



**International Convention on  
the Elimination  
of all Forms of  
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION  
OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9  
OF THE CONVENTION**

**Ninth periodic report**

**Addendum**

**REPUBLIC OF THE CONGO\* \*\***

[14 March 2008]

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\* This document contains the initial to ninth periodic reports of the Republic of the Congo, due on 10 August 1989, 1991, 1993, 1995, 1997, 1999, 2001, 2003 and 2005, submitted in one document.

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### **List of abbreviations**

AFD	French Agency for Development
AU	African Union
BEAC	Bank of Central African States
CAEMC	Central African Economic and Monetary Community
CEB	Council of Europe Development Bank
CIB	Congolaise industrielle des bois
DDR	Demobilization, disarmament, reintegration
DGPD	General Directorate for Planning and Development
ECCAS	Economic Community of Central African States
FIPAC	International Forum for Indigenous People of Central Africa
GDP	Gross Domestic Product
ICRC	International Committee of the Red Cross
IPOS	Instance permanente d'observation et de suivi (Permanent observation and monitoring unit)
MNR	Mouvement national de la révolution
NGO	Non-governmental organization
OCDH	Observatoire congolais des droits de l'homme (Congolese Human Rights Monitoring Centre)
OHADA	Organization for the Harmonization in Africa of Business Law
OHCHR	Office of the United Nations High Commissioner for Human Rights
PAPN	Port autonome de Pointe Noire (Self-governing port of Pointe Noire)
PIP	Priority Investment Programme
PROGEPP	Project for the management of ecosystems adjacent to the Ndoki National Park
RENAPAC	Réseau national des peuples autochtones (National Network of Indigenous Peoples)
SNR	Service national de reboisement (National Reforestation Service)

## **Introduction**

1. As soon as it gained independence on 15 August 1960, the Republic of the Congo brought its legal system into line with international human rights standards.
2. That led to the ratification of a number of international instruments for the promotion and protection of human rights, including the Convention on the Elimination of All Forms of Racial Discrimination (hereinafter referred to as “the Convention”).
3. The present report is divided into two parts and describes the measures adopted by the Congo to implement the provisions of the Convention. The first part reviews the general context for the implementation of the Convention, while the second part deals with the application in practice of the Convention at the national level.

## **Part I**

### **GENERAL CONTEXT FOR THE IMPLEMENTATION OF THE CONVENTION**

#### **I. GENERAL PRESENTATION OF THE REPUBLIC OF THE CONGO**

##### **A. Geographical situation**

4. The Republic of the Congo is situated in central Africa and lies between 4° N and 5° S and between 11° and 19° E in terms of latitude and longitude. The equator runs through the northern part of its territory.
5. The land area of the Republic of the Congo is 342,000 km<sup>2</sup>. The country extends 1,200 km from north to south and nearly 400 km from east to west. It borders on the Central African Republic and Cameroon to the north, Gabon to the west, Angola and the Democratic Republic of the Congo to the south, the Congo River and its tributary the Oubangui River to the east and the Atlantic Ocean to the south-west. Its Atlantic coast is 170 km long.
6. Its terrain is varied, and its soils are hydromorphic and ferralitic. The country can be divided into three main regions:
  - (a) Plains formed by the Niari valley, the coastal plain and the Cuvette area;
  - (b) Mountainous areas, varying between 800 and 1,000 m in height, including the Mayombe mountain chain, the Chaillu heights and Mount Nabemba, the highest point;
  - (c) Plateau areas, including the Batéké plateau.
7. The hydrographic network is extensive. The Congo river, flowing at over 70,000 m<sup>3</sup>/sec., is the second largest river by volume in the world after the Amazon. There are in addition more than 30 other navigable rivers, including the Kouilou, Niari, Bouenza, Alima, Ngoko, Sangha, Likouala-Mossaka and the Likouala-aux-herbes.

8. Forest and savannah are the predominant vegetation. Dense dry ground forest grows in the dry soil of Mayombe and Chaillu and the north-west plateaux. The forest is largely old-growth and contains a remarkable variety of tree species, including gaboon, limba, mahogany, sappeli and iroko.

9. Dense swamp forest covers a large part of the Cuvette region. Forest galleries line the waterways in the savannah areas, and mangrove trees grow in the saltwater fringe along the Atlantic coast in the Kouilou region. The savannah extends from the edge of the dense northern forest to the seashore. It is crossed by the Mayombe and Chaillu highlands.

10. Those natural conditions explain the variety of animal life in the Republic of the Congo, which make it a major tourist destination. Areas reforested by the National Reforestation Service (SNR) were destroyed by Rwandan refugees, however, who cut down the entire plantation of eucalyptus trees in Kintélé.

### **B. Population**

11. The population is made up chiefly of Bantu and to a lesser degree by indigenous people, generally referred to as Pygmies.

12. The total population is estimated to number 3,110,000, 51 per cent being female and 49 per cent male. No census of the nomadic indigenous people has ever been made so that it is difficult to estimate what percentage of the total population they represent. A programme was launched recently to undertake such a census.

13. The indigenous populations of the Congo live primarily in the departments of Likouala, Sangha, west Cuvette, Plateaux, Pool, Bouenza, Lekoumou and Kouilou.

14. The Republic of the Congo hosts a large number of refugees, mostly from Rwanda, the Democratic Republic of the Congo, Angola, Sierra Leone and Liberia. These are located primarily in Brazzaville, Pointe-Noire, Kintélé, Ngo, Ewo, Owando, Loukoléla, Ouesso and Pokola.

15. The population of the Congo is young: 75 per cent are under 45, and 45 per cent are under 15. The urban population, which represents about 57 per cent of the total population, is concentrated in the two largest cities, Brazzaville and Pointe-Noire.

16. Average life expectancy fell from 53 years in 2002 to 48.5 years in 2006. That decrease can be attributed to a high mortality rate due to infectious diseases, mainly malaria, tuberculosis, HIV/AIDS, typhoid fever and diarrhoeal illnesses.

17. In 2002 the gross birth rate was 44 per 1,000 and the gross mortality rate 16 per 1,000. Annual average population growth in 2004 was 2.93 per cent.

18. The total fertility rate is 6.3 children. The infant mortality rate increased to 1,100 per 1,000,000 live births in 2002 from 890 per 1,000,000 live births a few years ago.

19. A large number of foreign nationals also live in the Republic of the Congo.

### **C. Economic and social situation**

20. The Congolese economy is loosely structured and little diversified. It depends mostly on the export of crude oil and raw timber. Other raw materials present but little developed include copper, diamonds, iron and energy.

21. The structure of the economy has been transformed, with the share of agriculture in GDP dropping considerably. Agricultural production is nowhere near sufficient to meet domestic needs and the country imports nearly 100 billion CFA francs of food every year.

22. In the period 2000-2004, manufacturing represented 9.2 per cent, 1.2 per cent, 7.5 per cent, 8.4 per cent and 3.5 per cent of the economy respectively. Oil currently makes up the bulk of the extractive industry. The forestry sector accounted for most natural resource exports until 1973, when oil became the main extractive industry and leading export. In 2004, the oil sector accounted for 51.6 per cent of GDP and contributed 69.5 per cent of government revenue.

