



Economic and Social Council

Distr.: General
13 December 2012
English
Original: Spanish

Committee on Economic, Social and Cultural Rights

Concluding observations of the Committee in the absence of an initial report from Equatorial Guinea as approved by the Committee at its forty-ninth session (14–30 November 2012)

1. In the absence of an initial report from the State party, the Committee on Economic, Social and Cultural Rights examined the State party's implementation of the International Covenant on Economic, Social and Cultural Rights at its 45th and 46th meetings (E/C.12/2012/SR.45 and 46), held on 22 November 2012. At its 58th meeting, held on 30 November 2012, the Committee adopted the following concluding observations.

A. Introduction

2. These observations, together with the concerns voiced by the Committee members during their exchange of views with the representatives of the State party on 22 November 2012, may be of assistance to the State party in the preparation of its initial report. The Committee would like to point out, however, that these observations are not exhaustive, that the issues raised during its dialogue with the representatives of the State party are not the only matters of concern, and that the content of the initial report should therefore not be limited to them. Rather, the Committee invites the State party to prepare a comprehensive initial report, based on the guidelines on treaty-specific documents approved in 2008 (E/C.12/2008/2), which covers the steps taken to uphold all the rights set forth in the Covenant.

3. At its forty-seventh session, the Committee on Economic, Social and Cultural Rights decided that it would examine the implementation of the International Covenant on Economic, Social and Cultural Rights in a number of States parties that, despite numerous requests, had not met their obligation to submit reports under articles 16 and 17 of the Covenant.

4. The aim of the reporting procedure established in the Covenant is to ensure that States parties inform the Committee on Economic, Social and Cultural Rights and, through it, the Economic and Social Council about the measures taken, progress made and problems encountered in their efforts to ensure the observance of the rights recognized in the Covenant. A State party's failure to submit a report is not only a violation of the Covenant but also a serious obstacle to the Committee's work.

5. Consequently, when a Government has not supplied any information on the fulfilment of its obligations under the Covenant, the Committee will have to base its observations on information from intergovernmental and non-governmental sources. While

intergovernmental sources primarily supply statistical data and major economic indicators, the information provided by the academic literature, non-governmental organizations and the press tends, by definition, to be more critical of the political, economic and social situation in a given country. Under normal circumstances, the constructive dialogue between a State party that is presenting its report and the Committee gives that country's Government the opportunity to set out its views and to attempt to refute criticism and demonstrate to the Committee that its policies are in line with the Covenant.

6. Equatorial Guinea acceded to the International Covenant on Economic, Social and Cultural Rights on 25 September 1987 and has still not submitted its initial report. On 13 December 2011, the Committee informed the State party that it would be considering the situation of economic, social and cultural rights in Equatorial Guinea at its session in November 2012. In May 2012, the pre-session working group adopted a list of issues prepared in the absence of an initial report (E/C.12/GNQ/Q/1) to help the State party prepare its report for the Committee or provide the Committee with relevant information in another form.

7. The Committee takes note of the State party's replies to the list of issues prepared by the Committee (E/C.12/GNQ/Q/1/Add.1). However, the Committee regrets that the replies were not exhaustive, that they did not provide sufficient up-to-date statistics on the enjoyment in the State party of the rights recognized in the Covenant and that the replies were submitted just a few days before the Committee's exchange of views with the State party. The Committee also takes note of the presence of a delegation from the State party at two meetings of the Committee on 22 November 2012 and of its members' exchange of views with the Committee.

8. The Committee has based these concluding observations on the State party's replies to the list of issues, on the information provided in the course of the delegation's exchange of views with the Committee on 22 November 2012 and on the material provided by intergovernmental and non-governmental sources. Given the regrettable absence of a comprehensive initial report, however, these observations are necessarily of a preliminary nature.

B. Positive aspects

9. The Committee takes note of the fact that Equatorial Guinea is a party to numerous human rights treaties, including the International Covenant on Civil and Political Rights and its first Optional Protocol; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol; the Convention on the Rights of the Child and its Optional Protocol on the sale of children, child prostitution and child pornography; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and many of the fundamental conventions on labour rights of the International Labour Organization (ILO).

10. The Committee also takes note of the following:

- (a) The adoption of the Education Act;
- (b) The adoption of the National Plan on Education for All and the Educational Development Programme for Equatorial Guinea;
- (c) The adoption of a national programme to educate women and teenage girls who are illiterate or who have dropped out of school; and

(d) The adoption of various measures to stop the spread of HIV/AIDS, notably a law on the prevention of sexually transmitted infections and HIV/AIDS and the protection of the human rights of the people concerned.

C. Principal subjects of concern and recommendations

11. The Committee regrets the lack of comprehensive, up-to-date, disaggregated data on the enjoyment of the economic, social and cultural rights enshrined in the Covenant and notes that this has a detrimental effect on the State party's ability to design and implement public policies regarding those rights.

The Committee urges the State party to strengthen its data-collection system and to compile, as soon as possible, up-to-date annual comparative statistics and statistical analyses concerning the enjoyment of the rights recognized in the Covenant. This information should meet international standards of accuracy and be disaggregated by age, sex, urban/rural population and other relevant characteristics. Special attention should be devoted to the situation of the most disadvantaged and marginalized persons or groups, such as persons with disabilities and persons with HIV/AIDS.

The Committee requests the State party to include in its initial report the data that it collects and the annual comparative statistical analyses that it conducts regarding the rights enshrined in the Covenant, as well as an indication of the impact of the measures that it has taken to guarantee the full enjoyment of these rights and the results obtained.

