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The Tribunal Provincial de Luanda sentences 17 activists to a minimum of two years in prison for acts of rebellion and criminal conspiracy. Legal experts, international human rights non-government organisations (NGOs) and western governments all condemn the ruling as unfair, calling for a reversal of the sentences and a re-trial. Isabel dos Santos' sale of her stake in Portugal-based Banco BPI to CaixaBank experiences further delays, while press sources and economic commentators debate the possibility of Banco de Fomento de Angola (BFA) floating on the Lisbon Euronext stock exchange. The Frente para a Libertação do Enclave de Cabinda (FLEC) claims it killed 30 Forças Armadas Angolanas (FAA) soldiers – a claim the FAA denies – as tensions and positive Cabindan sentiment for the FLEC appear to increase.

Court sentences 17 activists to jail

The **Tribunal Provincial de Luanda** sentenced 17 (also known as '15+2') activists to jail terms of between two and eight years on 28 March for "prepared acts of rebellion" and on the penultimate day of trial also for "criminal conspiracy".¹ Investigative journalist and professor **Domingos da Cruz** received the heaviest sentence – eight years and six months of prison.² Da Cruz wrote "*Tools to Destroy the Dictator and Avoid a New Dictatorship: Political Philosophy of Liberation for Angola*", the basis for the charges of rebellion, an attempted coup and an assassination attempt on Dos Santos.³ The most prominent of the 17 activists is Angolan rapper **Luaty Beirão** who went on a 36-day hunger strike after his detention (see *ARC Briefing Angola October and November 2015*).⁴ **Rosa Conde (Zita)** and **Benedito Jeremias (Dito)** received the shortest sentences – two years and three months imprisonment – while the rest of the activists received sentences of at least five years.⁵

The jail sentences are an indication of the judiciary's lack of judicial independence and President **José Eduardo Dos Santos'** (1979- present) intolerance towards any form of dissent. Reportedly, the prosecution added the later charge of criminal conspiracy in a reserved session where the activists had no right to defend themselves.⁶ **Michel Francisco**, a lawyer representing ten of the accused, said he would appeal the sentences.

"Justice has not been done in a transparent way because things have been politicised and the judge only obeyed higher orders coming from the president of the republic."⁷

The trial of the 17 pro-democracy activists started on 16 November 2015.⁸ Angolan security forces detained and arrested the 17 men between 20 and 24 June 2015 in **Luanda** after they had attended a meeting to discuss politics and governance concerns.⁹ At the time, Dos Santos had stated,

"Whoever chooses to employ the route of force in order to take power, or use anti-constitutional means such as this, is not democratic. He is a tyrant or a dictator. They accused the [ruling]

¹ Multiple sources: AFP, 28 Mar 2016; Source, journalist, Luanda

² Source, journalist, Luanda

³ Source, journalist, Luanda

⁴ Makaangola.org

⁵ Source, journalist, Luanda

⁶ Source, journalist, Luanda

⁷ AFP, 28 Mar 2016.

⁸ www.amnesty.org

⁹ www.amnesty.org

MPLA [Movimento Popular para a Libertação de Angola] and its militants of intolerance, but the lie has no basis.”¹⁰

Three weeks after the sentencing, the process remained withheld from opposing council at the court offices. The defending lawyers complained that they had to prepare and present an urgent appeal to the court between receiving the appeal on 1 April and presenting it before the supreme and constitutional courts on 3 April.¹¹ **Luís do Nascimento**, another of the lawyers representing the defendants, stated that the sentencing was illegal:

*“The components of criminal association appear neither in the complaint nor the indictment... There was interference during the entire process on behalf of the executive power.”*¹²

Do Nascimento believes that the public ministry orchestrated the emergence of the criminal conspiracy charge on the final day of the proceedings:

*“The prosecutor and the judge were aiming to ensure that no sentence would be inferior to two years in prison. Once they realized that the sentence of the crimes would have been suspended under case law... they chose to condemn the activists for another crime, where sentences can rise from eight to 12 years.”*¹³

An independent lawyer in Angola confirmed to ARC that this sentencing is “*typical of a dictatorship and tarnishes the judicial system in the country*”.¹⁴ The same lawyer affirmed that the ruling has no legal legitimacy and was a significantly unjust hearing.¹⁵ Another Luanda-based lawyer affirmed that the sentencing was a “*grave contradiction of the Angolan constitution, and that the prison ruling leaves much to be desired*”.¹⁶

*“[The sentence was given] by a tribunal of a dictatorial state, outside of which these people would have been left in peace and without prosecution. Close to nothing was proven during the judgment discussion. What is needed from the tribunal is direct application of the law, something that is not the case for critics of the government.”*¹⁷

