



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

### Concluding observations on the initial report of Guinea\*

1. The Committee considered the initial report of Guinea (E/C.12/GIN/1) at its 3rd and 4th meetings (see E/C.12/2020/SR.3 and E/C.12/2020/SR.4), held on 18 and 19 February 2020, and adopted the present concluding observations at its 30th meeting, held on 6 March 2020.

#### A. Introduction

2. The Committee welcomes the submission of the State party's initial report, although it was submitted very late. The Committee expresses appreciation for the dialogue held with the delegation of the State party and the information provided during the exchange. Recalling that, in 1996, it was obliged to consider the implementation of the International Covenant on Economic, Social and Cultural Rights by Guinea in the absence of a report, the Committee appreciates the efforts made by the State party to ensure the presence of a delegation and to initiate a dialogue.

#### B. Positive aspects

3. The Committee welcomes the measures adopted by the State party that contribute to the realization of the rights contained in the Covenant, such as the numerous laws, policies and strategies mentioned in its initial report (paras. 31–56), in particular the adoption of the National Plan for Economic and Social Development 2016–2020 and the revision of the Mining Code in 2013.

#### C. Principal subjects of concern and recommendations

##### Applicability of the Covenant

4. The Committee notes that, according to article 151 of the Constitution, international treaties become part of the domestic legal order upon their entry into force, without needing to be transposed into a national law, and that international law takes precedence over domestic law. However, it regrets the lack of information on measures taken by the State party to raise the awareness of the general public, judges, lawyers and other public officials of the rights contained in the Covenant and their justiciability.

5. **Recalling its general comment No. 9 (1998) on the domestic application of the Covenant, the Committee urges the State party to improve the training of public officials on the rights enshrined in the Covenant and their justiciability.**

\* Adopted by the Committee at its sixty-seventh session (17 February–6 March 2020).



### **National human rights institution**

6. The Committee notes that Organic Act No. L/08/CNT/2011 of 14 July 2011 on the organization and functioning of the independent national human rights institution is not consistent with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), in particular with regard to the participation of representatives of the executive branch in decision-making.

**7. The Committee recommends that the State party reform the independent national human rights institution to bring it into line with the Paris Principles and ensure that it can be accredited by the Global Alliance of National Human Rights Institutions.**

### **Human rights defenders**

8. The Committee is concerned at the reported conditions in which human rights defenders operate.

**9. Recalling its statement on human rights defenders and economic, social and cultural rights (E/C.12/2016/2), the Committee recommends that the State party effectively protect human rights defenders from harassment, intimidation and reprisals. To this end, it encourages the State party to consult widely with human rights defenders on the preliminary bill intended to amend Act No. L/2005/013/AN of 4 July 2005 on the system of associations in Guinea and to accelerate work on the preliminary bill on access to information and on the draft organic law on the promotion and protection of human rights defenders. It also urges the State party to carry out information and awareness-raising campaigns focusing on the importance of the work of human rights defenders with a view to creating a climate of tolerance in which they can fulfil their mission without fear of intimidation, threats or reprisals of any kind.**

### **Corruption**

10. The Committee regrets the lack of information on measures taken to combat corruption in the State party's initial report. It is concerned about the ineffectiveness of existing measures, the lack of resources allocated to monitoring mechanisms and the lack of adequate protection for those who report or investigate corruption.

**11. The Committee recommends that the State party implement effective measures to combat corruption, including by addressing its causes and protecting whistle-blowers, victims and witnesses.**

### **Maximum available resources**

12. Despite strong economic growth in recent years, a large proportion of the population does not enjoy all economic, social and cultural rights, mainly in the areas of health and education. While acknowledging the difficulties faced by the State party, the Committee is concerned at the lack of resources allocated to the realization of Covenant rights and the fact that budgetary decisions seem to be influenced more heavily by upcoming elections than by the needs of the population.

**13. Recalling its general comment No. 3 (1990) on the nature of States parties' obligations, the Committee recommends that the State party allocate the budgetary resources required for the implementation of the Covenant rights by mobilizing national resources to this end and by seeking, where necessary, international assistance and cooperation.**

### **Data collection and analysis**

14. The Committee regrets that the initial report of the State party contains few figures, and that when such figures are provided, they are rarely recent. It also regrets the lack of disaggregated data.

