



Economic and Social Council

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Committee on Economic, Social and Cultural Rights

Observations made in the absence of an initial report from the Congo and adopted by the Committee at its forty-ninth session (12–30 November 2012)

1. In the absence of an initial report from the Republic of the Congo, the Committee on Economic, Social and Cultural Rights examined the implementation by the Congo of the International Covenant on Economic, Social and Cultural Rights at its 47th (closed) meeting, held on 23 November 2012, and adopted the following concluding observations at its 58th meeting.

A. Introduction

2. At its forty-seventh session, the Committee on Economic, Social and Cultural Rights had decided that it would examine the implementation of the International Covenant on Economic, Social and Cultural Rights in a number of States parties which, despite numerous requests to do so, have not fulfilled their reporting obligations under articles 16 and 17 of the Covenant.

3. The Committee regrets that, despite its exchange of views with the State party in 2000 and the organization in 2011 of a national training seminar for members of the State party's interministerial committee on the preparation and submission of reports to treaty bodies, the State party has still not submitted its initial report, which was due on 20 June 1990. While taking note of the replies provided by the State party to its list of issues (E/C.12/COG/Q/1/Add.1), the Committee is of the view that, in the absence of a complete initial report, the obligation set out in articles 16 and 17 of the Covenant has not been discharged.

4. The Committee recalls that 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 adopted, progress made and problems encountered in their efforts to ensure the observance of the rights recognized therein.

5. Given the paucity of information at the Committee's disposal and the brevity and belated submission of the State party's replies to the list of issues, the Committee feels that it must limit its comments to general observations regarding the observance of economic, social and cultural rights in the State party. In view of the State party's announcement that it will be submitting its initial report within a year, the Committee has focused its recommendations on the types of information to be included in that report. The Committee

wishes to emphasize, however, that these observations are in no way exhaustive and are not intended to limit the scope of the initial report.

B. Positive aspects

6. The Committee takes note of the ratification by the State party of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography on 27 October 2009 and of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict on 24 September 2010.

7. The Committee takes note of the following measures taken by the State party:

(a) The adoption of Indigenous Peoples Promotion and Protection Act No. 5-2011 of 25 February 2011;

(b) The adoption of Republic of the Congo Child Protection Act No. 4-2010;

(c) The introduction of treatment free of charge for persons suffering from malaria or tuberculosis and persons living with HIV/AIDS;

(d) The adoption of Act No. 30-2011, which is designed to combat HIV/AIDS and protect people who are living with HIV;

(e) The introduction of free primary education in 2007;

(f) The adoption of the Nation's Natural Heritage Protection Act of 16 July 2010 and National Cultural Policy Act No. 5-2010 of 26 July 2010.

C. Principal subjects of concern and recommendations

8. The Committee notes with concern that the National Human Rights Commission is not in full conformity with the Paris Principles.

The Committee requests that the State party include information in its initial report on the steps taken to bring the National Human Rights Commission into full conformity with the Paris Principles, particularly with respect to the selection and designation of members of the Commission, the representation of women and the resources allocated to it. The Committee also requests the State party to provide information on the actions undertaken by the Commission to promote economic, social and cultural rights. The Committee refers the State party to its general comment No. 10 (1998) on the role of national human rights institutions in the protection of economic, social and cultural rights.

9. The Committee is concerned about the extent of corruption in the State party and by reports of the misappropriation of public funds that could otherwise have been used to promote economic, social and cultural rights.

The Committee requests the State party to include information in its initial report on the steps taken to improve public governance and combat corruption. This information should include details on cases of corruption that have been taken to court. The Committee also requests the State party to furnish statistics on public budget allocations to different sectors for expenditures related to economic, social and cultural rights during the last five years.

10. The Committee views the Congolese justice system's lack of independence as a cause of concern. The Committee is also concerned about the problems affecting the justice

system, including a shortage of judges, the costliness of legal proceedings and the inequality of the geographic distribution of courts of law, which deprive the population of access to effective remedies for violations of economic, social and cultural rights.

