



CENTRO DE INTEGRIDADE PÚBLICA

# HIDDEN DEBTS



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## London court recognises immunity of Filipe Nyusi while he is Head of State

By: **Borges Nhamirre\***

Judge Robin Knowles decided, on Monday 4 September, that Filipe Nyusi enjoys immunity while he is a serving Head of State, and so he cannot be tried in the civil case on the “hidden debts” which is before the High Court of Justice of England and Wales, in London.

“The conclusion of this Court is that in relation to the claims alleged against him in these proceedings he has immunity from the jurisdiction of this Court whilst he is Head of State of the Republic”, Judge Knowles says in his ruling.

The judge’s decision demolished the efforts of Privinvest to share responsibilities with Filipe Nyusi, should the business group headed by the Franco-Lebanese Iskandar Safa be found guilty of the payment of bribes and illicit kickbacks to top leaders of the Mozambican state and employees of the bank Credit Suisse.

The hidden debts trial is scheduled to begin on 2 October in London, and Privinvest required that Filipe Nyusi be included as a defendant to respond jointly in the event that Privinvest is found guilty. Privinvest’s central argument is that Filipe Nyusi benefitted directly from the money of the hidden debts, to a total value of 11 million dollars (10 million to finance the election campaign of the ruling Frelimo Party and one million to finance the presidential campaign of Nyusi himself). He should therefore be jointly liable, if Privinvest is found guilty.

This case was begun by the Mozambican Attorney-General’s Office in February 2019. Privinvest defended itself, first by denying the competence of a British court to hear the case. After it lost this dispute over jurisdiction, Privinvest argued that since Filipe Nyusi had also benefitted from the money of the hidden debts, he should also be a defendant.

In the latest edition of the Newsletter on the hidden debts, with the title **Hidden Debt Scandal: Mozambique Discloses Documents from the President’s Office and Intelligence Services**, we wrote that: *Isaltina Lucas*, “the National Director of the Treasury when the hidden debts were contracted, and one of the major figures who were absent during the hidden debts trial in Maputo, also had to grant access to her communication equipment to the specialists from Peters & Peters. Aware that they would find compromising data, she admitted to the English High Court that she did indeed receive money from Privinvest, but justified this by claiming – like the others involved – that these were funds for joint investment projects with Jean Boustani”. After publication of the article, we received a letter from the office of a British lawyer, Howard Kennedy LLP, who said he represents Isaltina Lucas. The letter says: “Ms Lucas has from the outset and consistently, both in the English court proceedings and at any other opportunity, denied ever receiving money from Privinvest. There is no court document or any other type of document in which Ms Lucas has made any admission of the sort you have suggested in the Article”.

### Immunity while Nyusi is a serving Head of State

The decision by Judge Knowles specifies that the acts for which Filipe Nyusi is called upon to answer for were committed before he became Head of State. As is the international custom and practice, a Head of State is not tried for acts committed outside of the exercise of his office, at least while he is still in office.

“The claims by the Privinvest Defendants against President Nyusi are for a contribution as an alleged joint tortfeasor or a party to an alleged unlawful means conspiracy and in deceit, under Mozambican or English Law. The claims are concerned with alleged activity by President Nyusi outside the United Kingdom, at least primarily before he became President, and in any event

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not in his public capacity or part of his official functions”, Judge Knowles said in his decision.

This raises doubts as to whether Filipe Nyusi could be called upon to answer in the case, after the end of his term of office as President of Mozambique. This is a question that remains open and will depend on how the trial unfolds. However, it is not known whether Prinvest would still be interested in dragging Nyusi to a possible trial, if he no longer occupies the post of Head of State.

It seems that Prinvest’s effort to force Nyusi to trial is just another attempt to persuade the Mozambican State to drop the case. It is noteworthy that other individuals who received money from the hidden debts have not been listed by Prinvest to respond jointly and severally in the case. One example is Armando Ndambi Guebuza, son of the former President Armando Guebuza, who, of all the accused, received the largest slice of the cake from Prinvest, of at least USD 33 million. The former leaders of the State Intelligence and Security Service (SISE), Gregório Leão and António Carlos do Rosário, and the former Minister of Finance, Manuel Chang, also received money from Prinvest but the company did not ask for them to be considered jointly responsible.

Direct notification by Prinvest considered invalid

Another question in dispute and which merited a decision by the Court is when Filipe Nyusi was notified of the accusation of Prinvest. First, Nyusi was notified directly by Prinvest which, on 19 October 2021, left the notification with security officers at the door of the Presidential office. Nyusi did not respond to this notification, alleging that he had never received it. Thus a new notification reached Nyusi through a Mozambican court on 14 April 2023. This is the notification that the London court considered valid. To this notification, Nyusi replied by raising the issue of the immunity which protects him while he is a serving President.

If the court had regarded the notification of 19 October 2021 as valid, then Nyusi’s defence would be out of time. In this regard, Judge Knowles decided that President Nyusi was served on 14 April 2023 with these proceedings before this Court, and not earlier.

The decision of the Court is available in this [link](#) (in English)



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