



Economic and Social Council

Distr.: General
27 December 2013
English
Original: French

Committee on Economic, Social and Cultural Rights

Concluding observations on the initial report of Gabon*

1. The Committee on Economic, Social and Cultural Rights considered the initial report of Gabon on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/GAB/1) at its 50th, 51st and 52nd meetings, held on 18 and 19 November 2013 (E/C.12/2013/SR.50, 51 and 52), and, at its 68th meeting, held on 29 November 2013, adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the initial report of Gabon (E/C.12/GAB/1), which, although very late, is in conformity with the Committee's guidelines. The Committee regrets, however, that the State party has not replied to its list of issues (E/C.12/WG/GAB/Q/1).

3. The Committee notes with appreciation the presence of a delegation comprising representatives of the Ministry of Justice and of the National Health Insurance and Social Protection Fund.

B. Positive aspects

4. The Committee welcomes the ratification by the State party of the following international human rights instruments:

(a) The Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict (1 October 2007 and 21 September 2010 respectively);

(b) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (22 September 2010);

(c) The Convention on the Rights of Persons with Disabilities (1 October 2007).

5. The Committee notes with satisfaction the adoption of laws and measures by the State party to strengthen the protection of economic, social and cultural rights and contribute to their realization, including:

* Adopted by the Committee at its fifty-first session (4–29 November 2013).



- (a) Order No. 0023/PR/2007 of 21 August 2007 establishing a family allowance scheme for Gabonese of limited means;
- (b) Decree No. 0003/PR/MTEFP of 8 January 2002 on combating child labour;
- (c) Decree No. 000152/PR/MNASBE of 4 February 2002 defining the role, organization and functioning of the National Centre for the Integration of Persons with Disabilities;
- (d) Decree No. 000024/PR/MTE of 6 January 2006 establishing the conditions for checks, investigations and searches to combat trafficking in children in Gabon;
- (e) Decree No. 000873/PR/MFPEPF of 17 November 2006 on the establishment, role and functioning of a National Observatory for Children's Rights;
- (f) The decision adopted in 2011 to issue birth certificates, and birth rulings in lieu of certificates in the case of late registration, free of charge for all children born in Gabon.

C. Principal areas of concern and recommendations

6. The Committee regrets the absence of any specific regulatory or legislative framework that would make it possible to systematize practice in implementing the right to prior informed consultation of indigenous peoples in decision-making processes concerning the exploitation of natural resources in traditional territories (art. 1).

The Committee recommends that the State party ensure the effective and systematic application of the principle of prior consultation in discussions with indigenous peoples, providing the time and space necessary for reflection and decision-making, and allowing free expression, as well as respecting their consent to the realization of a project.

7. The Committee regrets that, despite their constitutional status, the Covenant and its provisions have never been invoked by the courts of the State party. The Committee also regrets that the possibilities for securing an effective remedy in the event of violations of economic, social and cultural rights are limited in the State party owing to the prohibitive cost of court proceedings and the lack of awareness of the Covenant and the remedies available (art. 2, para. 1).

The Committee recommends that the State party take appropriate steps to give effect to the Covenant in the domestic legal order, to bring domestic law generally into line with the Covenant, and to raise the awareness of the general public and members of the judiciary of economic, social and cultural rights and the justiciability of those rights. Accordingly, the Committee urges the State party to introduce an accessible and affordable judicial remedy. The Committee draws the attention of the State party to its general comment No. 9 (1998) concerning the domestic application of the Covenant.

8. The Committee regrets the absence of reliable statistics that would allow for an accurate assessment of the fulfilment of economic, social and cultural rights in the State party (art. 2, para. 1).

The Committee urges the State party to encourage data collection and the production and use of statistics for human rights indicators, including for economic, social and cultural rights. In this respect, the Committee refers the State party to the conceptual and methodological framework for human rights indicators developed by the Office of the United Nations High Commissioner for Human Rights (HRI/MC/2008/3). The Committee requests that the State party include in its next periodic report statistical

data on the enjoyment of each Covenant right, disaggregated by age, sex, ethnic origin, urban/rural population and other relevant status, on an annual comparative basis.

9. The Committee notes the establishment, pursuant to Act No. 19/2005, of the National Human Rights Commission, but regrets that it is not in compliance with the Paris Principles relating to the Status of National Institutions (annex to General Assembly resolution 48/134 of 20 December 1993) and that the human and financial resources available to it do not guarantee its effective functioning (art. 2, para. 1).

The Committee recommends that the State party adopt measures to enable the National Human Rights Commission to comply fully with the Paris Principles and request accreditation by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. It urges the State party to ensure that economic, social and cultural rights are fully covered by the mandate of the National Human Rights Commission and that the necessary resources are allocated for its effective functioning.