The Committee requests the State party to provide information on the tangible results of any and all efforts made to reform and strengthen the administration of justice in the State party.

11. The Committee notes with concern that one of the root causes of violations of economic, social and cultural rights in the State party is the lack of public participation in the governance of the country and the limited involvement of non-governmental organizations in public policymaking.

The Committee requests the State party to include information in its initial report on the factors hindering genuine forms of participation on the part of the general public in the governance of the State party, as well as on the steps taken to engage in a more active dialogue with non-governmental organizations, particularly those that work to promote human rights.

12. The Committee is concerned about the fact that the development of the country's oil resources has not had the effect that it would be expected to have in terms of the enjoyment of economic, social and cultural rights.

The Committee requests the State party to provide information on the steps taken to maximize the benefits derived from oil production in terms of the population's enjoyment of economic, social and cultural rights and specifically of the right to work, the right to health, the right to an adequate standard of living and the right to education. The initial report should also contain information on the mechanisms in place to ensure that the revenues from the development of natural resources in the State party are managed in a transparent manner.

13. The Committee remains deeply concerned by the fact that indigenous peoples are being discriminated against and by the situation in which they find themselves despite the adoption of the Indigenous Peoples Promotion and Protection Act in 2011 (art. 2).

The Committee requests the State party to include information in its initial report on the actual extent to which indigenous peoples are able to enjoy their economic, social and cultural rights. This information should cover such matters as the percentage of the indigenous population that is employed, has social security coverage and has access to basic social services, education and health services. The report should elaborate upon the State party's replies to the list of issues by furnishing information on the enforcement of the Indigenous Peoples Promotion and Protection Act of 2011 and on the impact of the capacity-building activities of the members of the National Network of Indigenous Peoples of the Congo as they relate to the observance of the rights set forth in the Covenant. The report should also include an analysis of obstacles to the enjoyment of these rights, as well as information on the impact of the implementation of the 2009–2013 national plan for improving the quality of life of indigenous peoples and of the support programme for the empowerment of indigenous peoples.

14. The Committee notes with concern that people with disabilities suffer from economic and social exclusion despite the adoption in 1992 of Act No. 009/02, which deals with the status, protection and promotion of the rights of persons with disabilities (art. 2).

The Committee requests the State party to include information in its initial report on the development and implementation of legislation and policies on education, employment, social protection and health services for persons with disabilities. The Committee requests the State party to elaborate upon its replies to the list of issues by

including information in its initial report on the effective enjoyment by persons with disabilities of their economic, social and cultural rights. This information should include statistics, disaggregated by sex, on the percentage of persons with disabilities who are employed, the percentage of children with disabilities who are enrolled in school, etc.

15. The Committee remains concerned about the sharp inequalities existing between men's and women's enjoyment of their economic, social and cultural rights despite the efforts made by the State party in a number of areas, such as the adoption of a law aimed at promoting and ensuring the representation of women in public office (art. 3).

The Committee requests the State party to provide full information on the legal and material situation of women and on the steps taken to combat discrimination against them. This information should include statistics on the status of women in a number of areas, including their representation in senior posts in the public and private sectors, the employment of women in the formal and informal sectors of the economy, their access to social services, their enjoyment of the right to health and their position within the family and within marriage, including all matters relating to violence against women.

16. The Committee is concerned about the high rates of unemployment and underemployment existing in the State party, particularly among young people, most of whom work in the informal sector of the economy (art. 6).

The Committee requests the State party to include comparative data in its initial report on unemployment and underemployment, disaggregated by sex, urban/rural location and year. The Committee would also like to have information on how effective the activities of the General Training Directorate and of targeted employment programmes for young people and disadvantaged groups have been in reducing unemployment and underemployment. The Committee would like to draw the State party's attention to its general comment No. 18 (2005) on the right to work.

17. The Committee notes with concern that a large majority of the State party's population has no social security coverage (art. 9).

The Committee requests the State party to include information in its initial report on the steps it has taken to expand social security coverage to include disadvantaged and marginalized groups and individuals and persons who work in the informal sector of the economy and their families. The Committee would like to draw the State party's attention to its general comment No. 19 (2007) on the right to social security.