23. The self-governing port of Pointe-Noire (PAPN) has an excellent harbour and can handle large ships with a draught of more than 13 metres. It has a number of specialized facilities, including two container terminals, two timber terminals and cement and grain silos. A wide variety of ships can dock in the port safely, including oil tankers as well as bulk dry cargo, mixed cargo and container ships. Access to the port passes through an 80-hectare harbour basin. This opens onto the bay via a 280 m entry passage extended by a 1,200 m channel.

24. In order to regain its status as a transit hub, the Republic of the Congo launched a Priority Investment Programme (PIP) with funding from various lenders: 13 billion CFA francs from the French Agency for Development (AFD), between 10 and 16 billion CFA francs from the Council of Europe Development Bank (CEB) and 6 billion CFA francs from the Bank of Central African States (BEAC). The total cost of the investment needed to extend the main sea wall in order to reduce silting of the port's entry channel, enlarge the container terminal, modernize water and electrical supply infrastructure and prepare a storage area for timber is estimated to amount to 60 billion CFA francs.

25. The basic economic infrastructure, which affects the population's living conditions directly, and the collective infrastructures are little developed and in an increasingly poor state of repair. The road network for example, which has 17,300 km of asphalted roads, is in poor condition for lack of maintenance.

26. The rural earth roads that carry rural produce are mostly impassable, which considerably restricts the income of rural populations and increases poverty. An estimated 50.1 per cent of the population live below the poverty threshold.

27. The drinking water situation is critical; more than half the population does not have access to drinking water. According to the Social Situation in Congo report prepared by the General Directorate for Planning and Development (DGPD), published in December 2005, only 40 per cent of urban dwellers and 14 per cent of the rural population have access to drinking water. There are also frequent daily power outages, which plunge entire neighbourhoods into darkness for extended periods of time.

#### **D. Legal system**

28. The Congolese legal system recognizes the applicability of international norms as a result of Congo's membership of international, regional and subregional institutions. These include the legal instruments adopted by the United Nations, the African Union (AU), the Central African Economic and Monetary Community (CAEMC) and the Organization for the Harmonization in Africa of Business Law (OHADA). Some of these instruments are supranational in nature, while others are aimed at harmonizing legislation in the area of business law.

29. Pursuant to the Constitution of 20 January 2002, judicial power is exercised by the national courts, which include the Supreme Court, the Constitutional Court, appeal courts, and regional and district courts.

#### **E. Political system**

30. Following the conflicts that have afflicted the country, peace consolidation efforts have led to a return to normal social and political conditions and the demobilization, disarmament and reintegration (DDR) of all ex-combatants with the assistance of the European Union and the World Bank.

31. The current institutional framework is laid down by the Constitution, which provides for a presidential system and the separation of powers into three branches of government:

- (a) The executive branch, made up of the President of the Republic and the Government;
- (b) The legislative branch, divided into two chambers, the National Assembly and the Senate;
- (c) The judicial branch, made up of the national courts.

32. National sovereignty emanates from the people and is exercised by means of universal suffrage through its elected representatives or by referendum.

33. Following the election of the President of the Republic in March 2002, the establishment of the institutional system was completed in March 2005, including the Government, the National Assembly, the Senate, the Constitutional Court, the High Court of Justice, the Court of Accounts and Budgetary Discipline, the Economic and Social Council, the National Human Rights Commission, the High Council for Freedom of Expression and the Ombudsman of the Republic. Only the National Human Rights Commission has not yet held its first meeting.

#### **1. Administrative system**

34. The system of administration is based on a policy of centralization, decentralization and devolution of powers.

35. The central administration is made up of ministerial departments established by presidential decree.

36. Administratively, the country is divided into 10 regional departments, 6 communes, 15 arrondissements and 86 districts.

37. The public authorities opted for a policy of decentralization. This entails a transfer of powers, the allocation of appropriate resources, the election of governing bodies and the creation of a territorial civil service.

38. With a view to facilitating this decentralization, since 2004 the Government has been committed to consolidating a municipal system of government in the administrative centres of the departments, in order to modernize them by providing them with appropriate administrative, social and departmental institutions.

## **2. Jurisdictional and non-jurisdictional mechanisms for the protection of human rights**

39. The Government includes a Ministry of Justice and Human Rights and a Ministry for the Advancement of Women and the Integration of Women in Development. The Ministry of Health, Social Affairs and the Family also plays an important role in the implementation of national human rights policy.

40. There are also non-jurisdictional institutions, such as the National Human Rights Commission, which help to ensure the protection and promotion of human rights in the Republic of the Congo.

41. Steps are currently being taken to:

(a) Review any discriminatory or inappropriate provisions in current legal texts, such as the Family Code, the Code of Criminal Procedure, the Criminal Code and the Code of Civil, Commercial, Administrative and Financial Procedure;

(b) Harmonize domestic legislation with international instruments;

(c) Make the justice system more responsive by bringing it closer to the public with the introduction of an early warning system;

(d) Actively encourage the practical application of legislation protecting girls and women;

(e) Prepare a bill on the promotion and protection of the rights of indigenous peoples.

42. On 1 April 2005 the Government approved, then transmitted to Parliament, a bill authorizing accession to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

43. The Republic of the Congo has ratified the Convention on the Elimination of All Forms of Discrimination against Women and begun the process for accession to the Optional Protocol to that Convention in the form of a bill approved by the Council of Ministers and adopted by the National Assembly and the Senate. The situation is the same for the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa and several related texts.



44. Such measures are indicative of the Congo's commitment to respect the principle of equality before the law for men and women, a commitment enshrined in article 8 of the current Constitution, which states: "All citizens are equal before the law. Women have the same rights as men."

## **II. ASSISTANCE PROVIDED BY THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS**

45. The Republic of the Congo had considered the possibility of appealing for the assistance of the Office of the United Nations High Commissioner for Human Rights (OHCHR) to prepare its common core document and initial report on the implementation of the Convention.

46. For this purpose, regular and very useful contacts were maintained with the United Nations Sub-regional Center for Human Rights and Democracy in Central Africa, based in Yaoundé in Cameroon.

47. Since several Central African States had put in the same request, the Yaoundé Sub-regional Center organized a training seminar on the submission of reports by States to the international treaty bodies supervising the implementation of the human rights conventions.

48. A delegation of the Republic of the Congo attended the seminar and this report has been drafted entirely by Congolese officials.

## **Part II**

### **APPLICATION OF THE CONVENTION**

#### **THE STATUS OF THE CONVENTION IN DOMESTIC LAW**

49. The Republic of the Congo has granted constitutional status to all relevant and duly ratified international human rights instruments. The preamble to the present Constitution states that the Congolese People:

“Declare as an integral part of the present Constitution the fundamental principles proclaimed and guaranteed by:

- (a) The Charter of the United Nations of 24 October 1945;
- (b) The Universal Declaration of Human Rights of 10 December 1948;
- (c) The African Charter on Human and Peoples' Rights of 27 June 1981;
- (d) All relevant duly ratified international human rights instruments;

(e) The Charter of National Unity and Charter of Rights and Freedoms adopted by the Sovereign National Conference on 26 May 1991 and 29 July 1991 respectively.”

