

# ILLICIT ECONOMIES IN GUINEA-BISSAU



## THE SEIDI BÁ COCAINE TRIAL

A smokescreen for impunity?

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**GLOBAL  
INITIATIVE**  
AGAINST TRANSNATIONAL  
ORGANIZED CRIME

## Background

Two major cocaine seizures in Guinea-Bissau, in March and September 2019, indicated that trafficking is still a lucrative business for the military-political elite of the country. The seizures and subsequent vigorous criminal-justice responses were widely interpreted as suggesting that Guinea-Bissau's institutions were adopting a hardened stance towards drug trafficking.<sup>1</sup> Lengthy prison sentences handed down for those involved (between 14 and 16 years for the ringleaders) were cited by a range of international actors as evidence of a newfound political will by the authorities to finally tackle the drug-trafficking markets that had long embroiled the tiny West African country.<sup>2</sup>

The two successful operations in 2019 brought the drought of drug seizures in West Africa that had prevailed since 2014 to an abrupt end. And they caught the international community's attention. The seizures pointed to Guinea-Bissau's ongoing role since around the mid-1990s as a key trans-shipment point in a supply chain of cocaine produced in Latin America and destined primarily for Europe. For Guinea-Bissau – which was labelled a decade ago by the UN and the US as Africa's 'narco-state' – the flow of drugs through its borders is synonymous with political and military interests, and the narcotics economy has driven political instability in the country and left it with weak institutions.

The fact that the two seizures involved such large quantities – 789 kilograms and 1 869 kilograms – means that it is unlikely that these were one-off routings through Guinea-Bissau. They strongly suggest a continuing trafficking of cocaine through the country since around 2014, a five-year period that saw no seizures, suggesting that traffickers continue to perceive Guinea-Bissau as a trustworthy trans-shipment point. The timing of the cocaine imports – immediately before the 2019 parliamentary and presidential elections, respectively – is widely believed to have been dictated by the need to fund electoral campaigning. The fact that the imports were tracked demonstrated operational independence on the part of the *Policia Judiciaria* (Judicial Police), efforts that were supported by senior officials, including the prime minister and the Minister for Justice.

However, in the wake of these seizures, it appears that Guinea-Bissau's efforts to stem the flow of drugs have

suffered a setback. Following months of political upheaval, in February 2020 Umaro Sissoco Embaló took Guinea-Bissau's presidential office. Embaló ushered in a new administration with a markedly more 'ambiguous' stance to drug trafficking. Although Embaló, a former prime minister and ex-army general, has not been directly linked to drug trafficking, his victory appears to have emboldened a number of well-known military figures who have previously been associated with the trade.<sup>3</sup>

These include Mamadu N'Krumah and Ibraim Papa Camará, who appeared next to Embaló on the steps of the Presidential Palace in photographs taken in February 2020 following his inauguration.<sup>4</sup> N'Krumah and Camará both feature on UN and EU sanctions lists for their involvement in what has been dubbed the 'cocaine coup d'état' in 2012.<sup>5</sup> A third, António Indjai, former military chief of staff, was the US Drug Enforcement Administration's (DEA) main target in its April 2013 entrapment operation that was conceived to apprehend the higher echelons of Bissau's drug-trafficking economy. Indjai was reportedly the mastermind of the 2012 coup, serving as head of the ensuing military government under which the cocaine trade flourished.<sup>6</sup> A number of observers have highlighted the eerily similar parallels between the coup of 2012 and Embaló's military-backed seizure of power in early 2020.

Was it a case of history repeating itself? In October 2020, the Court of Appeal in Bissau handed down a judgment drastically diluting the sentences of the actors behind the August 2019 drug deal (intercepted in the largest cocaine seizure in the country's history). This undermines the integrity of the criminal-justice response and may point towards a return to the environment of impunity previously long-enjoyed by Guinea-Bissau's drug traffickers.

From February 2020, the COVID-19 pandemic caught the international gaze, turning it firmly away from Guinea-Bissau for much of the rest of the year. But while the world was looking the other way, changes were happening in Guinea-Bissau. Elements within the military had once again managed to wrest political power, press intimidation was on the rise and President Embaló, amassing ever-greater political powers, had declared a state of emergency to counter the spread of COVID-19.<sup>7</sup>

It is now time to scrutinize once again what is happening in Guinea-Bissau and understand the developments that have been taking place in the country's institutions, and to assess if action is being taken to counter illicit markets. The changing fates of the network behind the August cocaine deal (known as the 'Seidi Bá case', after one of the network's ringleaders) as the case moved through Guinea-Bissau's criminal-justice apparatus offer key insights.

This risk bulletin summarizes the three judgments handed down in the Seidi Bá case (by the Court of First Instance, the Court of Appeal and the dissenting judge), and sites this case in the wider, volatile institutional framework of Guinea-Bissau. It follows on from an earlier Global Initiative Against Transnational Organized Crime (GI-TOC) report on Guinea-Bissau, which provides a more detailed analysis of the background to the political upheaval that brought Embaló to power in early 2020.<sup>8</sup>

## Stiff penalties: The Regional Court of Cacheu's judgment

On 31 March 2020, Guinea-Bissau's Regional Court of Cacheu found 12 men guilty of coordinating the country's largest ever drugs import. The huge haul of cocaine was seized by the Judicial Police on 2 September 2019 as part of an operation codenamed Navarra. The court sentenced the men on charges of drug trafficking, criminal association and money laundering.