15. **The Committee recommends that the State party:**

(a) **Improve the collection, analysis and dissemination of comprehensive and comparable data in order to determine the level of enjoyment of economic, social and cultural rights by disadvantaged and marginalized individuals and groups, including persons living in rural areas, persons with disabilities, women and young people;**

(b) **Include, in its next periodic report, the most recent annual comparative statistics available, disaggregated by sex, age, geographical area, disability, religion, ethnic origin and any other parameters necessary to measure the progress made in the realization of the rights contained in the Covenant.**

**Mining operations**

16. The Committee notes the revision in 2013 of the Mining Code and the role of the Local Economic Development Fund in ensuring better distribution of mining revenue throughout the State party. However, the Committee remains concerned about the negative effects of extractive activities on the environment and the health of local communities. It is also very concerned about reports of populations being displaced without adequate compensation, including by mining and hydroelectric companies, and about the delays in validating the local development agreements provided for in article 130 of the Mining Code.

17. **The Committee recommends that the State party:**

(a) **Ensure compliance with the Mining Code, particularly the provisions concerning local development agreements, the proper functioning of the consultation committees in mining communities and the operationalization of the Local Economic Development Fund in all mining areas in order to ensure that communities share in the economic benefits of the mining industry, particularly through the creation of stable and well-paid jobs, and greater transparency and traceability of revenue;**

(b) **Prepare independent studies on the effects of extractive and hydroelectric activities on the enjoyment of economic, social and cultural rights prior to and during the implementation of investment projects;**

(c) **Carry out regular inspections of mining and hydroelectric sites and allocate adequate human, technical and financial resources to the entities in charge of these inspections, especially at the local level, with a particular focus on combating corruption;**

(d) **Step up its efforts to guarantee the quality of water sources, including by establishing the liability of companies and individuals involved in mining activities that lead to the pollution of water sources;**

(e) **Respect the legal guarantees for persons whose property has been expropriated, be they landowners or persons with land usage rights, and ensure that they are consulted and paid adequate compensation and damages, which should be commensurate with the actual value of the land.**

**Non-discrimination**

18. While recognizing that the constitutional and legislative framework of the State party contains anti-discrimination provisions, including in the areas of employment, health and education, the Committee notes the lack of a comprehensive anti-discrimination law. Furthermore, discrimination on the basis of sexual orientation is not a prohibited ground of discrimination and article 274 of the Criminal Code criminalizes sexual relations between consenting adults of the same sex. The Committee also notes that persons with albinism are not protected against discrimination.

19. **Recalling its general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights, the Committee recommends that the State party:**

(a) **Adopt a comprehensive anti-discrimination law, prohibiting all direct and indirect discrimination on any grounds, including sexual orientation;**

(b) **Repeal article 274 of the Criminal Code;**

- (c) **Enact the bill on the promotion and protection of the rights of persons with albinism and adopt its implementing legislation;**
- (d) **Ensure the effective implementation of existing legislation on discrimination and access to effective remedies for victims;**
- (e) **Carry out awareness-raising campaigns to combat stereotypes about individuals and groups at risk of discrimination, such as persons living with HIV/AIDS and persons with albinism.**

#### **Equality between men and women**

20. While noting with satisfaction the adoption of the law on gender parity on 2 May 2019, the Committee nevertheless notes that:

- (a) Women and girls continue to face discrimination in relation to access to land ownership, employment and education, as well as in relation to marriage;
- (b) The number of cases of violence against women, particularly domestic and sexual violence, remains very high.

21. **The Committee recommends that the State party:**

- (a) **Continue to take measures to effectively prevent all forms of discrimination against women and girls, including in relation to access to property, employment and education and in relation to polygamy, and to address customary practices and patriarchal attitudes based on stereotypes;**
- (b) **Make marital rape a criminal offence;**
- (c) **Ensure that cases of violence against women and female genital mutilation are promptly and impartially investigated, that perpetrators are prosecuted and that victims receive reparation, and conduct awareness-raising campaigns in this regard;**
- (d) **Take due 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.**

#### **Persons with disabilities**

22. The Committee takes note of the adoption of Act No. L/2018/021/AN of 15 May 2018 on the protection and promotion of the rights of persons with disabilities. Nevertheless, the Committee remains concerned that the implementing legislation has not yet been adopted and that article 23 of the Act does not explicitly impose a requirement of reasonable accommodation. The Committee is also concerned that persons with disabilities are disadvantaged when it comes to access to education, employment and public goods and services (art. 2).