10. The Committee takes note of the establishment of the National Commission against Illicit Enrichment in May 2003 and the adoption of the National Strategy to Combat Corruption and Money Laundering. However, the Committee considers the prevalence of corruption in the State party to be a matter of concern (art. 2, para. 1).

The Committee recommends that the State party intensify its efforts to combat corruption and related impunity, and to ensure absolute transparency in the conduct of public affairs, both in law and in practice. The Committee further recommends that the State party take measures to draw the attention of politicians, members of parliament and national and local officials to the economic and social costs of corruption, and that of judges, prosecutors and members of law enforcement agencies to the importance of the strict application of the law.

11. The Committee is concerned that article 13 of the Constitution and the legislation in force in the State party do not guarantee full protection against all forms of discrimination, in accordance with article 2 of the Covenant (art. 2, para. 2).

The Committee recommends that the State party adopt a general anti-discrimination bill that guarantees the effective protection of all persons against direct and indirect discrimination in relation to all the rights set out in the Covenant. The Committee draws the State party's attention to its general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights. The Committee also calls on the State party to ensure that any legislative measures taken in this area provide for deterrent penalties for the perpetrators of acts of discrimination.

12. The Committee regrets the discrimination and stigmatization of all low-income and marginalized individuals and groups, including women, persons with disabilities, lesbian, gay and bisexual and transsexual (LGBT) persons, children born out of wedlock, migrant workers and their families and Pygmy communities (art. 2, para. 2).

The Committee urges the State party to ensure that all low-income and marginalized individuals and groups can permanently exercise the rights recognized in the Covenant, in particular in respect of access to employment, social services, health care and education.

13. The Committee regrets that provisions that discriminate against women, including the possibility of applying customary law in matters of succession and the non-recognition of married women as independent landowners, have been maintained in domestic legislation (art. 3).

The Committee recommends that the State party revise its legislation and amend any provisions that are discriminatory or likely to lead to direct or indirect discrimination once enforced, ensuring that it prohibits any form of discrimination in the exercise of economic, social and cultural rights.

14. The Committee is particularly concerned by the persistence of practices that are harmful to women and girls, such as early marriage, forced marriage, polygamy, widowhood practices, levirate and female genital mutilation, as well as of stereotypes that discriminate against women and constitute a violation of women's fundamental rights under the Covenant (art. 2, para. 2, and art. 3).

The Committee urges the State party to redouble its efforts to combat all practices that are harmful to women and girls, by, for example, acting on the results of studies that are corroborated by empirical data on the root causes of such practices, paying due attention to their various manifestations in ethnic groups and in customs, and conducting an ongoing awareness campaign to draw attention to such practices.

15. The Committee expresses its concern at the scale of unemployment in the State party, despite the implementation of a national policy that makes employment a "top priority". The Committee is also concerned that unemployment currently affects 60 per cent of young adults (art. 6).

The Committee recommends that the State party expedite the adoption and implementation of the national employment policy and a long-term operational action plan incorporating a human rights-based approach. In this context, the Committee recommends that the State party adopt a strategy to effectively address the causes of youth unemployment, while creating employment opportunities for young people and strengthening vocational training activities adapted to the needs of the market. The Committee draws the attention of the State party to its general comment No. 18 (2005) on the right to work.

16. The Committee takes note of the Government's position that the policy of "gabonization" of employment is not intended to introduce practices that discriminate against foreign workers. However, the Committee is concerned about the discriminatory practices that may arise from this policy because of the introduction of barriers to the employment of Gabonese nationals of foreign origin, or of practices that facilitate their dismissal (arts. 2 and 6).

The Committee reminds the State party of its obligation to ensure that its policies and legislation comply, both in law and in practice, and without any discrimination, with the right of all persons to work, including the possibility to earn their living by work which they freely choose or accept.

17. The Committee regrets that the State party has not provided reliable and complete data on the number of persons with disabilities and their enjoyment of economic, social and cultural rights, especially in the areas of employment, health and education.

The Committee requests the State party to provide in its next periodic report detailed information, disaggregated by year, sex and age, on the situation of persons with disabilities; the measures taken to enable them to enjoy fully their economic, social and cultural rights; the outcome of those measures and statistics on the employment rate for persons with disabilities.

18. The Committee is concerned by the low level of the minimum wage, which does not allow workers and members of their families a decent standard of living. It is also concerned that the minimum wage does not apply to workers in the informal economy (arts. 6 and 7).

