



**Conseil Économique
et Social**

Distr.
GÉNÉRALE

E/CN.4/2002/182
19 avril 2002

FRANÇAIS
Original: ANGLAIS

COMMISSION DES DROITS DE L'HOMME
Cinquante-huitième session
Point 9 de l'ordre du jour

QUESTION DE LA VIOLATION DES DROITS DE L'HOMME ET DES
LIBERTÉS FONDAMENTALES, OÙ QU'ELLE SE PRODUISE
DANS LE MONDE

Lettre datée du 15 avril 2002, adressée au Président de la Commission des droits
de l'homme à sa cinquante-huitième session par le chef
de la délégation de la Guinée équatoriale

Comme vous le savez, le Gouvernement de la République de Guinée équatoriale a, depuis 1979, accordé aux divers experts, rapporteurs spéciaux et représentants spéciaux de la Commission un degré d'accès sans précédent à notre pays. C'est pourquoi, en ma qualité de chef de délégation et Ministre de la justice et des affaires religieuses, j'ai été consterné d'apprendre hier que le Bureau de la Commission avait diffusé deux lettres au ton assez dramatique de M. Gallon, le Représentant spécial, sans demander de précisions au pays intéressé.

Le Gouvernement équato-guinéen a toujours été d'avis que notre coopération avec la Commission devait entraîner une certaine réciprocité, notamment dans le comportement du Représentant spécial. Pour préciser les choses, nous joignons à la présente lettre la correspondance échangée entre mon Gouvernement et le Représentant spécial à propos de l'invitation que nous lui avons faite le 15 mars de se rendre à Malabo pour évaluer la situation des détenus et recevoir les conclusions préliminaires de notre enquête sur ces événements. Le choix des lettres communiquées par M. Gallon est extrêmement sélectif et donne l'impression que c'est lui qui a pris l'initiative à cet égard et que, parce que nous avons des réserves d'ordre pratique quant aux dates qu'il a prévues, nous l'empêchons en quelque sorte d'accomplir une mission humanitaire indispensable.

Le Gouvernement guino-équatorien tient à exprimer la profonde préoccupation que lui inspirent tant cette interprétation que les déclarations qui ont été faites par M. Gallon à la Commission et à vous-même personnellement au sujet de la situation en Guinée équatoriale. Notre Premier Ministre, Candido Muatetema Rivas, a promptement invité le Représentant spécial en Guinée équatoriale quand nous avons appréhendé et mis en détention un groupe de personnes dont il avait été découvert qu'elles complotaient l'assassinat du chef du Gouvernement et d'autres membres de haut rang du Gouvernement. À ce moment crucial, le Représentant spécial a déclaré que ses fonctions à la Commission l'empêchaient de se rendre dans notre pays. Ensuite, et même jusqu'au 28 mars, date de la présentation orale de son rapport devant la Commission, il n'a pas cherché à se renseigner plus avant sur ces événements, ne le faisant finalement que par sa lettre au Premier Ministre en date du 8 avril.

Je soulève cette question car, en ma qualité de Ministre principal compétent pour traiter de certains de ces problèmes, j'ai été à Genève jusqu'à fin mars et y suis revenu cette semaine. À aucun moment, alors qu'il savait que j'assistais aux séances de la Commission, M. Gallon ne s'est adressé à moi ou à d'autres membres de ma délégation pour obtenir des éclaircissements sur la situation. De même, notre Premier Ministre était disponible pendant toute cette période pour répondre à toute demande téléphonique de renseignements que M. Gallon aurait eu à lui faire au sujet de la situation des détenus.

Si nous avons indiqué à M. Gallon que la période du 7 au 15 avril ne convenait pas au Gouvernement, c'est à cause de la circonstance bien réelle que nos hauts responsables, dont moi-même, se trouvaient hors du pays. Le Premier Ministre a toutefois proposé la date de rechange du 5 mai.

Nous pensons que si M. Gallon avait jugé la situation des droits de l'homme grave et sérieuse, comme il le déclare publiquement, il aurait soit essayé de se rendre dans notre pays en mars, soit fait un effort de concertation plus actif pour obtenir des éclaircissements de la part des membres du gouvernement compétents, dont l'un a été présent à Genève la plus grande partie du temps.