The prison sentences have received international and local attention. **United States (US) State Department** spokesperson for the bureau of public affairs **John Kirby** expressed the US government’s concern:

*“The United States believes the harsh sentences levied this week by an Angolan court against the Angola 15+2 activists threaten the exercise of freedoms of expression and peaceful assembly. Both freedoms are enshrined in the Angolan constitution, protected under Angola’s international human rights obligations, and are core values of any strong and functioning democracy. We are also concerned about reports of procedural irregularities and lack of transparency in the trial, which raise questions about whether the rule of law has prevailed in this case. We are encouraged, however, that the trial of the 15+2 activists has become a matter of national Angolan debate. We call on the government of Angola to protect Angolans’ constitutional right to engage in peaceful, open, and public discourse.”*¹⁸

International non-government organisation (NGO) **Human Rights Watch (HRW)** said it would continue to pressure the Angolan government to give the activists a fair and transparent re-trial.

¹⁰ Source, journalist, Luanda

¹¹ Source, journalist, Luanda

¹² Source, journalist, Luanda

¹³ Luis do Nascimento, lawyer, Luanda

¹⁴ Source, lawyer, Luanda

¹⁵ Source, lawyer, Luanda

¹⁶ Source, lawyer, Luanda

¹⁷ Source, lawyer, Luanda

¹⁸ www.state.gov

*"It is an extremely ridiculous sentence and we do not know what it is based on because, during the months in which we were attending the trial, no proof whatsoever was presented in court to justify such harsh penalties."*¹⁹

The trial was viewed at the time as an important test for the independence of Angola's judicial system.²⁰ During the trial, NGO **Amnesty International** considered the activists prisoners of conscience and called for their immediate and unconditional release.²¹ Amnesty International's deputy director for **Southern Africa, Muleya Mwananyanda**, called the continued detention of the 17 activists "*a travesty of justice*" in November 2015:

*"They have been arrested solely for peacefully exercising their right to freedom of association and expression. The charges against them must be dropped and state authorities must ensure their immediate and unconditional release."*²²

Mwananyanda said the detention and trial are a sign of the continuing intolerance of the dos Santos government.

*"Their continued detention is a sign of how far Angolan authorities will go to suppress dissent."*²³

Local press sources say the pressure from international NGOs such as HRW and Amnesty International has, directly or indirectly, led to the transfer of all of the prisoners to the **Viana** penitentiary, where previously they would have been spread across several prisons.²⁴

*"Overall, there has never been so much attention given to Angola as during the last few months, due to incoherencies and the sentencing of the 17 activists."*²⁵

Local jurists question the independence of the judiciary. At the time of his nomination as presiding judge of the constitutional court, **Rui Ferreira** was judicial advisor to President dos Santos.²⁶ The same lack of independence applies to **Supreme Court** justice **Manuel da Costa Aragão** who was an MPLA member of parliament (MP) in 1992, ambassador to **Morocco** from 2011-2015, and justice minister from 2004-2008.²⁷

*Even the most ignorant citizens know that Angolan tribunals obey the political elite. Looking at the way in which the judges are nominated is enough evidence of this, as many of these held positions in government and within the MPLA."*²⁸

Sale of Isabel dos Santos' BPI stake on hold

Negotiations between **Spain**-based **Caixabank** and **Isabel dos Santos** regarding Caixabank's bid to buy her stake in **Portugal**-based **Banco BPI** appear to be in deadlock.²⁹ The length of the negotiations – ongoing since early 2015 – attests to the doggedness of Isabel dos Santos, President dos Santos' daughter and a well-known businesswoman. The sale of Isabel dos Santos' stake would signify an important reduction of Angolan business influence in Portugal, reversing a greater trend of increased Angolan foreign investment until the drop in oil prices.

Isabel dos Santos owns an 18.5% interest in BPI through **Santoro Finance**, one of her holding companies.³⁰ She also holds a 49.9% share in BPI's Angola subsidiary **Banco Fomento Angola (BFA)**

¹⁹ www.dw.com

²⁰ www.amnesty.org

²¹ www.amnesty.org

²² www.amnesty.org

²³ www.amnesty.org

²⁴ Source, journalist, Luanda

²⁵ Source, journalist, Luanda

²⁶ Source, lawyer, Luanda

²⁷ Source, lawyer, Luanda

²⁸ Source, lawyer, Luanda

²⁹ Financial Times, 18 Apr 2016.