The judgment was unusual in both the severity of the sentences handed down and in the detail provided regarding the operations of the drug-trafficking network. In Guinea-Bissau, where court processes are regularly subverted and the judiciary threatened by those they seek to sentence, such transparency is rare and impunity typically reigns.

The court sentenced Braima Seidi Bá and Ricardo Ariza Monje, the two ringleaders, to 16 years' imprisonment each; the remaining network members were sentenced

to between 4 and 14 years. The verdict, which was seen to bring in a 'new era of anti-drug action' was hailed as a significant success by international organizations and the media.<sup>9</sup> Comments by Antonio Mazzatelli, head of the regional UN Office on Drugs and Crime, were in line with the overall message from the international community: 'We salute this important step toward the consolidation of the rule of law.'<sup>10</sup>

However, the broader context surrounding the judgment, with intimidation of civil society, the judiciary and law enforcement, was already sounding alarm bells as to the overall intent of Guinea-Bissau's institutions with regard to drug trafficking.

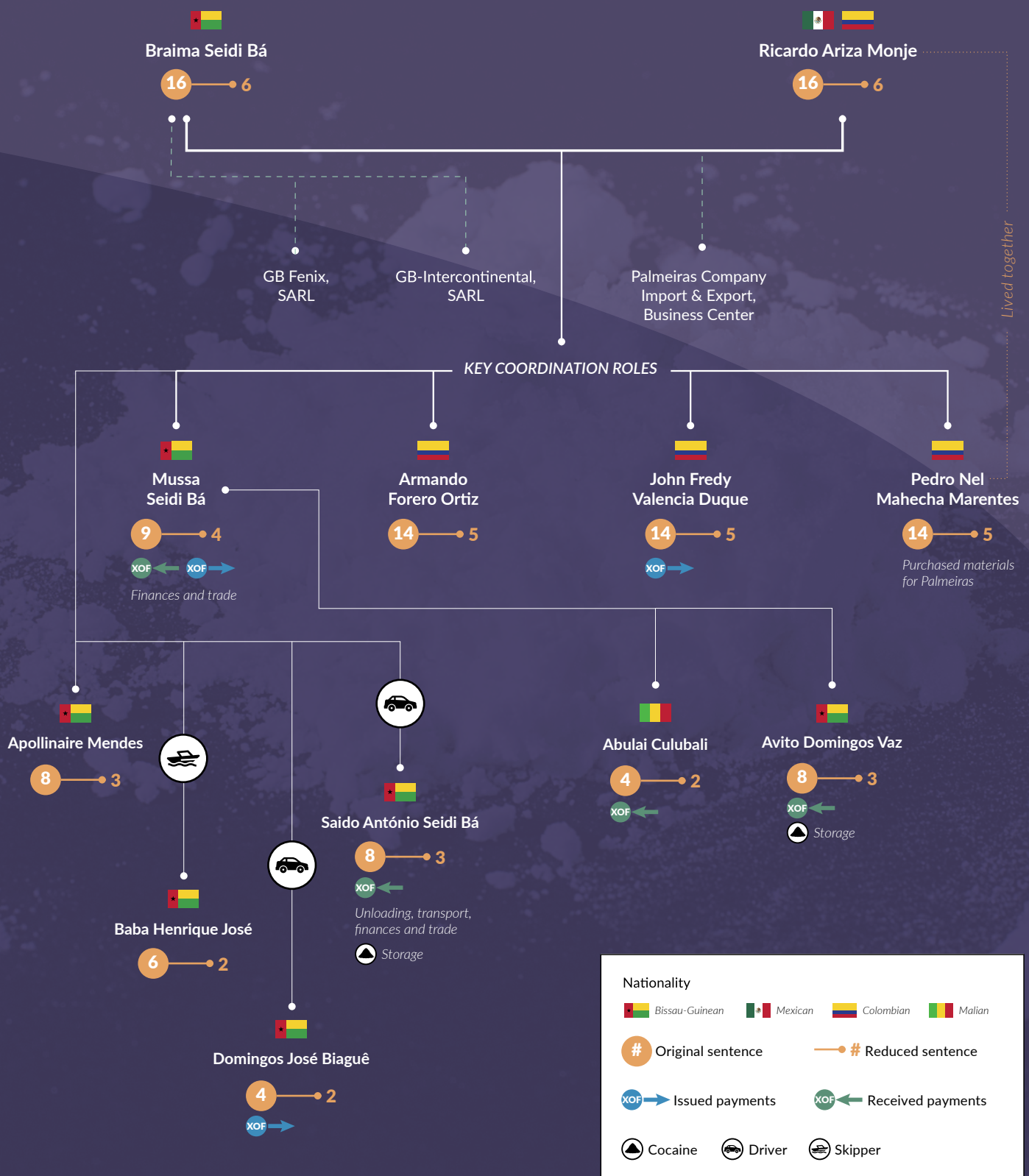
Notably, after the sentence was handed down, the convicted defendants were held in a detention centre in Bissau, with two exceptions: the ringleaders, who were never arrested.



Bafata Prison, Guinea-Bissau. The two ringleaders uncovered in the September 2020 Operation Navarra have evaded imprisonment.