Monsieur le Président, rien dans la lettre de M. Gallon à notre Premier Ministre datée du 8 avril ne donne à penser que M. Gallon était en possession de nouvelles informations urgentes qu'il ne détenait pas déjà à la date du 15 mars. Nous trouvons lamentable qu'on ait pu lire sur l'Internet, le jour où M. Gallon vous a envoyé sa lettre, que la Guinée équatoriale avait refusé au Représentant spécial l'accès au pays, ce qui est absolument faux. Nous trouvons également déplorable que M. Gallon soit autorisé, sous le faux prétexte que nous lui aurions refusé cet accès, à diffuser des informations concernant notre pays qui sont non seulement fausses sur le plan des faits, mais délibérément malveillantes, sans que nous ayons pu exercer notre droit de réponse.

Je tiens à préciser qu'après mon retour à Malabo à la fin mars, j'ai visité les détenus et rencontré mes collègues du gouvernement pour faire le point de la situation. Je peux assurer à la Commission qu'il n'y a eu aucune perte de vies humaines ni d'un côté ni de l'autre, que personne n'a été battu ou torturé, que personne n'a été privé de soins médicaux ou de nourriture. Les détenus ont eu accès à leurs familles et à leurs avocats et ils bénéficieront d'un procès équitable, juste et public devant un tribunal civil.

Les partis politiques légaux ont été pleinement mis au courant de la situation par le Ministre de l'intérieur peu après les événements, survenus au début de mars. Ces événements ne doivent pas être interprétés comme ayant une répercussion quelconque sur notre dialogue permanent avec l'opposition légale, ni comme signifiant que la détermination du Gouvernement équato-guinéen à renforcer les droits de l'homme et la démocratie dans notre pays est en quoi que ce soit amoindrie.

De même, ce n'est pas parce que le Gouvernement a le devoir de se protéger et de protéger ses citoyens contre les tentatives illégales de groupes armés de s'emparer du pouvoir qu'il faut rabaisser les progrès réels et significatifs que nous avons accomplis dans le domaine des droits de l'homme et de la démocratie. C'est malheureusement ce que le Représentant spécial a essayé de faire dans sa façon de réagir aux événements récents survenus dans mon pays.

J'espère que nous pouvons considérer que ce regrettable manquement au protocole est maintenant derrière nous, et essayer de restaurer un esprit de coopération qui a fait gravement défaut au cours de cet épisode. Je serai heureux de vous rencontrer pour m'entretenir avec vous de cet incident et de questions connexes ayant trait à notre relation avec la Commission.

En conclusion, le Gouvernement équato-guinéen, eu égard aux allégations non fondées de M. Gustavo Gallon, est en droit d'exprimer sa défiance à l'égard du comportement professionnel du Représentant spécial. Nous demandons en conséquence que la présente lettre et la correspondance jointe en annexe* soient distribuées comme document officiel de la Commission au cours de cette cinquante-huitième session.

Le chef de la délégation,
(Signé) Ruben Maye **Nsue Mangue**

* L'annexe a été reproduite telle quelle dans la langue originale, ainsi qu'en anglais.

Annexe

**Office of the Prime Minister
Republic of Equatorial Guinea**

Malabo, 14 March 2002

Sir,

In my capacity as Chairman of the Government Inter-Ministerial Commission on Human Rights, I have the honour to inform you that, according to the information received, the State security and police force recently arrested some citizens on suspicion that they were responsible for acts designed to stir up social unrest among members of the civilian population in the city of Bata and likely to undermine peace and security in the country.

These preliminary measures were adopted in order to complete the formalities relating to the investigation of these events, but they are not arbitrary violations of the fundamental human rights and freedoms of the persons concerned.

The suspects' physical integrity is being protected and safeguarded and they are not being subjected to ill-treatment of any kind.

As noted above, they are being held in the police station of the city of Bata during the investigation of the events leading up to this situation.

The above-mentioned information has prompted me to bring this situation to your attention on a preliminary basis, as stated; further information will be provided when the investigation has been completed.

Accept, Sir, the assurances of my highest consideration.