³⁰ Reuters, 28 Dec 2015.

through Angola-based mobile operator **Unitel**.³¹ Dos Santos had previously opposed offers to sell her interest in BPI and BFA.³² However, pressure from BPI has brought the parties closer to a deal as Caixabank looks to purchase all BPI's outstanding shares.³³ In 2015, Caixabank made a \$1.24 billion bid to buy the other 56% of shares in BPI – the majority of which (24.1%) was on the open market (over 19,000 individual shareholders and less than 500 institutional shareholders) and in the hands of minor shareholders such as **Allianz SE** (8.4%), **Violas Ferreira Financial SA** (2.6%) and **Banco BIC** (2.3%).³⁴ Caixa later retracted the offer.³⁵ BPI released a statement it had submitted to the **European Central Bank (ECB)**, which had agreed 10 April as a deadline for the agreement.³⁶ The ECB had demanded that BPI reduce its exposure to Angola, which the **European Union (EU)** now considers a risky investment destination.³⁷

Shareholders in Banco BPI ³⁸	(%) ³⁹
Caixabank	44
Santoro Finance	18.5
Allianz SE	8.4
Violas Ferreira Financial S.A.	2.7
Banco BIC S.A.	2.3
Other	24.1

Under the current negotiations, Caixabank would buy dos Santos' 18.5% in BPI while Unitel, which she controls jointly with Angola's state-owned oil and gas company **Sociedade Nacional de Combustíveis de Angola EP (Sonangol)**, would buy a controlling stake in BFA. BPI holds a 50.1% stake in BFA, while Unitel owns the other 49.9%.⁴⁰ Press sources report that this move may lead to the floating of BFA on the **Euronext Lisbon** stock exchange.⁴¹ This would be the first example of an Angolan company floating on a **European** stock market.⁴²

*"[This] would give international credibility to the bank, by means of its participation in a European stock market, even if it would a relatively minor participation."*⁴³

An economic analyst source says it is still too early to evaluate the agreement between the two parties and the position of the two countries' respective central banks, the **Banco de Portugal** and the **Banco Nacional de Angola**.⁴⁴ A lack of transparency is clouding the decision:

*"Until now no information leads us towards concrete evidence. However, I do not agree with the assumption that this is a 'one-for-one' deal, where Isabel dos Santos completely leaves BPI and where BPI also completely leaves BFA."*⁴⁵

³¹ www.makaangola.org, May 2014.

³² Reuters, 22 Mar 2016.

³³ Reuters, 22 Mar 2016.

³⁴ www.bancobpi.pt

³⁵ www.bancobpi.pt

³⁶ Multiple sources: Financial Times, 24 Mar 2016; Financial Times, 11 Apr 2016.

³⁷ Multiple sources: Financial Times, 24 Mar 2016; Financial Times, 11 Apr 2016.

³⁸ www.bancobpi.pt

³⁹ Rounded to one decimal place.

⁴⁰ Reuters, 22 Mar 2016.

⁴¹ Financial Times, 18 Apr 2016.

⁴² Source, journalist, Luanda

⁴³ Source, economic analyst, Luanda

⁴⁴ Source, economic analyst, Luanda

⁴⁵ Source, economic analyst, Luanda

If dos Santos agrees to a final sale of her interest in BPI, she may consider taking a stake in BPI's main competitor in Angola, **Millennium BCP**, whose largest single shareholder is Sonangol with a 19% interest.⁴⁶

The Portuguese government has pressed Caixabank to launch a second complete takeover bid for BPI.⁴⁷ However, BPI revealed that although Isabel dos Santos and Caixabank had reached an agreement, dos Santos had sought to change certain terms in the agreement.⁴⁸ In the interim, the Euronext Lisbon stock exchange has temporarily suspended all trading of BPI shares.⁴⁹

FLEC rebels claim to have killed 30 FAA soldiers in Cabinda

A senior member of the Angolan separatist rebel movement **Frente para a Libertação do Enclave de Cabinda (FLEC)** reportedly told Angolan news website – **Rede Angola** – that the FLEC killed 30 government soldiers in March.⁵⁰ Neither the government nor independent media sources could verify the claims, however the reports may indicate that tensions between government security forces and FLEC may be on the rise. FLEC claims to have attacked and killed 10 **Forças Armadas Angolanas (FAA)** (Angolan armed forces) soldiers on 13 March between **Quissoqui** and **Miconje** near the **Republic of Congo (RoC)** border.⁵¹ FLEC also claimed to have launched an ambush near the town of **Buco-Zau** on 16 March that killed 20 FAA soldiers, which reportedly included an FAA colonel.⁵² FLEC also reportedly urged all Western nationals living in **Cabinda** to leave temporarily.⁵³ Angola's **Cabinda Province** is separated from the rest of Angola by the **Democratic Republic of the Congo (DRC)** and accounts for most of Angola's offshore oil production.⁵⁴