## THE SEIDI BÁ CASE: COCAINE-TRAFFICKING NETWORK STRUCTURE



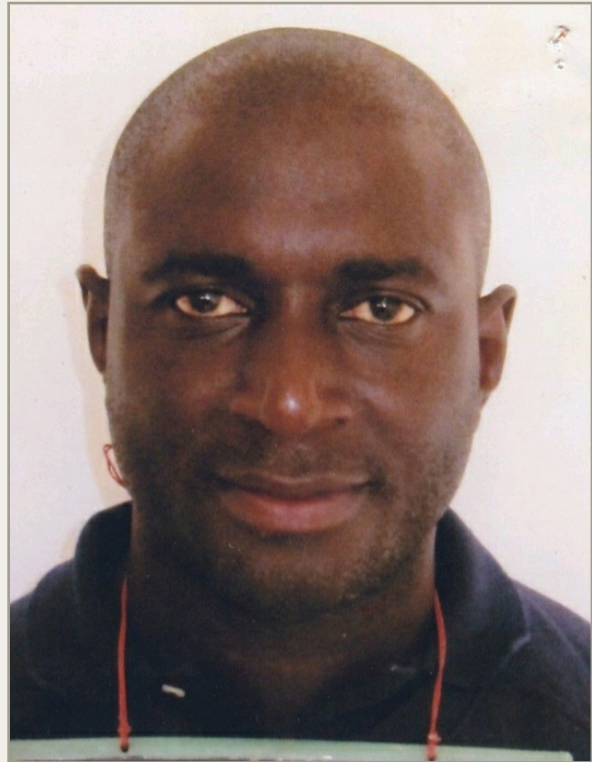
NOTE: All defendants were initially convicted on charges of criminal association and drug trafficking; nine were also convicted on money-laundering offences. On appeal, the convictions for criminal association and money laundering were overturned and all sentences reduced. Sentences were rounded to the nearest year. All non-Bissauan defendants were also penalized with expulsion from Guinea-Bissau for 10 years, later reduced to five. This network structure is deduced from the original judgment.

Mexican-born Ricardo Ariza Monje reportedly returned to Latin America ahead of the hearing, where he is still believed to be.<sup>11</sup> The other ringleader, co-conspirator Braima Seidi Bá, fled during the operation, returning to Bissau after having been sentenced but did not report to the prison to serve his term. He left the capital a few days later. Seidi Bá is a politically connected Bissauan businessman, who has long been suspected (although not previously convicted) of involvement in drug trafficking. He is also linked to another case, in August 2007, in which several Latin American traffickers were arrested in a warehouse in Bissau rented by a company owned by Seidi Bá.

The March judgment outlines the planning undertaken by the ringleaders since December 2018, including scouting out disembarkation points, and provides a detailed account of the cocaine shipment that was intercepted by Operation Navarra. The cocaine was trans-shipped from an unflagged vessel at high seas on 30 August and transported by speedboat under the cover of darkness to two disembarkation points on 31 August. The consignment was then unloaded and split. One of the loads was then transported by car to Bissau (by Seidi Bá) and the other to Caió and Binhante, towns 100 kilometres and 70 kilometres from Bissau, respectively.<sup>12</sup>

The judgment points to a network of some sophistication, using expensive satellite telephones and radios (a number of which were seized from various group members) to avoid interceptions of communications. According to the judgment, the group used three shell companies to move funds: GB-Intercontinental SARL and GB Fenix SARL (incorporated by Seidi Bá), and Palmeiras Company Import & Export Business Center, incorporated by both Seidi Bá and Monje.<sup>13</sup> The judgment sets out how these corporate structures were used to employ and pay salaries to network members, launder proceeds, and provide a seemingly licit facade for operations in the form of wholesale and retail trade.

GB-Intercontinental operated as a food and drink import company, importing narcotics alongside licit



**Braima Seidi Bá was sentenced in the Regional Court for his involvement in a cocaine trans-shipment to 16 years' imprisonment, later commuted in the Appeal Court to six.**

products, employing the 'rip on, rip off' method, whereby the narcotics are attached to the goods at the point of export (Colombia was cited as the source by Domingos Monteiro, deputy director of the Judicial Police),<sup>14</sup> and then detached at the point of entry (in this case, Guinea-Bissau). This has long been identified as a logistics method used by Latin American drug-trafficking groups and one that poses a significant threat at the European ports of destination.<sup>15</sup>

The judgment tracks international financial transfers effected by seven group members using Wari, Western Union and MoneyGram money-transfer agencies. Notably, this excludes both ringleaders. One associate – by the name of Duque – confessed to transferring funds to Monje's girlfriend on his behalf, suggesting that the ringleaders may have avoided personally effecting transactions.<sup>16</sup>

## OPERATION NAVARRA

On 2 September 2019, Guinea-Bissau's Judicial Police seized almost 1 900 kilograms of cocaine in parallel operations conducted in Bissau, and in Caió and Binhante, in the north-west of the country. Ten suspects were arrested.<sup>17</sup> The cocaine, some of which was discovered by the police hidden in bags of rice, is believed to have been part of a larger consignment being transported through the country. The seized quantity is estimated by INTERPOL to have a street value of between €60 and €80 million in destination regions, including northern Europe.<sup>18</sup> The drugs were deposited in islets forming the coastal archipelago before being transferred to the mainland for storage.