50. Accordingly, the provisions of the Constitution, ratified by the Republic of the Congo on 11 July 1988, may be directly invoked before the courts.

## Article 2

### **A. Legislative or other measures adopted to incorporate into domestic law the prohibition of all racial discrimination and the principle of equal treatment for all persons regardless of race, colour, descent or national or ethnic origin**

51. Domestic legislation establishes a significant number of mechanisms for the elimination of all practices that tend to perpetuate discrimination.

52. Article 1 of the Charter of National Unity, adopted on 26 May 1991 following the holding of the Sovereign National Conference, states that: "All human beings are born free and have equal rights. They have the right to the same dignity and equal protection before the law, without distinction."

53. The vision set out in the Charter of National Unity specifically extends protection against discrimination to children. Article 25 of the Charter states: "Every child, without discrimination with regard to race, colour, gender, religion, national or social origin, wealth or birth, has the right to be protected by his family, society and the State in accordance with his needs as a child."

54. That article leaves no room for equivocal interpretation. More than five years after the adoption of the Charter of National Unity, on 15 August 1999, Act No. 19-99 was adopted amending and supplementing certain provisions of Act No. 022-92 on the organization of the judiciary. Article 2 of that Act states that: "All Congolese citizens are equal before the law and all the courts of law. They may act and defend themselves orally or in writing before all such courts, with the exception of the Supreme Court. Justice is dispensed free of charge by all courts."

55. The adjective "Congolese" encompasses all nationals and excludes foreigners. There are, however, certain laws that protect expatriates, asylum-seekers and refugees.

56. The bill on the promotion and protection of the rights of the indigenous peoples guarantees full equality between the indigenous peoples and the Bantu.

### **B. Current status of the bill on the promotion and protection of the rights of the indigenous peoples. Special measures adopted to ensure the development and protection of the Pygmy population, with a view to guaranteeing them full enjoyment of their fundamental human rights and freedoms, in the light of the fact that they do not enjoy equal treatment in a predominantly Bantu society**

57. The gravity of the situation of the indigenous peoples tends to vary from one department to another. The most glaring cases of differential treatment for the two communities occur mainly in the north of the country.

58. The text of the bill on the promotion and protection of the rights of the indigenous peoples was finalized in September 2007 following a particularly long consultation phase involving numerous national, international and United Nations participants. Efforts are now being made to promote the bill in the face of powerful opposition on the part of certain services and

personalities, who argue that the bill is likely to add to the proliferation of legislation, although this has not been borne out so far. Special measures in favour of the indigenous peoples are not always well received in the forestry sector.

59. Former President Marien Ngouabi established the so-called “Villages Centres” some years ago as a means of promoting understanding between the indigenous peoples and their Bantu brothers. That initiative yielded only mixed results due to a lack of follow-up.

60. Today the Government is taking steps to convince the Bantu to consider the indigenous peoples like any other Congolese citizens.

61. Efforts have likewise been directed at changing the attitudes of indigenous peoples, who, as a result of cultural barriers, consider themselves to be inferior to the Bantu. The celebration each year of the international day of solidarity with indigenous peoples in areas with large indigenous communities is part of this policy.

62. The city of Béné, in the Plateaux department, hosted the international day of solidarity with indigenous peoples in 2006 and Ouesso (Sangha) in 2007.

63. In August 2007 a National Network of Indigenous Peoples (RENAPAC) was established with the support of the United Nations Children’s Fund (UNICEF) country office in the Congo. Its purpose is to ensure the promotion and protection of the rights of indigenous peoples.

64. The Congo is gradually taking the necessary steps to better guarantee the basic human rights and freedoms of its indigenous peoples.

### **Article 3**

#### **Legislation currently in force for the application of article 3 of the Convention**

65. The Republic of the Congo strictly prohibits self-identification or the identification of others according to race or ethnicity. Article 8 of the Constitution is very clear in that respect: “All citizens are equal before the law. Any discrimination based on origin, social or material situation, racial, ethnic or departmental origin, gender [...] is prohibited.”

66. The Charter of Rights and Freedoms of the Republic of the Congo grants all citizens, whether Congolese or not, an equal right to dignity and equal protection before the law.

67. Order No. 62-6 of 28 July 1962 already upheld that same principle, prohibiting any action that would have the effect of identifying an individual on the basis of ethnic origin. Article 1 of that Order states that: “Anyone who deliberately alters the appearance of the head or body of a person, in particular by means of indelible tattoos, scarification, filing of teeth or any other procedure intended to identify that person as belonging to a particular ethnic group, shall be liable to either imprisonment of six months to two years or a fine of 50,000 to 500,000 CFA francs, or both of these penalties.”

68. Act No. 8-98 of 31 December 1998 on the definition and punishment of the crime of genocide, war crimes and crimes against humanity categorizes racial segregation as a crime against humanity.

69. Article 6 of that Act states:

“Crimes against humanity shall include any of the following acts, when carried out in the context of a wilful, generalized or systematic attack targeting civilians:

[...]

(h) The persecution of any identifiable group or community for political, racial, national, ethnic, cultural, religious, sexist or other reasons universally recognized as unacceptable under international law.”

By virtue of those provisions Congolese courts have the authority to punish the perpetrators of acts of racial segregation or apartheid.

#### **Article 4**

##### **A. Measures to ensure the application of article 4**

70. In accordance with its international obligations as a United Nations Member State, the Congo prohibits by law any dissemination of ideas based on ethnic hatred and any incitement to discrimination against any group of persons of another ethnic origin.

71. Accordingly, in addition to prohibiting all discrimination, the Constitution of the Congo provides, in article 11, paragraph 2, that: “Any propaganda or any incitement to racial hatred, violence or civil war constitutes a crime.”

72. The Political Parties Act also bans regionalist parties that lack a national constituency.

##### **B. Measures taken to oppose the propensity of some groups and political associations to resort to violent speech and establish paramilitary entities that encourage ethnic hatred and incite discrimination and hostility**

73. Paramilitary militias have been in existence since 1963. In his time, President Massamba-Debat had established the Défense civile, an armed branch of the Mouvement national de la révolution (MNR). His successor followed in his footsteps by instituting the Milice populaire. The opposition between North and South worsened significantly with the advent of democracy, as the President elected following the National Conference hastened to raise a parallel army to confront both the opposition figure Bernard Kolelas, who led a militia called the “Ninjas”, and the current President, who was protected by the “Cobras”.

74. The situation in the Congo is typical insofar as it is marked not only by tensions between North and South but also, depending on the context, within the regions themselves, particularly the South.

75. To address the side effects of the overall situation of the country and the people’s conflicting perceptions of democracy, the Congo has organized high-level forums with the support of political figures from various States of the subregion and continent. Efforts have been made to achieve the demobilization, disarmament and reintegration of former combatants of

every allegiance. One welcome development in the Congo today is the nomination of the rebel Chief Frédéric Bitsangou, alias Ntoumi, as a general delegate attached to the Office of the President in charge of the promotion of peace and related activities.