The Committee urges the State party to ensure that the minimum wage is revised regularly, taking strict account of the cost of living for workers and their families so that it allows all workers and members of their families a decent standard of living. It also urges the State party to enforce the minimum wage in the public and private sectors, including the informal economy.

The Committee also invites the State party to provide in its next periodic report information on the coverage of the minimum wage and enforcement mechanisms and their effectiveness.

19. The Committee notes with concern the lack of equality of opportunity and treatment between women and men with regard to access to employment and an occupation, and with regard to wages (art. 7).

The Committee recommends that the State party:

- (a) Conduct a review of all the impediments to women's employment and working life;**
- (b) Adopt temporary special measures to promote their access to all jobs and all occupations;**
- (c) Explicitly include in the Labour Code the principle of equal pay for work of equal value for men and women, and ensure its effective implementation;**
- (d) Take account of general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights.**

20. The Committee is concerned about the lack of regulation of the informal sector and the fact that people working in the informal economy are deprived of the enjoyment of their economic, social and cultural rights (art. 7).

The Committee urges the State party to strengthen its efforts to regulate the informal economy. In this regard, the Committee recommends that the State party redouble its efforts to progressively reduce the level of employment in the informal sector, including by affording all workers the right to register and join social security schemes, regardless of whether or not their employer is registered. It also recommends that the State party systematically include the informal sector in the operations of the labour inspection services, deal with regulatory obstacles to job creation in the formal economy, and raise public awareness of the fact that labour rights, particularly the right to just and favourable working conditions, apply to the informal economy.

21. The Committee is concerned about reports that union leaders and members are discriminated against and dismissed from their jobs because of their trade union activities (art. 8).

The Committee recommends that the State party respect the right of all workers to take part in union activities, in accordance with article 8 of the Covenant. It also calls upon the State party to protect unionized workers and their leaders from acts of intimidation, including by ensuring that such acts are investigated and those responsible are tried and punished.

22. The Committee notes with concern that, despite the entry into force of Order No. 0022/PR/2007 establishing a mandatory health insurance and social security scheme, and Order No. 0726/PR/2007 on a family allowance scheme for Gabonese of limited means, a large portion of the State party's population is still not covered by any health insurance or social security scheme (art. 9).

The Committee urges the State party to expedite the implementation of the above-mentioned orders so as to achieve the extended coverage provided for and guarantee access to a health insurance and social security scheme for all, especially for low-income or marginalized persons and groups.

23. The Committee is concerned about the large number of persons trafficked from, through and within the State party for purposes of sexual exploitation and forced labour, the low rate of prosecutions and convictions of traffickers, and the limited access to witness protection programmes (art. 10).

The Committee urges the State party to step up its efforts to combat trafficking in persons, including by ensuring:

(a) **The systematic collection of data on the various forms of trafficking in persons in the State party;**

(b) **The investigation, prosecution and punishment of those responsible in a manner proportionate to the seriousness of the acts committed;**

(c) **The allocation of sufficient funds for the implementation of the National Programme to Combat Trafficking in Persons;**

(d) **Adequate access for victims to assistance, rehabilitation and reintegration programmes and to witnesses protection programmes;**

(e) **Mandatory training for police officers, prosecutors and judges on the prevention of trafficking in persons and on the strict application of the criminal provisions punishing it.**

24. The Committee notes with concern that child labour is still widespread, especially in the agricultural and informal sectors, despite the State party's efforts in this regard. The Committee notes with concern that the legal framework does not fully reflect the relevant international legal standards in the area of child labour, particularly in relation to the specification of categories of hazardous work (art. 10, para. 3).

The Committee recommends that the State party intensify its efforts to combat all forms of child labour, including by:

(a) **Conducting labour inspections in the agricultural and informal sectors;**

(b) **Ensuring that employers who exploit child labour are prosecuted;**

(c) **Strengthening the domestic legal framework by bringing it into line with the Covenant and other applicable international legal standards, including the International Labour Organization (ILO) Worst Forms of Child Labour Convention, 1999 (No. 182);**

(d) **Ensuring that child victims of such exploitation and their families are systematically supported and included in a rehabilitation programme adapted to their specific needs.**

25. The Committee notes with concern that the great majority of the population of the State party, including women, older persons and young people, live in poverty despite the implementation of a poverty reduction strategy. The Committee also notes with concern that poverty takes extreme forms and affects more people in urban areas, where inequalities in income distribution remain particularly worrying (art. 11).

The Committee recommends that the State party ensure that the poverty reduction and employment promotion strategy prioritizes and allocates resources to the fight against poverty in urban areas and in the poorest regions, with a view to, inter alia, reducing inequalities in the distribution of wealth. The Committee draws the State

party's attention to its statement entitled "Poverty and the International Covenant on Economic, Social and Cultural Rights" (E/2002/22-E/C.12/2001/17, annex VII).