Operation Navarra (so named after the model of one of the vehicles used to transport the cocaine

consignment), was the culmination of two weeks of intelligence gathering. The Judicial Police were supported in the investigation by police in Brazil, Colombia and INTERPOL's Incident Response Team, deployed at the request of Guinea-Bissau's authorities.<sup>19</sup> Operation Navarra followed the successful Operation Carapau in March 2019, in which 789 kilograms of cocaine were seized from the false bottom of a truck in Safim, some 15 kilometres from Bissau on the road to Senegal. Investigations into that operation revealed a network spanning at least five West African countries. Greater detail regarding the network behind this seizure, its modus operandi and the ensuing investigation are included in a May 2020 brief published by the GI-TOC.<sup>20</sup>



**FIGURE 1** The route of the August 2019 cocaine import coordinated by the Seidi Bá network, which led to the Operation Navarra seizure in September 2019.



## RUNNING FREE: THE MYSTERIOUS REAPPEARANCE OF BRAIMA SEIDI BÁ

The two ringleaders of the network, Seidi Bá and Monje, disappeared following the September 2019 seizure. However, Seidi Bá reappeared in Bissau in early March 2020, following the change in administration. He was reportedly accompanied by men in uniform identified as part of Indjai's faction of the military, and was repeatedly spotted at the Royal, a hotel in Bissau. He then disappeared again in early April, a few days after he had been sentenced by the Regional Court.

Seidi Bá reportedly fled first to neighbouring Guinea and subsequently on to another country in West Africa, where he is believed to be at the time of writing. The Judicial Police have reportedly made efforts to track him but lack resources to conduct cross-border

operations. The authorities of the country in which Seidi Bá resides are reportedly aware of his presence. However, the ringleader remains at large and it is unclear whether authorities are making efforts to detain him. Local observers pointed to Seidi Bá being under the protection of Indjai, who has been indicted by a US court for agreeing to provide weapons to undercover DEA agents posing as representatives of FARC, the Revolutionary Armed Forces of Colombia guerrilla group, in return for a consignment of cocaine. Following successful DEA operations – which resulted in the arrest of former admiral Na Tchuto, who is said to be close to Indjai – and external pressure, the military government ceded power and Indjai laid low outside Bissau, until returning upon Embaló's victory.<sup>21</sup>

### Appeal judgment: a 'cloaked acquittal'?

All defendants appealed their conviction and sentences. On 14 October 2020, the Tribunal de Relação, Guinea-Bissau's Court of Appeal, significantly reduced all sentences – in most cases decreasing them to under half of the previous sentences. The court also returned to the defendants all assets and funds seized by the state, except for communication devices, two speedboats and two vehicles.<sup>22</sup>

The appeal court found all defendants guilty of drug trafficking, but that the lower court had erred in its convictions on the offence of 'criminal association' (i.e. belonging to an organized-crime group, broadly as defined under the UN Convention on Transnational Organized Crime) and money laundering. Judge Aimadu Sauané issued a dissenting judgment in which he disagreed with the two remaining judges on the overturning of criminal association



A judgment in Guinea-Bissau's Court of Appeal drastically reduced the sentences of the co-accused ringleaders in the August 2019 cocaine-trafficking deal.

convictions, on the final penalties handed down and on the return of many of the assets forfeited to the state. In the majority judgment, the court found that:

Although the defendants [had] acted as a group and in concert to achieve the objective of high-risk drug trafficking ... it was not proven by the court ... that they acted in an articulated and continuous manner over time to commit the aforementioned illicit act. Nor has it been proven that the group was created and that its main purpose was to introduce large quantities of drugs into the country on a continuous basis.<sup>23</sup>

The court also placed significant weight on the fact that none of the defendants have a criminal record in disputing whether the activities of the group were 'continuous'.

Regardless of the defendants' lack of a criminal record, in light of the significant level of organization of the network – which was indicated in the original judgment, which cited the ongoing activities of its members since December 2018 – the court's conclusion is puzzling. It appears to reject the existence of an organized-crime group, and points towards a more ad hoc event, despite clear evidence to the contrary. In his dissenting judgment, Judge Aimadu Sauané cited the evident coordination between group members since 2018 as clear evidence of 'criminal association.'

Curiously, the majority judgment emphasized the importance of a 'stable ... chain of command from where the instructions or directives emanate' in its decision to conclude against the charge. However, the leadership of Seidi Bá and Monje was reportedly confirmed by all defendants, and the corporate ownership structure supports this. Nevertheless, the court, acting by majority, instead charged the defendants with 'criminal co-participation',<sup>24</sup> which legally constitutes an aggravating circumstance but does not carry a separate penalty (unlike the crime of criminal association).

The court also unanimously overturned the money-laundering convictions. It found that the lower court had 'at no point [been] able to prove the direct link between some seized assets and amounts in frozen bank accounts [and] criminal activity, namely high-risk

drugs trafficking', and had breached the presumption of innocence until proven guilty in its rationale.<sup>25</sup> The judgment pointed to Seidi Bá's role as an importer and trader of food and drink as a possible legitimate source of the seized funds, totalling circa £2.5 million.

The final sentences handed down by the appellate court were lower than those prescribed by the court of first instance for the sole offence of drug trafficking (excluding the charges of money laundering and criminal association). For example, in the case of Seidi Bá, the court of first instance handed down a 10-year sentence for the offence of drug trafficking alone; the appeal court – despite finding Seidi Bá guilty of drug trafficking and of 'criminal co-participation', which, as an aggravating factor, would be expected to point towards a heavier penalty – reduced this to six years.