(Signed): Cándido Muatetema Rivas
Prime Minister - Head of Government
and Chairman of the Inter-Ministerial
Commission on Human Rights

Mr. Gustavo Gallón Giraldo
Special Representative of the
United Nations Commission on Human Rights
on the situation in Equatorial Guinea
Fax No. 00 41 22 917 0092
Geneva
Switzerland

Geneva, 20 March 2002

Sir,

I have the honour to reply to your communication dated 15 March 2002. I should like to thank you for your special invitation to visit your country and see the situation referred to in my recent communications for myself. As you know, the Commission on Human Rights has just begun and will be in session until the end of April, and this is why I am unable to travel at the present time and to accept your invitation.

I should nevertheless like to request your Government to provide me with additional information so that I may keep abreast of the latest developments. With reference to your letter dated 14 March 2002, I should also like to request you to indicate the names of the persons concerned.

I take this opportunity to inform you that the oral introduction of my report to the Commission will take place on the morning of Thursday, 28 March 2002.

I am available to receive any information you might be able to provide and take this opportunity to convey to you the assurances of my highest consideration.

(Signed): Mr. Gustavo Gallón Giraldo
Special Representative of the United Nations
Commission on Human Rights on
Equatorial Guinea

Mr. Cándido Muatetema Rivas
Prime Minister and Chairman of the
Inter-Ministerial Commission on Human Rights
Malabo
Equatorial Guinea

**Office of the Prime Minister
Republic of Equatorial Guinea**

Malabo, 15 March 2002

Sir,

Referring to the information contained in the fax I sent yesterday, 14 March, and bearing in mind that the events in question are becoming increasingly clear in the light of the results of the investigations being conducted, I would like to extend a special invitation to you, provided that your schedule of work permits, to travel to Equatorial Guinea to see the situation for yourself before you receive information from third party sources.

In case you are not available, however, we are prepared to provide you with any information that may be necessary to determine the reasons which unfortunately led to these events, which are, at this very moment, intended to disturb the peaceful and harmonious situation in the country at the present time.

We anxiously await your positive reply so that we may take the measures required for your visit.

Accept, Sir, the assurances of my highest consideration.

(Signed): Cándido Muatetema Rivas
Prime Minister - Head of Government and
Chairman of the Inter-Ministerial
Commission on Human Rights

Mr. Gustavo Gallón Giraldo
Special Representative of the
United Nations Commission on Human Rights
on the situation in Equatorial Guinea
Fax No. 00 41 22 917 0092
Geneva
Switzerland

UNITED NATIONS OFFICE AT GENEVA
Office of the High Commissioner for Human Rights

Palais des Nations
CH-1211 Geneva 10
Fax (022) 917 0123

G/SO 214 (29-12)
Geneva, 15 March 2002

Sirs,

We have the honour to write to you in our capacity as Special Representative on the situation of human rights in Equatorial Guinea, Special Rapporteur on torture and Chairman/Rapporteur of the Working Group on Arbitrary Detention, in accordance with Commission on Human Rights resolutions 2001/22, 2001/62 and 2000/36.

We would like to draw your Government's attention to the following information received on Mr. Felipe Ondó Obiang, founder and member of the non-recognized party, Fuerza Democrática Republicana (FDR), and his brother-in-law, Mr. Emilio Ndongo Nchama, member of the Unión Popular (UP) party. According to the source, they were allegedly arrested without a warrant at about 4 p.m. on 14 March by soldiers led by Marcelino Olo. Their whereabouts has been kept secret until today, when they were seen in Bata prison. According to the same information, they were tortured during their detention incommunicado. It is feared that their health may be impaired if appropriate medical measures are not taken promptly.

According to the same information, Mr. Guillermo Nguema Elá, co-founder of the non-recognized FDR party was taken by soldiers to an unknown place at 12 today, 15 March. In view of the seriousness of this information, fear has been expressed about his physical integrity.

Without in any way wishing to imply that a conclusion has been reached on the situation, we would like to appeal to you to seek clarification of the events in question and ensure that the rights of these persons not to be arbitrarily detained and to physical and mental integrity are being protected, in accordance, inter alia, with articles 5, 9 and 10 of the Universal Declaration of Human Rights and articles 7, 9 and 14 of the International Covenant on Civil and Political Rights.