76. The amnesty granted to many opposition figures in exile a few years ago is also worth mentioning.

## **Article 5**

### **A. Guarantee of equal access to the courts**

77. In accordance with its international obligations, the Congo guarantees equal access for all its citizens to judicial services. Article 2 of Act No. 19-99 of 15 August 1999 amending and supplementing certain provisions of Act No. 022-92 of 20 August 1992 on the organization of the judiciary provides: “All Congolese citizens are equal before the law and the courts. They may act and defend themselves orally or in writing before all courts of law, with the exception of the Supreme Court. Justice is dispensed free of charge by all courts. However, at the close of proceedings, the decision handed down fixes the costs to be borne by the parties, either jointly or in proportion to the seriousness of their respective penalties.”

78. Everyone is guaranteed equality of access to the courts in the Congo. However, it is clear that indigenous peoples find it difficult to apply to the courts despite the abuses and other wrongful acts to which they are exposed. This is the case for the majority of Bantu people. The situation stems from a lack of awareness about court procedures rather than discriminatory exclusion from the judicial process. A significant number of Congolese have yet to comprehend either the role or the importance of courts. This is a national tendency. It reflects the Congolese citizens’ attachment to the practice of resolving disputes on the basis of customary or ancestral rules.

79. Efforts are under way to raise the entire Congolese population’s awareness of the need to apply to the courts to settle disputes and contentious matters. The indigenous peoples are therefore not intentionally excluded from the judicial process in the Republic of the Congo.

### **B. Cases of violence, abuse of power and violations of physical integrity committed against indigenous peoples**

80. In 2004 a non-governmental organization (NGO) reported cases of violence, abuse of power, cruel, inhuman and degrading treatment and systematic violations of physical integrity committed against indigenous peoples in the Congo’s northern region.

81. These actual or alleged serious assaults were reportedly carried out by law enforcement officers, including prison guards and “eco-guards” of the project for the management of ecosystems adjacent to the Ndoki National Park. In the light of the particular seriousness of the allegations, the Government assigned agents of the Ministry of Forest Economy to Pokola and Kabo, where both the Congolaise industrielle des bois (CIB) timber company and the project are located, to look into the reports. In the light of the information gathered, steps were taken by the Government to ensure that indigenous people fully enjoy their rights.

82. The Congolese Government thus established a development unit within the CIB, which was given responsibility for drafting a development plan for the sites exploited by the timber company. The development plan was adopted on 6 December 2006. The unit is coordinated by a Ministry of Forest Economy official and composed of three services, including a community development service.

83. The community development service, which includes 6 indigenous persons among its 11 agents (or 54.54 per cent), has been tasked in particular with drafting the CIB's sustainable forest management documents, taking into account not only the villages where indigenous people live and the areas that they use for subsistence but also their holy sites. Such a requirement specifically fulfils the Congolese Government's repeatedly expressed desire to guarantee the right of indigenous people to use the land under the Pokola and Kabo forest management units.

84. Two vitally important documents were produced for this purpose. The first relates to the sustainable management of natural resources and the second includes participatory social mapping in CIB concessions. This mapping is called participatory, because it has been drawn up in collaboration with indigenous people. It allows for the indigenous people's use of the forest to be taken into account.

85. Moreover, it is worth noting that a technical and operational capacity-building programme for eco-guards has been in place under the above-mentioned PROGEPP project since January 2005. The programme has three specific components:

- (a) Paramilitary training, provided by military defence zones 5 and 6;
- (b) "Technical training", implemented by the Forest Economy service;
- (c) Human rights training, provided by several NGOs such as the Observatoire congolais des droits de l'homme (OCDH) (Congolese Human Rights Monitoring Centre).

86. Lastly, the Congolese Government has instructed the CIB to establish a permanent observation and monitoring unit (IPOS) in collaboration with NGOs to carry out an independent evaluation of all measures taken. This unit is allowed to carry out its work independently and impartially. Its reports are published quarterly and are not treated as confidential.

**C. Statistical data on the representation of ethnic groups in political institutions and public office. Awareness campaign for the Pygmies aimed at increasing their participation in the electoral process and their representation within the country's political institutions**

87. It must be admitted that the level of representation of indigenous people is insignificant. Nevertheless, frequent outreach campaigns have been organized since 2004, in partnership with the United Nations system and other international organizations and national NGOs known for their tenacity, with the aim of ensuring that indigenous people are able to exercise a number of rights and learn to live together with the Bantu in a spirit of harmony.

88. The last activity to date was a national consultation workshop on improving the lives of indigenous peoples in the Congo, held in Brazzaville from 3 to 6 December 2007, in partnership with UNICEF. The workshop led to the drafting of a national plan to achieve the objectives cited above. Strategies relating to every area of the life of indigenous people were adopted and will enable representatives of this community to become systematically involved in the management of public affairs.

**D. Information concerning the granting of civil status certificates, including birth certificates and identity cards**

89. After the repeated conflicts experienced by the Congo, it is clear that in the wake of the destruction and acts of vandalism perpetrated by different belligerents it was difficult to reconstitute civil status records. Even the Bantu had trouble obtaining the required certificates. Nevertheless, in 2005 the UNICEF office in the Congo organized a campaign to issue civil status certificates to all children born shortly before, during and after the hostilities. This operation focused on indigenous children in particular, because it had been found that they had not been registered at all at birth.

90. The initiative has been hindered by the paucity of registers. It must be said, however, that the indigenous people themselves bear a share of responsibility, as many do not bother, out of mistrust or disillusion, to wait for a document whose real importance they underestimate.

91. Indigenous people are not the only persons affected by the remoteness of civil status services. In their case, however, surveys carried out by the services of the Directorate General of Human Rights and Fundamental Freedoms (Ministry of Justice and Human Rights) have made it possible to assess their needs almost exhaustively and to prepare plans for a campaign to enable indigenous people of all ages to obtain civil status certificates without difficulty.

92. With the forthcoming adoption of the bill on the promotion and protection of the rights of indigenous peoples in the Republic of the Congo, more specific measures will be put in place in accordance with the provisions of article 9 of the bill, which seeks to issue civil status certificates systematically to all indigenous people of the Congo.

**E. Information on the Refugee Status Eligibility Commission**

93. In accordance with Security Council resolution 1373 (2001), a Refugee Status Eligibility Commission was created following the attacks of 11 September 2001 under order No. 8041 of 28 December 2001. The Committee may deny or withdraw refugee status in the case of individuals under grave suspicion of involvement in terrorist acts or other activities contrary to the purposes and principles of the African Union and the United Nations.

94. As a party to the four Geneva Conventions of 1949 concerning the protection of victims of armed conflicts and the two Protocols Additional thereto, and the Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa, the Congo makes every effort to implement international legal instruments on refugee protection.

95. Referring to article 1 of the 1951 Convention relating to the Status of Refugees and the OAU Convention of 1969 cited above, article 2 of the foregoing order concerning the Refugee

Status Eligibility Commission states: “The Commission is responsible for providing legal and administrative protection of refugees [and] ensuring the application of international and regional agreements relating to the status of refugees.” The Congo strictly abides by the principle of non-refoulement, while reconciling the State’s and asylum-seekers’ interests.

96. In accordance with article 8 of the foregoing order, the Refugee Status Eligibility Commission must consider an application for asylum or any other request not later than three months after it is filed. Beyond that date, the applicant’s request is considered to have been granted.