In his dissenting judgment, Judge Sauané recommended far higher sentences for all defendants – 14 years and 3 months for Seidi Bá – and emphasized the importance of penalties in having a deterrent effect.<sup>26</sup>

Reactions to the appeal judgment from Bissau-Guinean legal experts have been damning, particularly on the overturning of defendants' convictions for criminal association. Ruth Monteiro, former Minister of Justice of Guinea-Bissau, believes that the Court of Appeal 'was wrong in this decision'.<sup>27</sup> Monteiro agrees with the dissenting judgment in finding that 'although it is technically acceptable to absolve the defendants in relation to the crime of money laundering ... there is a serious error from a technical point of view by not recognizing the existence of a criminal association in this case.' Luís Vaz Martins, lawyer and human-rights activist in Guinea-Bissau, is similarly critical, saying that the judges 'did everything to disregard the evidence of the existence of the group with the respective command structure'.<sup>28</sup> Both Monteiro and Martins state that the Court of Appeal erred in placing such weight on the lack of previous convictions. Monteiro emphasized that insufficient focus was given to the need for deterrence and prevention. Monteiro classes the majority decision as a 'cloaked acquittal' of the defendants, with Martins suggesting that the majority opinion's arguments are so 'fragile that they can only be understood' if driven by 'attractive schemes with benefits for the two [majority] magistrates'.



## GUINEA-BISSAU'S JUDICIAL SYSTEM

Criminal cases are first heard by courts of the first instance – in the Seidi Bá case, the Regional Court of Cacheu. As occurred in this case, sentences are commonly appealed, with penalties often reduced or entirely overturned by the Tribunal de Relação, the Court of Appeal. The Court of Appeal in Bissau, the capital, currently has jurisdiction across the country. Decisions

of the Court of Appeal can be further appealed to the Supreme Court, but only on points of law rather than fact. Guinea-Bissau's lower courts have a significant backlog of criminal cases, often resulting in delays spanning a number of years between arrest and trial. The Seidi Bá case was heard within seven months of the suspects' arrest, which is unusually prompt.

## Meddling with the law – a return to the *ancien regime*

The drastic reduction of the defendants' sentences cast a pall on the conclusion of the widely lauded Operation Navarra. Local sources reported that the appeal court judges who handed down the majority judgement received significant payoffs.<sup>29</sup> Martins also stated to the Portuguese press that payoffs had been involved in the decision, which he disagreed with.<sup>30</sup> Judge Sauané's dissenting judgment, particularly the limited reduction in sentences prescribed and the pointed emphasis on the importance of judgments having a deterrent effect, appears to be a courageous stand.

Embaló was reportedly displeased with the reduction of sentences, leading him to call a private meeting with senior law-enforcement agents and state officials in which he interrogated them about the judgement and preceding investigation. Embaló reportedly ordered officials to demand that financial institutions currently holding the seized funds ignore the Appellate judgment and retain the funds.<sup>31</sup> An appeal against the findings of the Court of Appeal has been submitted to the Criminal Chamber of the Supreme Court.<sup>32</sup> Reporting on the ground notes that this was driven by Embaló.<sup>33</sup> Interference by Embaló in the judicial process would breach the constitutionally determined independence of the judiciary. Although not unprecedented in Guinea-Bissau – the executive has meddled in the operations of the judiciary in the past – it is nevertheless unusual, particularly in the context of criminal cases. His motivation for interfering is less clear: two possible alternative motives, supported by broader events in Guinea-Bissau, are outlined below.

It is important to note that Embaló ran for the presidency on a campaign ticket heavily featuring anti-corruption and pledging to tackle drug trafficking,

regardless of the status of the perpetrators. Since coming to power, the president appears to have been conducting a balancing act – on the one hand seeking to publicly signal an end to impunity in the country, while simultaneously looking over his shoulder and endeavouring to keep on side his powerful allies, including the military old guard, many of whom – as mentioned above – have been previously linked to drug trafficking. The original judgment had been met with international acclaim, and it could be that Embaló feared that the drastic reduction in sentences in the Seidi Bá case would court international condemnation and mar the president's desired public image. (As it turned out, the international press has been silent on the Court of Appeal judgment.) More broadly, the eyes of the international community remain firmly turned away from the affairs of the small West African country, distracted by COVID-19. The lack of international focus and pressure makes it improbable that Embaló was driven to interfere – in an effort to preserve higher sentences and the perception of justice being done – on this basis. (It is likely that Embaló intended any interference to remain unknown.) This lends greater credence to an alternative potential motivation for Embaló's reported actions.

Embaló's reported interference is certainly in line with an overall trend of increased presidential power, with Bissauan politicians meddling in the activities of other arms of the state and in civil society. Members of the judiciary and civil society have reported ongoing intimidation by political figures. Following the appointment of Prime Minister Nuno Gomes Nabiam in March 2020, a number of journalists were assaulted, and the headquarters of Radio Capital, a broadcaster based in Bissau, was destroyed. This has further suppressed the already weak domestic media. The limited domestic press coverage following the publication of the October



**Teresa Silva, director of the Judicial Police.**

appeal judgment is thus unsurprising: domestic coverage was limited to superficial mentions by a handful of online lusophone media platforms. Notably, domestic media have covered the appeal of the Appellate judgment, although, unsurprisingly, not the president's reported involvement.<sup>34</sup>