Mr. Cándido Muatetema Rivas
Prime Minister and Chairman of the
Inter-Ministerial Commission on Human Rights

Mr. Santiago Nsobeya Efuman
Minister for Foreign Affairs

Mr. Rubén Mayé Nsue Mangué
Minister of Justice and Worship

Malabo
Equatorial Guinea

**UNITED NATIONS OFFICE AT GENEVA
Office of the High Commissioner for Human Rights**

Palais des Nations
CH-1211 Geneva 10
Fax (022) 917 01 23

G/SO 214 (29-12)

Geneva, 21 March 2002

Sirs,

We have the honour to write to you in our capacity as Special Representative on the situation of human rights in Equatorial Guinea, Special Rapporteur on torture and Chairman/Rapporteur of the Working Group on Arbitrary Detention, in accordance with Commission on Human Rights resolutions 2001/22, 2001/62 and 2000/36.

We wish to refer to our preceding communication, dated 15 March, in which we informed you of the case of Mr. Felipe Ondó Obiang, Mr. Emilio Ndongo Nchama and Mr. Guillermo Nguema Elá. According to more recent information, other arrests of soldiers and civilians have taken place. Lieutenant Colonel Lorenzo Ondó Elá, Lieutenant Colonel Segismundo Obarna Esono, Commander Mariano Endongo Esangui and an unspecified number of civilians and soldiers were allegedly arrested without a warrant by members of the National Security Department under the command of General Agustín Ndong Ona, Colonel Diosdado Nguema Eyi and Colonel Cayo Ondó Mba. The detainees are allegedly being questioned in a remote detention centre. In the light of the seriousness of this information, fears have been expressed for the physical integrity of these persons.

Mr. Cándido Muatetema Rivas
Prime Minister and Chairman of the
Inter-ministerial Commission on Human Rights

Mr. Santiago Nsobeya Efuman
Minister for Foreign Affairs

Mr. Rubén Mayé Nsue Mangué
Minister of Justice and Worship

Malabo
Equatorial Guinea

Without in any way wishing to imply that a conclusion has been reached on these events, we wish to appeal to you to seek clarification of them and ensure that the rights of these persons not to be arbitrarily detained and to physical and mental integrity are protected, in accordance, *inter alia*, with articles 5, 9 and 10 of the Universal Declaration of Human Rights and articles 7, 9 and 14 of the International Covenant on Civil and Political Rights. We should also like to draw your attention to Commission resolution 1999/32, which reminds all States “that prolonged incommunicado detention may facilitate the perpetration of torture and can in itself constitute a form of cruel, inhuman or degrading treatment” (para. 5), and to the Standard Minimum Rules for the Treatment of Offenders, adopted by the Economic and Social Council in its resolutions 663C (XXIV) of 31 July 1967 and 2076 (LXII) of 13 May 1977, and, in particular, rules 22, 25 and 26.

We would be grateful to the Government of Equatorial Guinea for providing us with any information on the events in question and on any measures adopted to guarantee the rights of these persons.

Accept, Sir, the assurances of our highest consideration.

Gustavo Gallón Giraldo
Special Representative of the Commission on Human Rights
on Equatorial Guinea

Theo van Boven
Special Rapporteur of the Commission on Human Rights
on the question of torture

Louis Joinet
Chairman/Rapporteur of the Working Group
on Arbitrary Detention

**Office of the Prime Minister
Republic of Equatorial Guinea**

Malabo, 20 March 2002

Sir,

With reference to your letter of 25 March, in which you request information on the progress and achievements made in applying the recommendations of the Commission on Human Rights, I am pleased to be able to inform you that the Government has indeed performed all the actions mentioned in your letter and others, as enumerated in the schedule for their performance drawn up by my Government.

Thus, the Government has, at successive meetings of the Council of Ministers, approved and sent the following to the House of Representatives of the People:

1. Ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
2. Ratification of the International Convention on the Elimination of All Forms of Racial Discrimination;
3. Bill for the establishment of police courts in all districts and municipalities of Equatorial Guinea in order to ensure the legality of detention;
4. Bill prohibiting imprisonment in connection with dowries and establishing the modalities for the restitution of dowries;
5. Bill prohibiting the issue of exit visas to nationals.

In addition, the rehabilitation and reform of penal establishments and detention centres are proceeding.