97. The Commission is also responsible for providing views on the implementation of any expulsion or extradition measure concerning a refugee or asylum-seeker.

98. The Congo signed a framework security cooperation agreement with Angola and the Democratic Republic of the Congo on 4 December 1999. It also concluded several bilateral mutual legal assistance and security agreements with other States and a cooperation agreement with the States members of the Economic Community of Central African States (ECCAS) and CAEMC.

99. The Congo further maintains judicial and legal relations with the Democratic Republic of the Congo, Cuba and France.

100. Moreover, article 1 of Act No. 25/82, on the extradition of aliens, provides: “In the absence of treaties or conventions, the conditions, procedure and effects of extradition shall be determined by the provisions of the present Act. The present Act shall also apply in respect of points not regulated by treaties or conventions.”

101. The Congo is also a party to the general judicial cooperation convention known as the Tananarive Convention, of 12 September 1961, which governs relations of judicial cooperation between the Congo and other African countries.

**F. Measures taken by the Congolese Government to assist persons internally displaced as a result of tensions and conflicts that have persisted in the Pool region since the presidential elections in 2002**

102. The armed conflicts that inflame or have recently inflamed so many regions of the world bring us the sad spectacle day after day of the brutality of war, with its share of suffering, death and destruction. The Congo is no exception.

103. Since 1997, the successive wars that have harshly affected the Congo, including the war in Pool, which remains the bloodiest of them all, have forcibly displaced many families. The Congolese Government has thus been working with the International Committee of the Red Cross (ICRC) since 1978 to provide assistance to the persons affected and enable them to return to their homes. These cooperative relations were further strengthened after the 2002 elections.

104. ICRC and the Congolese Red Cross have cooperated in many relief efforts for displaced persons since then. This includes the contribution of local branches of the Congolese Red Cross, which have supported ICRC in its distribution of essential goods and agricultural equipment to the people affected by the war in Pool.



105. As part of its work to reunite families, ICRC instituted, in collaboration with the Congolese Red Cross, a Red Cross message service enabling persons separated from their family because of conflict or its consequences to send Red Cross messages to close relatives.

106. In accordance with its mandate and the agreement signed with the competent authorities, several persons deprived of their freedom were visited by ICRC in places of detention in Brazzaville and Pointe-Noire to monitor their prison conditions and treatment.

107. Overall, since October 2003, ICRC has assisted, in collaboration with the Government, nearly 28,000 households in Pool, or around 112,000 inhabitants.

108. The Government has created an environment to enable displaced persons to return to their homes with the primary objective of maintaining a climate of peace and security for all Congolese people.

109. In addition to material assistance to displaced populations, several workshops to raise awareness about international humanitarian law have been organized for the Congolese Armed Forces, the National Police, the Gendarmerie and other armed groups (National Resistance Council).

**G. Measures taken by the Congolese Government to combat double discrimination against women based both on gender and on national or ethnic origin**

110. The principle of the equality of men and women before the law is enshrined in article 8 of the Constitution of 20 January 2002, which provides: “All citizens are equal before the law. Women have the same rights as men.”

111. In the same spirit, article 8 of Act No. 21-2006 of 21 August 2006 on political parties provides that “parties or political groups must guarantee and ensure the promotion and representation of women in all political, electoral and administrative offices”.

112. Civil society also benefits from this constitutional right. NGOs that advocate the political empowerment of women, such as the Centre for the Promotion of Women in Politics, play a decisive role in this respect.

113. In order to ensure the effective application of this article, the Ministry for the Advancement of Women and the Integration of Women in Development established a Commission to draft relevant implementing legislation, composed of senior magistrates, law professors, sociologists and other professionals selected according to their field of work.

114. It should be noted that night work and rest periods for women are regulated by labour laws. However, night work is authorized in the paramedical and communications fields. The right of women to rest periods is governed by article 109 of the Labour Code.

115. A commission has been established by the Ministry of Justice and Human Rights to propose amendments to any provisions in family law that discriminate against women. It also makes proposals to amend criminal law, in particular with respect to provisions making adultery a criminal offence.

116. Tax policies that discriminate against married women have been distinctly improved, as the Directorate General of Taxes is now headed by a woman.

117. A draft bill has been proposed by the Government and submitted to Parliament to enable married couples to be taxed as a household.

118. Nevertheless, people continue to follow customary laws notwithstanding the existence of a modern legal system and even though such laws have officially been repealed. This dual legal system still allows some customary norms to survive, to the detriment of women's social situation in the Congo. This is compounded by the influence of a patriarchal culture based on gender inequality and the notion of male superiority.

119. The Congo is determined to improve this situation, in accordance with its international obligations. The establishment of a Ministry for the Advancement of Women and the Integration of Women in Development in January 2005 reflects this determination. The Ministry aims to help to develop and monitor laws, measures and other provisions aimed at ensuring equality between men and women in the Congo.

120. A centre for research, information and documentation on women was also established by decree No. 99-289 of 31 December 1999. This public institution, under the Ministry for the Advancement of Women and the Integration of Women in Development, serves as a place of welcome, information exchange, education, training and communication for all issues concerning Congolese women and women residing in the Congo.

121. It is also worth pointing out that the Congo has a national policy for the advancement of women and integration of women in development. The policy includes an action plan that has just been updated until December 2008. A national gender policy is now being finalized within the framework of this policy.

#### **H. Water and forest management and consultation with and participation of indigenous peoples**

122. The Government has made efforts to protect the rights of indigenous peoples in its water and forest management activities. Any company that seeks to exploit a forest concession in the Congo is required to submit full specifications of its operations (cahier des charges). The file is jointly reviewed by the Directorate General of the Forest Economy and the Directorate General of the Environment for a technical assessment. It is then transmitted, after submission to the Council of Ministers, to both chambers of Parliament for consideration in ordinary session. A timber licence is granted only upon completion of this process.

123. To date the principles of consultation and participation in decisions concerning indigenous peoples have not been applied because the land concessions granted to a number of timber companies date back a number of years. Although these principles are relatively recent, the Congo has made a commitment since the Rio Declaration on Environment and Development to apply them as much as possible.

124. Since the 2002 World Summit on Sustainable Development, however, the Congo has seen to it that all timber companies involve indigenous people in protecting their sites and natural resources, which they require for their subsistence.

125. Article 6 of the bill on the promotion and protection of the rights of indigenous peoples provides: “The State must ensure that indigenous peoples are consulted to good effect and must put culturally appropriate mechanisms in place for such consultations, prior to any consideration, development or implementation of legislative or administrative measures or development programmes and/or projects that may affect them directly or indirectly.”

126. Consultations with indigenous peoples should be conducted:

- Through institutions representative of the peoples concerned or representatives whom they themselves have chosen
- By appropriate procedures that take account of the way in which they take decisions
- By ensuring the participation of indigenous men and women
- In a language that is understood by the peoples concerned
- By making sure that all information relating to the proposed measures is provided to the peoples concerned in terms that they understand
- In good faith, without pressure or threats, in order to obtain the consent of the peoples concerned

127. A decree adopted by the Council of Ministers will determine the procedures to be used for consultations and the participation of indigenous peoples.

