42 Avenue Foch, 75008 Paris, and on that occasion seized about fifteen luxury vehicles. As part of that same criminal investigation, between February 14 and 23, 2012, the investigating judges conducted a second search in what appears to be the Paris residence of Mr. Nguema Obiang; and seized a number of personal property items of great value. It is worth noting that French authorities are not the only ones interested in Mr. Nguema Obiang's lifestyle. Indeed, last October, American authorities announced their commencement of civil proceedings seeking to confiscate assets of Mr. Nguema Obiang alleged to be the proceeds of corruption and to have been laundered in the United States. The proceedings target more than \$70 million of real and personal property. See the press release dated October 25, 2011 issued by the U.S. Department of Justice: <http://www.justice.gov/opa/pr/2011/October/11-crm-1405.html>

³ These are the words of the Cour de cassation characterizing the appointment of Pierre Falcone as Minister-Counselor at the Permanent Delegation of the Republic of Angola to UNESCO in the context of the "Angolagate" affair: Cass. Ch. Crim., April 8, 2010, No. 09-88.675.

Representative of the Republic of Angola to UNESCO, which then allowed him to evade the judicial supervision measures to which he was subject in France as part of the investigation into arms sales to Angola (the "Angolagate" affair). Even if, after several months of proceedings, the privileges and immunities that Mr. Falcone sought to rely on were held inapplicable and a criminal conviction was successfully secured against him,⁴ there is no doubt that this appointment had seriously hampered the proper course of justice in France. It is equally clear that this whole affair damaged UNESCO's reputation.

A number of factors lead us to fear that the motives of the Equatoguinean government may not be very different from those inducing the appointment of Mr. Falcone - namely the desire to use diplomatic immunity to thwart the course of justice in France. Aside from the virtual simultaneity between the seizure of Mr. Nguema Obiang's vehicles by the French police and the decision of the Equatoguinean government to appoint him as Deputy Permanent Delegate of Equatorial Guinea to UNESCO, the appointment decree states very clearly that the President of the Republic of Equatorial Guinea had decided to make the appointment "in response to the circumstances of Teodoro Obiang Mangué."⁵

Like the government of Equatorial Guinea, as it seems, you are aware, Madame Director-General, that if a special residence permit were to be issued to Mr. Nguema Obiang, it could negatively impact the criminal investigation mentioned above.

It is unacceptable that an international organization such as UNESCO should be exploited for the purpose of thwarting the course of a judicial inquiry duly initiated in France. We note that the United Nations Convention on the Privileges and Immunities of the Specialized Agencies,⁶ the Headquarters Agreement between the French Government and UNESCO,⁷ and the Vienna Convention on Diplomatic Relations⁸ all expressly state that diplomatic privileges and immunities are granted to representatives in the interest of the Organization and not for their personal benefit.

To prevent a repetition of the Falcone precedent, we ask you, Madame Director-General, to do everything within your power to oppose this appointment. In particular, we urge you to speak out publicly against this appointment and to invite member states to use all means available to them to oppose it.

No other position (including remaining silent) would serve the interest of UNESCO, which is already suffering from the embarrassment created by the UNESCO-Obiang prize. As you noted on March 8 at the 189th session of the Executive Board, as Director-General, you have "the responsibility to protect [the] prestige and credibility" of UNESCO. It is evident that a new scandal would further harm the reputation of the organization and ultimately its credibility.

⁴ Mr. Falcone was sentenced to 30 months in prison and a €375,000 fine (CA de Paris, April 29, 2011).

⁵ See the press release dated October 19, 2011 issued by the government of Equatorial Guinea:

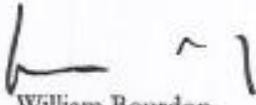
<http://www.guineaecuatorialpress.com/noticia.php?id=1994>

⁶ "Privileges and immunities are accorded to the representatives of members, not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connexion with the specialized agencies." (Section 16)

⁷ "The immunities provided for in Articles 18 and 19 are accorded in the interests of the Organization and not for the personal benefit of the individuals themselves." (Article 21)

⁸ "[T]he purpose of such privileges and immunities is not to benefit individuals but to ensure the efficient performance of the functions of diplomatic missions as representing States." (Preamble).

Looking forward to hearing UNESCO's responses to these issues, we assure you, Madame Director-General, of our respectful consideration.



William Bourdon
Président

This letter is supported by the following civil society organizations:

- Open Society Justice Initiative (US)
- Transparence international (France)
- Asociación pro Derechos Humanos de España (Spain)
- Publish What You Pay (UK)
- Human Rights Watch (International)
- Foreign Policy In Focus (US)
- EG Justice (US)
- Global Witness (UK)
- Corruption Watch (UK)
- Survie (France)
- The One Campaign (US)

It is further supported by the UNCAC Coalition:
List of member's organizations is attached in **appendix**.