Similarly, Embaló's coming to power had a dampening effect on the operations of the Judicial Police since March 2020, with the force cutting back on in-depth investigations, ostensibly due to fear of reprisals. The Judicial Police also appear to be reporting directly to the president, rather than the Minister of Justice, another sign of Embaló amassing increasing powers in his office. Although Embaló has provided clear support for the force, funnelling resources to them,<sup>35</sup> investigations are allowed less free rein than under the previous administration. Some local reports state that Embaló may be seeking to instrumentalize the Judicial Police to conduct investigations into political enemies in order to justify pending changes to government.<sup>36</sup>

In line with this, the second reading posits any interference by Embaló in the Seidi Bá case as yet another instance of the president leveraging state bodies to achieve long-term political goals under the cover of legitimate action against illicit markets, particularly illicit drugs. It is key to note that the ringleaders remain outside Guinea-Bissau at the time of writing, and are

therefore unlikely to be affected by any potential overturning of the Appeal Court's judgment. Embaló's actions do not, therefore, threaten any senior figures with entrenched interests.

A number of incidents during 2020 have highlighted the fine line navigated by Embaló in mediating between, on the one side, the Judicial Police and the need to be seen to be transparent, and, on the other, preserving the interests of the military and their established interests in illicit markets. One such incident serves to illustrate alleged political interference in the due process of law enforcement. In March, cocaine was found in the backpack of a Bissau-Guinean national at Osvaldo Vieira International Airport. There ensued a botched investigation. The arrested suspect was quickly released by the National Guard and the evidence was tampered with (a significant number of the 83 pellets were replaced by a substance that was not cocaine). Teresa Silva, Director of the Judicial Police, reported the events directly to Embaló, and over the following months the failed investigation became public knowledge.

In September 2020, Colonel Alassana Djalo, previously part of the National Guard Command and recently appointed director-general of Migration and Border Services, was arrested by the Judicial Police for alleged complicity in the tampering of the cocaine

consignment and the suspect's release. Djalo's arrest is a rare instance of a senior state officer being detained on drug-trafficking charges. According to one media account, pressure was exerted on the Judicial Police by political figures demanding his release.<sup>37</sup> The arrest would have sent a public signal that the Embaló administration is taking action against corruption and drug trafficking, in line with the president's campaign pledges and his commitments to the UN Security Council regarding action against illicit markets.

The withdrawal of the Economic Community of West African States (ECOWAS) mission in Guinea-Bissau announced in September 2020 marked the end of its presence in the country since 2012.<sup>38</sup> In statements at the ECOWAS heads of state summit, ECOWAS cited that the withdrawal was due to 'the progress made in the functioning of the institutions, including the National Assembly and the Government'.<sup>39</sup> Similarly, the United Nations Integrated Peacebuilding Office in Guinea-Bissau (the UN peacekeeping body) is also set to withdraw from the country by December 2020, leaving the United Nations Country Team as the primary UN body in the country. Yet these withdrawals come at an uncertain time for the country, with stakeholders in Bissau auguring ongoing political upheaval and instability over the next few years.

Operation Navarra was originally hailed by elements of the international community as a turning point in Guinea-Bissau's history of widespread impunity for well-connected actors in illicit markets. However, even after the original trial, the ringleaders remained not only free but, in the case of Seidi Bá, visible in Bissau. The criminal-justice process, which received plaudits from the international community, seems to have run in parallel to the actual fates of the two ringleaders, both of

whom remained free at the time of writing. Those who were detained were lower-level operators who did not benefit from the protection from the upper echelons of Guinea-Bissau's political-military establishment.

The reduction in sentences handed down by the Appellate Court, rather than the outright overturning of drug-trafficking convictions, most likely projected a facade of justice being done, while simultaneously returning most assets to the drug traffickers and leaving the ringleaders unaffected. It remains to be seen whether Seidi Bá is brought back to the country to face any element of the shortened sentence. The seizure and the ensuing arrests were certainly successes for the Judicial Police, who operate with notable independence. However, the broader criminal-justice process in the Seidi Bá case did little to dent the longstanding impunity enjoyed by kingpins in Bissau-Guinean drugs markets. In addition, the events leading to the recent lodging of another appeal further undermines Guinea-Bissau's criminal-justice integrity. If he had been displeased with the Appellate judgment, Embaló could have merely expressed this in a public statement. The president's reportedly heavy-handed interference in judicial processes appears to demonstrate disregard for the independent functioning of the arms of state.

The way that the Operation Navarra case has concluded appears to bring an end to a brief interlude of relatively unfettered, independent law-enforcement investigations into the African 'narco-state's' murky drug economy. It most likely points to a context where entrenched military-political interests prevail in uneasy tension with efforts to decrease the appearance of impunity for involvement in illicit markets, and a political economy where clientelism increasingly drives the operations of law enforcement and the judiciary.