#### **I. Information on the International Forum for Indigenous People of Central Africa**

128. On the Congo’s initiative, the International Forum for Indigenous People of Central Africa was held in Impfondo from 10 to 15 April 2007 on the topic “Implicating indigenous people in the sustainable management and conservation of the forest ecosystems of Central Africa”.

129. The Forum sought to achieve three crucial objectives:

(a) To contribute to building the capacity of the indigenous peoples of Central Africa with respect to their rights under international agreements and national legislation to the sustainable development and preservation of forest ecosystems;

(b) To promote the exchange of experience and recognize and protect the rights of indigenous peoples in the area of sustainable management and conservation of forest ecosystems;

(c) To develop a subregional action plan to involve indigenous peoples more actively in the sustainable management and conservation of the forest ecosystems of Central Africa, in accordance with the provisions of international agreements and national legislation governing biodiversity management and preservation.

130. National reports on the situation of indigenous peoples and sustainable forest resource management were presented exclusively by the delegates of the indigenous peoples attending the Forum.

131. The workshops led to a plenary session, followed by debates. The concerns of indigenous peoples as expressed during the workshops and debates revolved around the following points:

(a) Improving the legal and political status of the indigenous people of Central Africa by ratifying the relevant international legal instruments and adopting national legislation for the promotion and protection of indigenous peoples;

(b) Recognizing the ancestral ties between indigenous people, forests and the land;

(c) Representing indigenous peoples in national decision-making bodies;

(d) Taking into account the concerns and specificities of indigenous communities in national poverty reduction strategies;

(e) Tackling the shortfall in education and training among indigenous peoples;

(f) Addressing health issues to reduce the particularly high mortality and morbidity rates among indigenous peoples;

(g) Protecting and promoting the traditional know-how of indigenous peoples in biodiversity management matters;

(h) Improving the living conditions of indigenous communities;

(i) Valuing the culture and knowledge of the indigenous peoples of Central Africa.

132. Needless to say, indigenous peoples coming from all the countries of Central Africa played an active part at all stages of the Forum.

**J. Measures taken to prevent discrimination against indigenous people and other ethnic groups with respect to the enjoyment of economic, social and cultural rights**

133. The Constitution of the Congo recognizes the right of all Congolese citizens to equal access to economic, social and cultural rights. Some economic, social and cultural rights in particular reflect the will of the Congo to guarantee the enjoyment of those rights.

## 1. Right to work and to social security

134. Under articles 24, 26 and 28 of the Constitution, this requirement is laid out as follows:

- “The State recognizes the right of all citizens to work and must create the conditions that make the enjoyment of this right effective” (art. 24)
- “No one may be subject to forced labour except in the case of a prison sentence handed down by a legally established court. No one may be subject to slavery” (art. 26)
- “All persons have the right to rest and leisure, to limited working hours, regular leave and paid holidays under the conditions determined by law” (art. 28)

135. In addition to the Constitution, the Charter of rights and freedoms provides: “Every person has the right to work, to decent working conditions, to vocational training and to protection against unemployment. All workers have the right without any discrimination to equal pay for equal work. All working persons are entitled to fair and adequate remuneration, complemented, as appropriate, by every available means of social protection, so that they and their families may live in dignity.”

136. Some implementing legislation on the Constitution, such as Act No. 6/96 of 6 March 1996 amending and supplementing some provisions of Act No. 45/75 of 15 March 1975 on the Labour Code in the People’s Republic of the Congo, covers certain work-related aspects. For example, new article 4 provides that “forced or compulsory labour is absolutely prohibited”.

137. Given that the enjoyment of the right to work is guaranteed to all persons in general, the Congo has opted to integrate the provisions relating specifically to indigenous people in the bill on the promotion and protection of the rights of indigenous peoples in the Republic of the Congo. This commitment of the Congo is expressed in articles 28, 29, 30, 31, 32 and 33 of the bill.

138. In accordance with this bill:

- “Indigenous peoples enjoy all the rights established by law in the area of employment, work and social security. The State must take special measures to facilitate the enjoyment of these rights” (art. 28)
- “Any form of direct or indirect discrimination against indigenous peoples in access to employment, working conditions, vocational training, remuneration and social security is prohibited” (art. 29)
- “Special training programmes adapted to the economic, social and cultural situation and specific needs of indigenous peoples must be established” (art. 30)
- “Unless otherwise specified by law, the subjection of indigenous peoples to forced labour, under any form whatsoever, including debt bondage, is prohibited” (art. 31)

- “Indigenous workers are free to create or join labour union movements of their choice, participate fully in these movements, freely choose delegates and stand for election” (art. 32)
- “The trafficking and sexual exploitation in all their forms of indigenous children and women is prohibited” (art. 33)

## **2. Right to enjoy good physical and mental health**

139. Article 30 of the Constitution provides: “The State shall be responsible for public health. Elderly and disabled persons have the right to protective measures in line with their physical, mental and other needs, with a view to their full personal development. The right to establish private socio-medical centres is guaranteed, and such establishments are governed by law.”

140. Since the Constitution does not include indigenous peoples in the category of vulnerable persons, section V of the bill on the promotion and protection of the rights of indigenous peoples is devoted to their health. The bill provides as follows:

- (a) “Indigenous peoples shall be guaranteed access to all health and social services, without discrimination.” (art. 25);
- (b) “The State shall grant indigenous peoples access to primary health care by:
  - (i) Establishing community health centres that are adapted to the needs of indigenous peoples, in the areas in which they live;
  - (ii) Training and employing indigenous health workers in primary, integrated health care, and conducting vaccination and awareness-raising campaigns on health, reproduction, general hygiene and HIV-AIDS, in conjunction with indigenous peoples;
  - (iii) Providing medical and social assistance in the areas in which they live, taking into account the specific situation of indigenous women and children.” (art. 26);
- (c) “The State shall protect the pharmacopoeia of indigenous peoples. Any measures or practices that could undermine the exercise of traditional medicine by indigenous peoples shall be prohibited.” (art. 27).

## **3. Right to education and culture**

141. In the Republic of the Congo, free education is provided in state schools.

142. The Charter of Rights and Freedoms provides in articles 37, 38 and 39:

- (a) “Every person has the right to education. Education shall be free, at least for elementary and basic education. Technical, vocational and preschool education shall be made available to everyone; access to higher education shall be open to all, on a completely equal footing, on the basis of merit. The aim of education shall be to achieve full development of the

human personality and strengthen respect for human rights and fundamental freedoms. Education shall foster understanding, tolerance and friendship between all racial, religious and ethnic groups. Teaching curricula shall include civic education.” (art. 37);

(b) “Every person has the right to take part freely in community cultural life, to enjoy the arts and to participate in scientific progress and enjoy its benefits. Everyone has the right to protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.” (art. 38);

(c) “The State shall promote citizens’ education, ongoing training and literacy.” (art. 39).