12. The Committee regrets that the information supplied to it has not made clear what the precise legal status of the Covenant is in the domestic legal system or whether the domestic courts have invoked it in their decisions.

The Committee requests the State party to ensure that its initial report clarifies the legal status of the Covenant in the domestic legal system and includes information on domestic case law concerning the implementation of the Covenant. In this regard, the Committee draws the State party's attention to its general comment No. 9 (1998), on the domestic application of the Covenant.

13. The Committee recommends that the State party allocate the maximum amount of its available resources for social services and assistance with a view to achieving progressively the full realization of the economic, social and cultural rights recognized in the Covenant, in accordance with article 2, paragraph 1, of the Covenant. In this connection, the Committee encourages the State party to honour its commitment to raise the percentage of its budget devoted to the social sector in the coming fiscal year.

In addition, the Committee recommends that the State party redouble its efforts to combat corruption and to ensure the transparency of Government action with a view to preventing the diversion of public resources and bringing those responsible to justice. It also recommends that the State party take the necessary steps to make public officials at both the national and local levels aware of the economic and social costs of corruption and to make judges, prosecutors and members of the security forces aware of the importance of strictly enforcing anti-corruption laws.

The Committee requests the State party to provide annual figures in its initial report on the percentage of the national budget devoted to the social sector. The Committee also requests the State party to provide information on the content and scope of the Equatorial Guinea Horizon 2020 Plan and the Social Development Fund and on the progress made and results achieved thanks to their implementation.

The Committee draws the State party's attention to its statement on an evaluation of the obligation to take steps to the maximum of available resources (E/C.12/2007/1).

14. The Committee is concerned by reports that indicate that human rights activists are subjected to intimidation and harassment.

The Committee urges the State party to adopt all measures necessary to protect human rights defenders and activists — particularly those working in the area of economic, social and cultural rights — from any and all acts of intimidation and harassment and to ensure that perpetrators of such acts are brought to justice.

15. The Committee notes that equality between men and women is recognized in the Constitution of Equatorial Guinea. However, the Committee is concerned by reports of the persistence of deeply-rooted gender stereotypes and traditional practices and customs that are detrimental to the equal enjoyment by men and women of the rights enshrined in the Covenant and by reports that the efforts made by the State party to counter them are limited. The Committee also notes with concern the problems raised by the coexistence of civil and customary legal systems in terms of the promotion and protection of equal rights for men and women in the areas of marriage, family relations and inheritance (art. 2, para. 2, and arts. 3 and 10).

The Committee urges the State party to take the necessary legislative or other measures to combat and eliminate stereotypes, customs and practices that are harmful to women and to eliminate discrimination against women in matters relating to marriage, family relations and inheritance, in accordance with the provisions of the Covenant, and to strengthen and ensure the effective implementation of existing measures of this nature, including awareness-raising activities. It also recommends that the State party ensure that women fully enjoy all the economic, social and cultural rights enshrined in the Covenant.

The Committee requests the State party to include up-to-date information in its initial report on the measures taken to eliminate direct and indirect gender-based discrimination in relation to the rights enshrined in the Covenant and to guarantee that men and women enjoy these rights on an equal footing. It also requests the State party to provide information on the results of those measures.

16. The Committee is concerned by reports of high levels of poverty in the country, especially in rural areas and among women, despite the fact that the State party has a high national income (art. 11).

The Committee recommends that the State party step up its efforts to combat poverty, especially in rural areas and disadvantaged and marginalized regions; allocate sufficient funding for this purpose; and ensure that all economic, social and cultural rights are fully addressed in all anti-poverty measures that it adopts. The Committee also recommends that the State party devote particular attention to the economic, social and cultural rights of the most disadvantaged and marginalized persons and groups, such as persons with disabilities, women in rural areas and persons living with HIV/AIDS.

The Committee requests the State party to include comparative data in its initial report, disaggregated by year, sex and rural/urban area, on the numbers of people living in poverty and extreme poverty and on the progress made in combating poverty. The Committee refers the State party to its statement on poverty and the International Covenant on Economic, Social and Cultural Rights (E/C.12/2001/10).

17. The Committee encourages the State party, when adopting legislative reforms or other measures, to at all times bear in mind its obligations under the Covenant and

to continuously evaluate the effects of such reforms and other measures on the enjoyment of economic, social and cultural rights.

18. The Committee encourages the State party to consider signing and ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

19. The Committee also encourages the State party to consider acceding to the second Optional Protocol to the International Covenant on Civil and Political Rights; the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the Convention on the Rights of Persons with Disabilities and its Optional Protocol; and the International Convention for the Protection of All Persons from Enforced Disappearance.

20. The Committee requests the State party to disseminate these concluding observations widely among all sectors of society, particularly public officials, the judiciary and civil society organizations.

21. The Committee requests the State party to submit a comprehensive initial report on its implementation of the Covenant, with special emphasis on the issues raised and concerns expressed in these observations and during the discussion with Committee members, in accordance with the guidelines on treaty-specific documents to be submitted by States parties under articles 16 and 17 of the Covenant (E/C.12/2008/2) within two years from the date of issuance of these concluding observations. In this connection, the Committee wishes to highlight the commitment made by the representatives of Equatorial Guinea who met with the Committee to submit a comprehensive initial report within the allotted time period that takes account of the Committee's comments and suggestions. In addition, the Committee urges the State party to ensure that civil society organizations are involved in the national debate held prior to its submission of its initial report.