## Recommendations

We can draw the following recommendations from how the Seidi Bá case has played out in Guinea-Bissau:

1. Greater support should be given to the Bissau Guinean Judicial Police. UNODC and UNDP offices in the country are well placed to provide this. Although imperfect, the Judicial Police has repeatedly demonstrated its capacity and independence, although the latter may currently be under threat. Consequently, this is a crucial time to bolster external support.
2. There is scope for providing enhanced international support for the Bissau Guinean judiciary. This would be particularly important in the context of significant drug-trafficking trials, while driving an overall strengthening of the country's criminal justice system. Enhancing capacity building for the Guinea-Bissau judiciary, particularly on technical matters, should be combined with a system enabling lusophone international and regional judges (including, for example, from Brazil and Cape Verde) to attend cases heard by Guinea Bissau's higher courts, namely the Supreme Court and Court of Appeal. This would enhance support to the sitting judiciary, strengthening technical judicial decision-making, and mitigate the risks of corruption. This structure was first proposed by, and continues to benefit from the support of, the former Minister of Justice, Ruth Monteiro.
3. Local civil society, including the media, should be reinforced so it can operate as a more effective mechanism for oversight of state institutions in its role as a critical force. Given the withdrawal of the UN Integrated Peacebuilding Office in Guinea-Bissau (UNIOGBIS) in December 2020, and the ongoing (and understandable) focus of the international community on COVID-19, local accountability mechanisms are ever more important. They are also, as noted above, under growing threat.
4. Renewed international focus on Guinea-Bissau is required, despite ongoing global challenges caused by the COVID-19 pandemic. While the first judgment in the Seidi Bá case received significant public attention from international bodies, including INTERPOL and the UN, the diminished sentences on appeal passed largely without comment. International media coverage was limited to the lusophone press. This decreases external pressure on Guinea-Bissau's state institutions to drive for justice to be done – and be seen to be done.

## Notes

- 1 Sidi Ahmed Mohamed, ringleader of the March seizure, was convicted on charges of drug trafficking in November 2019, together with two associates. Mohamed was sentenced to 15 years in prison and his associates to 14. UNODC, Guinea-Bissau: Drug smugglers receive record 16-year-jail sentences as justice system strengthened by UNODC, 10 April 2020, <https://www.unodc.org/westandcentralafrica/en/2020-04-02-jugement-navara-guinee-bissau.html>.
- 2 For example, see INTERPOL, Guinea-Bissau: Triple prison conviction marks new era of anti-drug action with INTERPOL, 27 December 2019, <https://www.interpol.int/en/News-and-Events/News/2019/Guinea-Bissau-triple-prison-conviction-marks-new-era-of-anti-drug-action-with-INTERPOL> and UNODC, Guinea-Bissau: Drug smugglers receive record 16-year-jail sentences as justice system strengthened by UNODC, 10 April 2020, <https://www.unodc.org/westandcentralafrica/en/2020-04-02-jugement-navara-guinee-bissau.html>.
- 3 Embaló's electoral success was mired in allegations of electoral irregularities and military intimidation of key state institutions, including the Supreme Court and the Electoral Commission. It continues to be rejected by opposition leader, Domingos Simões Pereira, previously prime minister and widely perceived as a reforming politician.
- 4 See photograph reproduced in Mark Shaw and A. Gomes, Breaking the vicious cycle: Cocaine politics in Guinea-Bissau, Global Initiative Against Transnational Organized Crime, May 2020, [https://globalinitiative.net/wp-content/uploads/2020/05/Guinea-Bissau\\_Policy-Brief\\_Final2.pdf](https://globalinitiative.net/wp-content/uploads/2020/05/Guinea-Bissau_Policy-Brief_Final2.pdf).
- 5 In 2012, the military, led by then chief of staff General António Indjai, overturned the government and took power, in part to achieve control of the rapidly growing, lucrative cocaine trade.
- 6 Military figures appearing beside Embaló in official pictures celebrating his presidential victory also included Biaguê Na N'tam, chief of the general staff, and his deputy, Mamadu N'Krumah.
- 7 Mark Shaw and A. Gomes, Breaking the vicious cycle: Cocaine politics in Guinea-Bissau, May 2020, The Global Initiative Against Transnational Organized Crime, [https://globalinitiative.net/wp-content/uploads/2020/05/Guinea-Bissau\\_Policy-Brief\\_Final2.pdf](https://globalinitiative.net/wp-content/uploads/2020/05/Guinea-Bissau_Policy-Brief_Final2.pdf).
- 8 Ibid.
- 9 INTERPOL, Guinea-Bissau: triple prison conviction marks new era of anti-drug action with INTERPOL, 27 December 2019, <https://www.interpol.int/en/News-and-Events/News/2019/Guinea-Bissau-triple-prison-conviction-marks-new-era-of-anti-drug-action-with-INTERPOL>.
- 10 UNODC, Guinea-Bissau: Drug smugglers receive record 16-year-jail sentences as justice system strengthened by UNODC, 10 April 2020, <https://www.unodc.org/westandcentralafrica/en/2020-04-02-jugement-navara-guinee-bissau.html>.
- 11 BBC, Cocaine and Guinea-Bissau: How Africa's 'narco-state' is trying to kick its habit, 28 May 2020, <https://www.bbc.com/news/world-africa-52569130>; See also UN Security Council, Report of the UN Secretary-General, 29 July 2020, pages 1 and 16, <https://undocs.org/S/2020/755>.
- 12 This operational detail is provided in the judgment. See República da Guiné-Bissau, Tribunal Regional de Cacheu, Acórdão No. 13/2020.
- 13 All headquartered at Avenue Combatentes da Liberdade da Pátria, Hafia, a prominent building in the city centre.
- 14 See República da Guiné-Bissau, Tribunal Regional de Cacheu, Acórdão No. 13/2020; Reuters, Guinea-Bissau police say 1.8 tonnes of cocaine seized in biggest ever haul, 3 September 2019, <https://www.reuters.com/article/us-bissau-drugs/guinea-bissau-police-say-18-tonnes-of-cocaine-seized-in-biggest-ever-haul-idUSKCN1VO1VU>.
- 15 European Commission, The fight against cocaine trafficking by containers through the rip off modus operandi, [https://ec.europa.eu/home-affairs/financing/fundings/projects/HOME\\_2012\\_ISEC\\_FP\\_C1\\_4000003832\\_en](https://ec.europa.eu/home-affairs/financing/fundings/projects/HOME_2012_ISEC_FP_C1_4000003832_en).
- 16 Two group members appear to have been principally in charge of issuing payments: John Fredy Valencia Duque, largely to recipients in Argentina and Spain and to a lesser extent Colombia; and Domingos José Biaguê, largely to France, Portugal, Colombia and the US and to a lesser extent to Senegal and Argentina. Mussa Seidi Bá both received and issued payments, while the remaining three group members typically received payments largely from France, Spain and Portugal and to a lesser extent from Germany, the UK, the US and Brazil.
- 17 UNODC, Largest drug seizure ever made in Guinea-Bissau by law enforcement officials <https://www.unodc.org/westandcentralafrica/en/2019-09-02-seizure-guinea-bissau.html>
- 18 INTERPOL, Guinea-Bissau cocaine seizure: INTERPOL team supporting investigation, 10 September 2019, <https://www.interpol.int/en/News-and-Events/News/2019/Guinea-Bissau-cocaine-seizure-INTERPOL-team-supporting-investigation>.
- 19 Ibid.
- 20 Mark Shaw and A. Gomes, Breaking the vicious cycle: Cocaine politics in Guinea-Bissau, May 2020, The Global Initiative Against Transnational Organized Crime, [https://globalinitiative.net/wp-content/uploads/2020/05/Guinea-Bissau\\_Policy-Brief\\_Final2.pdf](https://globalinitiative.net/wp-content/uploads/2020/05/Guinea-Bissau_Policy-Brief_Final2.pdf).
- 21 Ibid.
- 22 The Court of Appeal examined both the procedural aspects of the defendants' arrest and questioning, and the evidential basis for conviction. Although the Court found irregularities in the questioning of the defendants (notably that interviews were conducted by the Judicial Police rather than the public prosecutor, as required by the Criminal Procedure Code), this had not been raised by the defendants within the limitation period and was consequently ignored.
- 23 República da Guiné-Bissau, Tribunal de Relação, Câmara Criminal, Acórdão No. 03/2020.
- 24 Article 16 of the Bissau-Guinean Criminal Code and Code of Criminal Procedure 1993 states that 'if several authors, by tacit or express agreement, take a direct part in the execution or act together in joint efforts to commit the same fact, they shall be held liable as co-authors'.
- 25 The court of first instance had provided significant detail as to why the money found in the bank accounts of a number of the defendants could not have derived from the licit activities the defendants cited as their source (including calculating the sale price of cashew nuts, identified as a source by Armando Forero for the 24 million XOF (West African CFA francs – around US\$44 527) found in his bank account. However, the appellate court found the evidentiary link to remain unproven. In noting a breach of the presumption of innocence, the Tribunal de Relação cited the following statements by the Court of first instance: 'that the suspects cannot explain the incongruence between the lawful income and the remainder, after deducting expenses, which can only result from drug trafficking and money laundering activity of which they are accused'.
- 26 The remaining sentences recommended by Judge Sauané were as follows: Ricardo Ariza Monje: 14 years and 3 months; Jhon Fredy Valência: 12 years; Pedro Mahecha Marentes: 12 years; Armando Forero Ortiz: 12 years; Mussa Seidi Bá: 12 years; Saido António Seidi Bá: 7 years; Apollinaire Mendes: 7 years; Avito Domingos Vaz: 7 years; Domingos Biaguê: 7 years; Abulai Culubali: 7 years; Baba Henrique José: 10 years.
- 27 Interview with Ruth Monteiro, former Minister of Justice of Guinea Bissau, December 2020.
- 28 Interview with Luís Vaz Martins, lawyer and human-rights activist in Guinea Bissau, December 2020.
- 29 Interviews with Bissauan nationals and an experienced diplomat based in the country, December 2020, Guinea-Bissau.

