

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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Equatorial Guinea: Concerns about the recent trial of political opponents and Nigerian nationals

Amnesty International is calling for the immediate and unconditional release of two members of the opposition party People's Union (*Unión Popular* – UP), who remain in prison six weeks after being acquitted of the charges against them, and for the fair retrial of seven Nigerian nationals who were convicted by the same court to long prison terms.

Three UP members, Santiago Asumu, Marcelino Nguema Esono and the party's former president, Faustino Ondó Ebang, and the seven Nigerians: Marck Etim Marck, Eyoh Okon Ikara, Eyon Kun Jhon, Effiong Matew, Okokon Iyanam (aka Mintay), Isangadighi and Ekaette Eyo Okon, a woman, were tried between 17 and 22 March 2010 by the Tribunal de Apelación de Malabo (Malabo Court of Appeal - a court of first instance). All were charged with attempting to assassinate President Teodoro Obiang Nguema Mbasogo. The charges related to a reported attack on the presidential palace in Malabo, the capital, 17 February 2009.

Faustino Ondó - a former prisoner of conscience - was tried in absentia. He currently lives in exile in Spain. Eight other UP members had the charges against them dropped at the commencement of the trial.

On 5 April, the court acquitted the three Equatorial Guineans of all charges, while convicting the Nigerian nationals and sentencing them to 12 years' imprisonment each.

Amnesty International is concerned that six weeks after their acquittal and despite a formal written request from their lawyer to the president of the Appeal Court demanding their release, Santiago Asumu and Marcelino Nguema Esono remain in prison.

The continued detention of Santiago Asumu and Marcelino Nguema Esono is unlawful. They must be released immediately. Their continued detention violates their right to personal liberty and security of the person and seriously contravenes Equatorial Guinea law which states that all those acquitted of an offence by a court must be released immediately. In addition, it contravenes Article 9 of the International Covenant on Civil and Political Rights (ICCPR), to which Equatorial Guinea is a party.

Amnesty International considers Santiago Asumu and Marcelino Nguema Esono to be prisoners of conscience, detained solely for their political beliefs, and is calling for their immediate and unconditional release.

Regarding the Nigerian nationals, Amnesty International calls on the Equatorial Guinean government to retry them in a fair trial.

The Nigerians were arrested at sea, apparently in Equatorial Guinea territorial waters, by the Equatorial Guinean navy, soon after the attack on the palace. The Nigerian men and women claimed to be fishermen and traders, respectively. They claimed that they got lost at (sea?) in their "cayuco" canoe and had drifted in fog into Equatorial Guinean waters. No weapons were found in the "cayuco" when they were arrested. Following their arrest they were held incommunicado and without charge until mid-October 2009 in Black Beach prison. They were

reportedly tortured in police custody and an unnamed woman died, reportedly as a result of torture.

Amnesty International is concerned that no investigation appears to have been carried out into the respective allegations of torture and death in custody of the Nigerian nationals.

The organization is further concerned about aspects of the pre-trial detention and the trial itself which violated the right to a fair trial of all the defendants. In particular Amnesty International is concerned that:

- the UP members had been arrested without a warrant in contravention of national law;
- neither the Equatorial Guineans nor the Nigerians were promptly informed of the charges against them and were only informed several months after their arrest. They were not brought before a judge within the prescribed 72 hours to have their detention legalised;
- with regard to the Nigerians, they were held incommunicado from the time of their arrest and did not have access to a lawyer until a few days before the trial started and were thus denied the right to present an effective defence. The UP members were held incommunicado after they were transferred to Black Beach prison, still uncharged, in June 2009, when access to their lawyer was suspended;
- all defendants were reportedly tortured in detention and a female Nigerian national died, reportedly as a result of the torture. Defence lawyers reported that the Nigerian defendants bore clear marks consistent with torture;
- in court, the defendants and their lawyers complained about the torture, including the death in custody of a Nigerian woman, but were stopped by the president of the court who reportedly dismissed the claims as irrelevant to the proceedings;
- no weapons or other evidence was presented in court to sustain the charges against the Nigerian nationals; therefore, the prosecution failed to discharge the burden of proof and to prove beyond reasonable doubt that the accused Nigerian nationals were guilty. Nevertheless, the court dismissed their claims that they were fishermen and traders and convicted them on the basis of the weather reports for 16 and 17 February 2009, according to which the weather was good and therefore, visibility was also good; consequently, the presence of the Nigerians in Equatorial Guinean waters was not justified; therefore, they had taken part in the attack on the palace;
- the authorities did not provide the Nigerian nationals with assistance for them to lodge an appeal against their conviction and sentence.

Amnesty International considers that the Nigerian prisoners' right to a fair trial was violated by the authorities in Equatorial Guinea.

The organization calls on the Equatorial Guinean authorities to respect the right to a fair trial and comply with their international human rights obligations under the ICCPR and to fulfil the commitments made during the Universal Periodic Review by the UN Human Rights Council in December 2009 which included ending torture and ensuring fair trials. In particular, Amnesty International calls for:

- the immediate and unconditional release of Santiago Asumu and Marcelino Nguema;
- the authorities to provide the Nigerian prisoners with either the full right of appeal to challenge the unfairness of their trial, or a fair retrial;
- all the allegations of torture and death in police custody to be investigated thoroughly and impartially and those suspected of involvement to be brought to justice;
- the authorities to grant the prisoners and detainees access to lawyers, consular personnel and any medical treatment they may require.

Background

Santiago Asumu and Marcelino Nguema Esono and eight other UP members, including the wife and brother of Faustino Ondó, were arbitrarily arrested between 18 February and 22 of March 2009 in Malabo and Bata, the main city on the mainland (see Equatorial Guinea: Arrest

and torture of political opponents [AI Index: AFR 24/004/2009]), following the February attack on the presidential palace.

They were held without charge or trial until mid-October 2009 in conditions that amounted to cruel and degrading treatment and were subjected to other ill-treatment. Both men were also reportedly subjected to torture on several occasions to extract confessions from them. At the time, Amnesty International considered the detainees prisoners of conscience who were arrested and detained solely for their peaceful political activities, and called for their immediate and unconditional release. The organization also expressed concern about the allegations of torture and called for an investigation into those allegations and for those suspected of responsibility to be brought to justice.

Article 9 of the International Covenant on Civil and Political Rights (ICCPR) states: “Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his or her liberty except on such grounds and in accordance with such procedures as established by law”.