The government has reportedly isolated and contained the separatist rebel group.⁵⁵ FAA operations have flushed out FLEC bases in neighbouring RoC and DRC. The FLEC staged its last major attack in January 2010 when it ambushed a bus carrying **Togo's** football team as it entered Angola for the **African Cup of Nations**. The attack killed two people and seriously injured one.⁵⁶

The FAA refused to comment on the FLEC's recent claims despite opposition claims of ongoing conflict in Cabinda. FAA general **Sachipengo Nunda** and spokesperson **Alberto Kizua** declined to be interviewed, stating that *"the politico-military situation in Cabinda is stable."*⁵⁷ However, members of the opposition **União Nacional para a Independência Total de Angola (UNITA)** argue that conflict is continuing in Cabinda.⁵⁸ In an interview with an ARC source, UNITA vice president **Raul Danda** said the government needs to find a solution for Cabinda through dialogue:

*"President dos Santos cannot claim to advise on conflict in **Burundi** or in **Central African Republic**, or anywhere else for that matter, while in Cabinda he continues to employ dictatorial repressive methods to suppress dissidents. If we continue to say that there is no war in Cabinda, then the MPLA regime is admitting that Cabinda is not part of the rest of Angola. I repeat: we need dialogue and dialogue cannot happen by means of arrests and assassination. The Cabinda conflict exists and is a reality."*⁵⁹

⁴⁶ Reuters, 22 Mar 2016.

⁴⁷ Financial Times, 18 Apr 2016.

⁴⁸ Financial Times, 18 Apr 2016.

⁴⁹ Financial Times, 18 Apr 2016.

⁵⁰ AFP, 24 Mar 2016.

⁵¹ Multiple sources: Mgafrica.com; Source, journalist, Luanda

⁵² Multiple sources: Mgafrica.com; Source, journalist, Luanda

⁵³ Mgafrica.com

⁵⁴ Mgafrica.com

⁵⁵ Source, Angola analyst, United Kingdom

⁵⁶ Mgafrica.com

⁵⁷ Source, journalist, Luanda

⁵⁸ Source, journalist, Luanda

⁵⁹ Source, journalist, Luanda

A clergy source claimed that “now people in Cabinda approve the FLEC resistance”.⁶⁰ The source stated that even though the government claims that Cabinda is a stable territory, people “live under repression”.⁶¹

*“Similar to the national liberation movement in Angola, the Cabindans also aspire to one day be free, and for this reason they see the FLEC struggle as the last chance at this aim. I can say that the dos Santos regime treats Cabindans and the FLEC the same as the **kwachas** (derogatory term to refer to UNITA supporters).”⁶²*

The FLEC maintains that the MPLA illegally occupied the oil-rich Cabinda enclave, which, unlike mainland Angola, was a protectorate and not a colony of Portugal. However, the rebels are unlikely to gain independence or autonomy. The FLEC and the Angolan government signed a peace agreement in 2006 but the fractured nature of the FLEC impedes a final resolution.⁶³ In April 2012, a FLEC faction also sought peace talks with the government. Since independence in 1975 the secessionists have engaged in armed conflict and abducted foreigners. Estimates of the number of FLEC militants range from the low hundreds to around 5,000.⁶⁴

Implications

The extent of criticism from jurists, international NGOs and western governments further confirms the view that Angola’s legal system is corrupt and under direct control of the ruling MPLA. Continued pressure appears to have had marginal impact on the ruling against the activists, but could in the longer term – as the case is evidently one of the most covered human rights abuses in Angola in recent years – increase coverage of similar future cases quite significantly.

The sale of Isabel dos Santos’ BPI stake appears to be lagging predominantly due to her willingness to settle on the most favourable deal to her, for which she is willing to delay as long as necessary. She seems to want to achieve the BFA stake as part of the deal, but source information suggests that there are facets to the deal that are as yet unclear.

The alleged violence in Cabinda appears to be based on fact. The FAA’s stance of non-communication could indicate that the government wishes to silence any evidence of an FAA loss in the region, in the aim of discrediting the existence and extent of FLEC resistance. On the other hand, there is evidence to suggest that the FLEC are gaining increased support from Cabindans, which could be a further justification of the government’s wish to keep quiet about the situation. There is very little information about the reach of FLEC operations and their potential military power. The FAA will continue to suppress any military flare-ups in the region, as Cabinda is strategically and economically too important for the government to release.

⁶⁰ Source, clergyman, Cabinda

⁶¹ Source, clergyman, Cabinda

⁶² Source, clergyman, Cabinda

⁶³ Source, Angola analyst, United Kingdom

⁶⁴ Africa Confidential, 13 Apr 2012.

About Africa Risk Consulting:

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