- 30 *Guiné-Bissau: Redução de penas de narcotraficantes divide juristas*, e-Global, 23 November 2020, <https://e-global.pt/noticias/lusofonia/guine-bissau>.
- 31 Interviews with multiple sources in Guinea-Bissau, December 2020.
- 32 The appeal has been reported in the Bissau-Guinean press, but without details of the president's possible involvement. See: "*Operação Navarra*": *Um elemento e mais desenvolvimento*, 4 December 2020, <https://capitalnews.gw/operacao-navarra-um-elemento-e-mais-desenvolvimento/>.
- 33 Interviews with multiple sources in Guinea-Bissau, December 2020.
- 34 Ibid.
- 35 He reportedly earmarked land in the centre of Bissau for the construction of a new headquarters for the force.
- 36 Interviews in Guinea-Bissau, October-December 2020.
- 37 Alassana Djalo, *Trafic de drogue: Le directeur général des services de migration et des frontières arrêté*, 12 September 2020, <https://bissauactu.com/index.php/2020/09/12/trafic-de-drogue-le-directeur-general-des-services-de-migration-et-des-frontieres-arrete/>.
- 38 ECOWAS statement during ECOWAS heads of state summit held in Niamey, Niger, on 7 September; the regional bloc also confirmed the withdrawal of the ECOWAS Mission in Guinea-Bissau.
- 39 Ibid.



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