Meetings are being held with civilian and military authorities from outlying areas. The process began with the mayors of all municipalities, on the one hand, and representatives of the military, on the other, and is presided over by the President of the Republic himself. It will continue with the remaining authorities very shortly.

Mr. Gustavo Gallón Giraldo
Special Representative of the
United Nations Commission on Human Rights
on the situation in Equatorial Guinea
Geneva

As will be seen, my Government is willing to work for the improved observation and respect of human rights in Equatorial Guinea, not only in order to comply with the recommendations of the Commission on Human Rights and its Special Rapporteur, but also because the goal of my Government's policy is to continue the efforts to maintain the current peace in the country and to improve the population's living conditions day by day.

We confirm our willingness to provide you with as much information as you may require on the actual situation and the persons involved.

I look forward to seeing you soon in our beautiful country. Accept, Sir, the assurances of my highest consideration.

(Signed): Cándido Muatetema Rivas
Prime Minister
Head of Government

OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
United Nations

Geneva, 25 March 2002

Sir,

With reference to your offer during the meeting that we had during my most recent visit to your country in November 2001, I should be grateful if you would inform me of any progress or achievements made in applying the recommendations of the Commission on Human Rights, especially as regards the matters concerning which the Government offered to produce results in the first quarter of the current year, namely:

Accession to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

Accession to the International Convention on the Elimination of All Forms of Racial Discrimination;

Willingness to take the measures necessary to strengthen the mechanisms enforcing the prohibition on arbitrary detentions;

The prohibition on depriving women or their family members of liberty for not returning dowries in the event of divorce;

Submission to Congress of a bill to ensure that civilians are not tried by military courts.

As you know, I am scheduled to make my oral report to the Commission on Human Rights on the morning of Thursday, 28 March, and I would be pleased to be able to transmit to the Commission the information you see fit to provide me on this matter.

Accept, Sir, the assurances of my highest consideration.

(Signed): Gustavo Gallón Giraldo
Special Representative of the
Commission on Human Rights
on Equatorial Guinea

Mr. Cándido Muatetema Rivas
Prime Minister and Chairman of the Inter-Ministerial
Commission on Human Rights
Malabo
Equatorial Guinea

OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
United Nations

Geneva, 3 April 2002

Sir,

I have the honour to write to you in my capacity as Special Representative on Equatorial Guinea under United Nations Commission on Human Rights resolution 2001/22.

With reference to the kind invitation you made to me on 15 March last and the discussions held here in Geneva with members of the Government's delegation to the current session of the Commission on Human Rights, I wish inform you that I have studied the advisability of visiting the country at the present time to acquaint myself directly with the complaints concerning detentions during the past few weeks.

The proposed date of my arrival in Malabo is 7 April 2002 and I would remain in the country until 15 April. During my stay in the country, I would hope to have the honour to meet you and other senior members of the Government of the Republic of Equatorial Guinea. I would hope to have your permission to visit the detention centres on the island of Bioko and on the mainland.

Accept, Sir, the assurances of my highest consideration.

(Signed): Gustavo Gallón Giraldo
Special Representative of the
Commission on Human Rights
on Equatorial Guinea

Mr. Cándido Muatetema Rivas
Prime Minister and Chairman of the Inter-Ministerial
Commission on Human Rights
Malabo
Equatorial Guinea

**Office of the Prime Minister
Republic of Equatorial Guinea**

Malabo, 4 April 2002

Sir,

I acknowledge with thanks receipt of your note of 3 April in which you agree to take up the invitation that I extended to you in an earlier communication to visit the country with regard, in particular, to information that has recently reached you from unofficial sources in order to verify those reports for yourself and to determine the actual situation and the conduct of my Government.

However, because of the schedule of Government business, I have to inform you that the proposed visit from 7 to 15 April will not be possible, since a number of officials from my Government whom you would need to contact will not be available.

I therefore suggest that the visit should be postponed until a date which you find convenient after 5 May and which I would ask you to communicate to us in advance for confirmation.

Accept, Sir, the assurances of my highest consideration.

(Signed): Cándido Muatetema Rivas
Prime Minister
Head of Government

Mr. Gustavo Gallón Giraldo
Special Representative of the
United Nations Commission on Human Rights
on the situation in Equatorial Guinea
Geneva