143. The Constitution of the Republic of the Congo guarantees the right to education, culture and cultural identity in article 22, paragraph (a), and article 23, paragraph (b). To that end, the Constitution provides:

(a) “The right to culture and to respect for the cultural identity of every citizen is guaranteed. This right shall be exercised without detriment to public order, other people or national unity.” (art. 22, para. (a));

(b) “The right to education is guaranteed. Equal access to education and vocational training is guaranteed. Education provided by state schools shall be free of charge. Schooling shall be compulsory up to age 16. The right to establish private schools is guaranteed, and these schools shall be governed by law.” (art. 23, para. (b)).

144. To this end, Act No. 25-95 of 17 November 1995 amending Schools Act No. 008/90 of 6 September 1990 on reorganization of the education system in the Republic of the Congo was adopted with the aim of standardizing the management and organization of the school system. Free education is provided in the Republic of the Congo to all citizens without discrimination.

145. It is true, however, that a discrepancy exists between the Bantu and the indigenous population with regard to access to education. While the Republic of the Congo is one of the countries in sub-Saharan Africa with the highest number of children in school, boasting a gross enrolment ratio of 91.4 per cent in 2005, the percentage of indigenous children in school is very low.

146. In order to make good its commitment to ensuring that indigenous children go to school in the same way as Bantu children and, especially, to safeguarding the culture and cultural identity of the indigenous population, the Republic of the Congo has devoted two sections of the bill to this matter. The bill provides:

(a) “Indigenous peoples’ customs and institutions complying with the fundamental rights established in the Constitution and with international human rights standards are guaranteed.” (art. 15);

(b) “Any kind of forced integration or assimilation of indigenous peoples shall be prohibited.” (art. 16);

(c) The collective and individual intellectual property rights relating to the traditional knowledge of indigenous peoples are guaranteed. The State guarantees the right of indigenous peoples to a share of any profits resulting from the use, including for commercial purposes, of their traditional knowledge and cultural heritage, according to terms defined in consultation with the peoples concerned.” (art. 17);

(d) “The cultural, intellectual, religious and spiritual assets of indigenous peoples shall be protected. In the event of the cultural, intellectual, religious or spiritual assets of indigenous peoples being used in violation of their traditions and customs and/or without their consent, the offenders shall be subject to the punishment provided for under the legislation in force.” (art. 18);

(e) “Indigenous children shall have access, without discrimination, to all levels and all types of education provided by the national education system. The State shall take special measures to facilitate enjoyment of this right.” (art. 19);

(f) “Any kind of teaching or public information that undermines the cultural identity, traditions, history and aspirations of indigenous peoples shall be prohibited.” (art. 20);

(g) “The State shall design and implement appropriate teaching curricula, services and structures that correspond to the needs and lifestyle of indigenous peoples.” (art. 21);

(h) “The State shall facilitate the training of indigenous teachers.” (art. 22);

(i) “An adult literacy system shall be set up for indigenous adults, adapted to their cultures and in their languages. Details of how this provision is to be implemented shall be specified in a decree passed by the Council of Ministers.” (art. 23);

(j) “The school age requirement shall be waived for indigenous children. If necessary, the State shall take special measures so that indigenous children receive financial assistance at all levels of the education system.” (art. 24).

#### **K. Information on how the country’s different ethnic groups are guaranteed equal access to the labour market**

147. In the Republic of the Congo, the labour market is open to all citizens, without discrimination. Persons seeking admission to the civil service simply submit an application file, which is examined by the Directorate General for the Civil Service.

148. Recruitment to senior public positions, and to all posts, is based on competition and on equal opportunity for all candidates.

149. Recruitment to vacant posts in the private sector is also open to all Congolese citizens. Competition in the private sector is much tougher, as employers demand qualified workers. This may sometimes be regarded as discrimination against the indigenous population, given that very few indigenous people have access to vocational training.



150. The Government does, however, require forestry companies to practise positive discrimination in favour of indigenous people, given that the latter live in the areas where the companies operate. This occurs mainly in the northern part of the country, where Congolaise industrielle des bois (CIB) and Industries Forestières de Ouesso (IFO), for example, give priority to indigenous people when recruiting for work on the identification of forest species because of their extensive knowledge of the forest and local sites.

151. In the Republic of the Congo, access to the labour market cannot be said to be governed by ethnic considerations. In accordance with the bill on the promotion and protection of the rights of indigenous peoples, however, reforms are being considered with the aim of accommodating the particular situation of indigenous people.

#### **L. Discrimination by certain employers who consider themselves to be “masters of indigenous people”**

152. There are frequent reports of discrimination against indigenous people practised by certain Bantus, who consider the former as their subordinates. These facts were related in the report of the research and information mission to the Republic of the Congo by the group of experts of the African Commission on Human and Peoples’ Rights. In fact, this is an ancient tradition. In view of the radically different lifestyles of Bantus and indigenous people, the former tended to consider themselves superior to the latter, and would often employ them to carry out certain activities, such as farm work, hunting and gathering.

153. The Congolese Government, considering that this situation undermines the human rights and fundamental freedoms of indigenous peoples, decided in 2005 that it was necessary to raise Congolese citizens’ awareness of this issue, as the best way to combat the economic exploitation of indigenous people is to change people’s attitudes.

154. Every year, the Congo observes the international day of solidarity with indigenous peoples. This is one example of the Government’s commitment to changing the attitudes of the Congolese people.

155. Similarly, awareness-raising campaigns for Congolese citizens on the rights of indigenous peoples have been aired on local television channels. Some television programmes have indigenous presenters, with the aim of encouraging indigenous people to think of themselves as Congolese citizens, in the same way as Bantus.

#### **M. Access of indigenous people to health centres**

156. Generally speaking, indigenous people are considered in Africa to be “forest people”. In the Republic of the Congo they were encouraged to leave the forests by President Marien Ngouabi. These people now live on the outskirts of towns and villages inhabited by Bantus.

157. In accordance with national policy on public health, health centres are located as close as possible to the people they are intended to benefit. In addition to the large hospitals in the country’s main towns, the Government has set up integrated health centres, which serve as basic operational units.

158. There is no discrimination in access to health centres in the Republic of the Congo. In reality, however, very few indigenous people use the health centres located near villages. This situation, which is regrettable for several reasons, is due largely to the lifestyle of indigenous people, who prefer their traditional pharmacopeia to modern medicine.

159. However, the Government was alerted to the outbreak of epidemics of certain diseases, such as yaws, in several villages inhabited by indigenous people. It is intended to provide health centres with pharmaceuticals adapted to the diseases that particularly affect indigenous people, but work remains to be done in this area.

160. The first paragraph of article 26 of the bill on the promotion and protection of the rights of indigenous peoples provides: "The State shall ensure access by indigenous peoples to primary health care through the establishment of community health centres adapted to the needs of indigenous peoples, in the areas where they live."

161. Pending the implementation of this new health-care policy for indigenous peoples, work has already started on various projects. In partnership with UNICEF and the Catholic Church, a programme to combat yaws was implemented in the department of Likouala. In the department of Sangha, health centres run by the Congolaise industrielle des bois (CIB) in Pokola and Kabo are open to indigenous people. They are given priority in consultations, and a mechanism for special pharmaceutical assistance has been introduced. The State is ensuring that these measures, albeit provisional, are being implemented.

#### **N. Measures taken to promote the education of indigenous peoples and members of other ethnic minorities**

162. The right to education is guaranteed in the Congo, as is equal access to education and vocational training. However, because of their lifestyle and their specific cultural identity, indigenous children do not attend school regularly in the same way as Bantu children.