26. The Committee notes with concern the shortage of housing in the State party and the precarious state of the dwellings in which the greater part of the population live, in areas without access to safe water or adequate sanitation facilities. The Committee is also concerned that the target for the construction of new housing in 2011 has not been met, especially considering that the targets for the following 10 years are far more ambitious (art. 11).

The Committee recommends that the State party allocate sufficient budgetary resources to guarantee the implementation of the housing plans and policies it has adopted, especially for low-income or marginalized persons and groups. The Committee also recommends that the State party take immediate measures to guarantee access, at an affordable price, to safe water and improved sanitation facilities. The Committee draws the State party's attention to its general comment No. 15 (2002) on the right to water.

27. The Committee is concerned about the slow pace of the development and implementation of agrarian reform (art. 11).

The Committee urges the State party to develop and implement a consistent and effective agrarian reform strategy with quantified targets and a timetable for implementation, to remove impediments to access to land ownership and permit access to land security, credit and agricultural machinery and technology, thereby strengthening farmers' capacity to meet their own needs and those of their families, and improving food security and the enjoyment of the right to food in the State party.

28. The Committee notes that, despite the State party's efforts, the resources allocated to the health sector remain inadequate. In this regard, the Committee notes the lack of human resources and adequate health infrastructure, the high cost of health care, as well as the extent of public health problems such as malaria, diarrhoeal diseases, malnutrition and infant and maternal mortality rates (art. 12).

The Committee urges the State party to increase the resources allocated to the implementation of the national health policy and to draw up a timetable for meeting the Abuja Declaration target. The Committee also recommends that the State party ensure that necessary measures are taken to alleviate public health problems as part of the implementation of the policy. The Committee refers the State party to its general comment No. 14 (2000) on the right to the highest attainable standard of health.

29. The Committee is concerned about the high HIV prevalence rate in the State party, especially among disadvantaged groups. The Committee welcomes the adoption of resolution 19/83 in 2011, which expands free access to antiretroviral treatment. The Committee notes with concern, however, that support for persons living with HIV does not extend throughout the whole territory of the State.

The Committee urges the State party to effectively implement resolution 19/83 of 2011, including by creating awareness of it among both the general public and the authorities responsible for its implementation. The Committee also urges the State party to extend coverage of free antiretroviral treatment throughout the territory, to ensure that low-income and marginalized groups have equal access to treatment, and to ensure that stable funding is allocated for that purpose, in order to prevent any interruption in the supply of antiretroviral drugs.

30. The Committee notes with concern the high illiteracy, school dropout and repetition rates in the State party. The Committee is also concerned about the fact that the education

system suffers from, inter alia, a severe lack of trained teachers and inadequate curricula (arts. 13 and 14).

The Committee recommends that the State party allocate sufficient resources to uphold the right to education for everyone and to address the root causes of its school dropout and repetition rates. It also recommends that the State party adopt a literacy and non-formal education policy and continue its efforts to ensure that human rights are taught at all levels of the education system. The Committee draws the State party's attention to its general comment No. 13 (1999) on the right to education.

31. The Committee regrets that it has not been provided with information on the application of the principle of cultural self-identification in the State party or on the legally protected rights of ethnic groups (art. 15).

The Committee requests that the State party provide information in its next periodic report on the application of the principle of cultural self-identification in the State party. In view of the State party's ethnic diversity, the Committee recommends that it ensure that its laws protect the rights guaranteed to all ethnic groups, including the right to enjoy their cultural diversity, their traditions, their customs and their own languages, as well as all other manifestations of their identities and cultural ties. The Committee refers the State party to its general comment No. 21 (2009) on the right of everyone to take part in cultural life.

32. 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 24 September 2009.

33. The Committee encourages the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, as well as the Optional Protocol to the International Covenant on Civil and Political Rights and the Optional Protocol to the Convention on the Rights of Persons with Disabilities.

34. The Committee requests that the State party widely disseminate these concluding observations among all sectors of society, particularly the civil service, the judiciary and civil society organizations, and that it provide information in its next periodic report regarding the steps taken to implement them. The Committee encourages the State party to invite civil society organizations to take part in discussions held at the national level leading up to the submission of its next periodic report.

35. The Committee invites the State party to update its core document (HRI/CORE/1/Add.65/Rev.1), submitted in 1998, in accordance with the harmonized guidelines on reporting under the international human rights treaties (HRI/MC/2006/3).

36. The Committee requests that the State party submit its second periodic report, in accordance with the guidelines adopted by the Committee in 2008 (E/C.12/2008/2), by 30 November 2018.