18. The Committee is concerned by the fact that child labour is widespread in the State party. The Committee is also concerned by the cross-border trafficking of children (art. 10).

The Committee requests the State party to include information in its initial report on the steps taken to combat child labour and the trafficking of children and on the legal proceedings pursued and convictions handed down in that connection. The Committee also requests the State party to provide information on the implementation of the measures for the protection of children referred to in paragraph 23 of its replies to the list of issues.

19. The Committee observes with concern that the rapid pace of economic growth seen in the State party has not led to a clear reduction in poverty or in social disparities and inequalities or to a corresponding improvement in living standards (art. 11).

The Committee requests the State party to include information in its initial report on the steps taken to combat poverty, particularly in rural areas and in disadvantaged and marginalized groups and regions. The Committee would like to draw the State

party's attention to its statement concerning poverty and the International Covenant on Economic, Social and Cultural Rights (E/C.12/2001/10). The Committee also requests the State party to provide comparative data on poverty rates, disaggregated by sex, region and urban/rural location, in its initial report.

In addition, the Committee requests the State party to include information in its initial report on the observance of the right to housing, on evictions, on social housing programmes and on the situation of homeless persons. The Committee refers the State party to its general comment No. 4 (1991) on the right to adequate housing and its general comment No. 7 (1997) on forced evictions (art. 11).

20. The Committee is concerned by the high mortality rates existing in the State party, particularly the infant, child and maternal mortality rates (art. 12).

The Committee requests the State party to include information in its initial report on the steps taken to achieve universal public health-care coverage and to improve public health services. The Committee also requests the State party to furnish recent statistics, disaggregated by sex, urban/rural location and year, on the various indicators, such as morbidity and mortality rates, used to measure the enjoyment of the right to health.

21. The Committee is disturbed by the high HIV seroprevalence rate in the State party (art. 12).

The Committee requests the State party to include information in its initial report on the measures that it has adopted in order to increase the availability and quality of AIDS treatment and prevention services, as well as to provide greater access to those services, together with statistics, disaggregated by sex and by urban/rural location, on the impact of those measures. The Committee would also like to receive information on the State party's legislation concerning the rights of people living with HIV/AIDS.

In addition, the Committee asks the State party to furnish information on: (a) the availability and accessibility of sexual and reproductive health services; (b) sex education programmes in the country's schools; and (c) legislation dealing with abortion and statistics on the abortion rate, disaggregated by age group.

22. The Committee notes with concern that, even though the education system has undergone a major quantitative expansion, the quality of education remains unsatisfactory (art. 13).

The Committee requests the State party to include information in its initial report on the steps taken to upgrade the education provided at all levels. It also requests that the State party include statistics, disaggregated by sex, urban/rural location, level of education and year, for the various indicators of educational quality, such as the retention rate and student/teacher ratio. The Committee draws the State party's attention to its general comment No. 13 (1999) on the right to education.

23. The Committee is concerned about the limited degree to which cultural rights are enjoyed, in practice, in the State party (art. 15).

The Committee requests the State party to include detailed information in its initial report on the nature and scope of the specific measures that it has adopted to fulfil its obligations under article 15 of the Covenant, taking into account the country's cultural diversity. This information should cover, inter alia, access to cultural life for all, the protection of the traditional knowledge of indigenous peoples, and the enjoyment of cultural rights by the members of rural communities, ethnic groups, and underprivileged and marginalized groups.

24. The Committee encourages the State party to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which it signed on 25 September 2009.

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

26. The Committee invites the State party to submit an up-to-date core document in accordance with the harmonized guidelines on reporting under the international human rights treaties (HRI/MC/2006/3).

27. The Committee requests the State party to submit its initial report in accordance with the guidelines adopted by the Committee in 2008 (E/C.12/2008/2) as soon as possible and in any case no later than 30 November 2013. The Committee strongly recommends that the State party consult with civil society organizations during the preparation of its initial report.