163. It was therefore planned to consolidate the infrastructure of villages where a large number of indigenous people live, through the policy of constructing "village centres". However, this measure did not yield the anticipated results.

164. Some initiatives are taken by timber companies, in line with their operating agreements, such as building schools specifically for indigenous children.

165. In the context of the bill on the promotion and protection of the rights of indigenous peoples, it is planned to adapt teaching curricula to the needs and lifestyle of indigenous peoples. It is also planned to train indigenous teachers.

### **Article 6**

#### **A. Legal measures implemented in order to comply with obligations under article 6 of the Convention**

166. From a strictly legal standpoint, the right to effective justice is guaranteed in the Congo. In other words, all Congolese citizens and foreign nationals living in the Republic of the Congo

have the right to go to court if their rights are violated. Thus, the Constitution provides in article 9: “[...] all accused persons are presumed innocent until proven guilty following proceedings in which their defence rights are guaranteed.”

167. In addition, article 9 of the Charter of Rights and Freedoms provides:

“All persons have the right to be heard. This right includes:

- The right to complain to the competent courts in the event of any act that violates their fundamental rights, as recognized and guaranteed in the conventions, laws, rules and customs in force
- The right to be presumed innocent, until proven guilty by a competent court
- The right to a defence, including the right to be assisted by counsel of their choice
- The right to be judged by an impartial tribunal, in accordance with the law, within a reasonable time period, as far as possible specified in the legislation in force.”

168. In view of these relevant provisions of Congolese legislation, it can be said that all legislative measures are taken to ensure equitable justice in the area of racial discrimination. However, to date there have been very few applications to Congolese courts in respect of acts of racial discrimination.

### **B. Work of the Refugee Appeals Commission**

169. In accordance with Act No. 35-61 of 20 June 1961 containing the Congolese Nationality Code, with the Convention relating to the Status of Refugees and the Protocol thereto, and with the Convention Governing the Specific Aspects of Refugee Problems in Africa of the Organization of African Unity, and pursuant to Decree No. 99-310 of 31 December 1999 on the establishment, remit, organization and operation of the national committee for assistance to refugees, and to Security Council resolution 1373 (2001), a Refugee Appeals Commission was established in the Republic of the Congo following the attacks of 11 September 2001, by Order No. 8040 of 28 December 2001.

170. The Refugee Appeals Commission is responsible for:

- (a) Examining all appeals lodged against a decision or opinion of the Refugee Status Eligibility Commission;
- (b) Ruling on final decisions handed down by the Refugee Status Eligibility Commission concerning the expulsion or extradition of a refugee or asylum-seeker.

171. The appeal must be lodged with the Commission within 30 days of notification by the executive secretary of the decision handed down (article 3 of Order No. 8040). Lodging an appeal with the Commission is free of charge.

172. Article 7 provides that “decisions handed down by the Commission in respect of last-resort appeals shall be final”. These decisions must be notified to the interested parties and to the Office of the United Nations High Commissioner for Refugees in good time.

173. It should be noted that the Refugee Appeals Commission is still operational.

### **Article 7**

#### **A. Steps taken or programmes drawn up to protect the culture of different ethnic groups, in particular “Pygmies”, and to promote inter-ethnic tolerance in the country**

174. From a legal standpoint, the continued use of courts based on customary law reflects the Government’s commitment to respecting the cultures of different ethnic groups. The January 2002 Constitution contains provisions that explicitly protect the cultures of all ethnic groups and communities and establish the right to be different. Indigenous people are free to engage in any practices and activities specific to their traditions, providing they do not clash with the provisions of State legislation and regulations.

175. Peace, national unity and harmony have always been recurring themes in the speeches of the President of the Republic. Political parties that have a regional bias and are not represented at national level are prohibited by law.

176. Order No. 62-6 of 28 July 1962 prohibited the practices of marking people as belonging to a particular ethnic group.

#### **B. Various programmes designed to promote human rights, in particular human rights education in schools, universities and training centres for members of the armed forces, security forces and eco-guards**

177. Rather than programmes, cross-cutting projects for the promotion of human rights have been designed, leading to various activities. One of the main projects, entitled “Justice and Human Rights”, has been implemented in partnership with the United Nations Development Programme (UNDP). Under this project, human rights capacity-building seminars were held for civil servants working in human rights departments, and for members of civil society.

178. Also under this project, law clinics were set up in order to provide the public with local centres for human rights information and education. These law clinics can also be used as an appeal mechanism by Congolese citizens if their fundamental rights are violated. This project eventually became the “Governance Programme”.

179. On the basis of this experience, the Government developed a forum for the promotion of human rights on national television, also called “Justice and Human Rights”. The programme is broadcast on Thursday evenings after the 8 o’clock news.

180. In addition to this television programme, lecture/discussion events are held regularly in order to give people the opportunity to express their views about the promotion and protection of human rights in the Congo. Human Rights Day is observed on 10 December each year in a different department, demonstrating the Government's commitment to promoting the people's human rights.

181. Capacity-building for law enforcement officers and members of the Congolese armed forces is achieved through these varied activities. Themes covered include detailed explanation of the Code of Criminal Procedure, international instruments for human rights protection, principles of professional ethics, and many others.

182. In the area of law enforcement, training for senior national police officers has been reformed in order to include more detailed training on international humanitarian law at the National Police Officers Academy (Ecole nationale supérieure de Police).

183. A specific training programme for the Congolese Armed Forces was designed following the presidential elections in 2002, in accordance with the host agreement signed between the Congolese Government and the International Committee of the Red Cross (ICRC). Since then, all training centres have a particular focus on international humanitarian law. Human rights training modules are incorporated on an ad hoc basis into this course on international humanitarian law.

184. Training is also provided to eco-guards. Following complaints by several human rights organizations that eco-guards failed to respect human rights in general, and the rights of indigenous peoples in particular, regular training courses are held for the guards in order to foster a culture of respect for human rights.

185. Brazzaville University already has training modules on human rights. For more than three years, courses providing an introduction to human rights, fundamental rights and freedoms and international environmental law are given at the law faculty. Following reforms to the Degree/Masters/Doctorate system, the human rights course has become a basic module.

186. In addition, regular training courses are held in order to train law faculty students to take part in the African Human Rights Moot Court Competition organized by the Centre for Human Rights of the University of Pretoria (South Africa).

187. A project for human rights education in schools is currently under way. Behavioural excesses on the part of citizens, and the social transformations brought about by the unrest, make it increasingly necessary for human rights modules to be introduced into school and university curricula.

188. It is to be regretted, however, that despite the commendable efforts undertaken, the conclusions, motions, recommendations and other decisions resulting from most forums held are not more widely publicized, particularly among the rural population.

### **Conclusion**

189. Despite the many difficulties experienced in implementing steps to combat racial discrimination, the Republic of the Congo intends to focus on implementing the International Convention on International the Elimination of All Forms of Racial Discrimination in a more practical and effective manner.

190. To this end, the Government of the Republic of Congo is open to all observations and recommendations made by the Committee, and it assures the Committee of its constructive cooperation in the future.

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