23. **The Committee recommends that the State party:**

- (a) **Adopt the implementing legislation for Act No. L/2018/021/AN;**
- (b) **Allocate the necessary resources and train teaching staff in order to ensure access to inclusive education for children with disabilities;**
- (c) **Adopt a timeline and allocate the necessary resources for improving the accessibility and availability of public goods and services for persons with disabilities.**

#### **Right to work**

24. The Committee notes the measures taken by the State party to promote employment. It regrets, however, the lack of participation of social partners and workers – including rural and informal sector workers – in the formulation of employment policies. The Committee also notes the lack of updated and disaggregated data on employment and remains concerned at the high rates of unemployment and underemployment, which disproportionately affect women and young people (art. 6).

25. **The Committee recommends that the State party:**

(a) **Redouble efforts to reduce the rates of unemployment and underemployment by adopting strategies with action plans that include specific objectives and identify the financial and technical resources required for their implementation;**

(b) **Prioritize investment in sectors that are labour intensive with a view to generating decent jobs in line with general comment No. 23 (2016) on the right to just and favourable conditions of work;**

(c) **Give priority to the most affected groups, especially women and young people;**

(d) **Reform and diversify vocational and technical training in order to promote the acquisition of the skills needed in the labour market;**

(e) **Improve its system for the collection of data on unemployment and underemployment as a tool for effectively combating those phenomena, by producing data disaggregated by factors relating to the most disadvantaged and marginalized groups;**

(f) **Take due account of general comment No. 18 (2005) on the right to work.**

#### **Informal economy**

26. The Committee notes with concern that workers employed in the informal sector of the economy are not sufficiently protected by labour laws or covered by the social security system (arts. 7 and 9).

27. **The Committee recommends that the State party strengthen its efforts to accelerate the transition from the informal to the formal economy and, in the meantime, extend labour legislation, to the extent possible, to cover workers in the informal economy, including in relation to protection from economic exploitation, the minimum wage and occupational health and safety.**

28. **The Committee refers the State party to its general comments No. 18 (2005) on the right to work, No. 19 (2007) on the right to social security and No. 23 (2016) on the right to just and favourable conditions of work, as well as its statement on social protection floors as an essential element of the right to social security and the Sustainable Development Goals (E/C.12/2015/1). The Committee also refers the State party to the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), of the International Labour Organization.**

#### **Economic exploitation of children**

29. The Committee is concerned at the large number of children who are exploited in economic activities, especially in the informal sector, including in hazardous conditions (art. 10).

30. **The Committee recommends that the State party:**

(a) **Strengthen its legislation, ensure that it is enforced effectively and punish the perpetrators of child labour offences, in particular the worst forms of child labour;**

(b) **Take measures to facilitate the rehabilitation and social reintegration of child labourers and to ensure that they have access to education, including by strengthening support measures for disadvantaged families.**

#### **Birth registration**

31. While noting the planned reform to improve the management of the civil registry, the Committee is concerned that the rate of birth registration remains low, particularly in rural communities, thus depriving children of the opportunity to enjoy their economic, social and cultural rights, particularly their rights to health and education.

32. **The Committee recommends that the State party step up its efforts to increase the rate of birth registration and ensure the issuance of birth certificates, taking into**

account the high rate of illiteracy in the country. In particular, it urges the State party to:

- (a) **Ensure that birth registration and the issuance of birth certificates are free of charge;**
- (b) **Ensure the accessibility of the birth registration services of the civil registry office throughout the country, including by using mobile units;**
- (c) **Carry out campaigns to raise awareness of the importance of birth registration and the relevant procedures, particularly in rural areas.**

#### **Early marriage**

33. While noting that early marriage is not authorized by law in the State party, the Committee is concerned that early marriages remain common, particularly in disadvantaged areas.

34. **The Committee recommends that the State party take the necessary measures, including cultural and educational measures, to end the practice of early marriage, especially among low-income households.**

#### **Trafficking in persons**

35. The Committee notes with concern that trafficking in children remains a major problem and frequently goes unpunished.

36. **The Committee recommends that the State party:**

- (a) **Effectively investigate, prosecute and punish individuals for acts of trafficking in persons;**
- (b) **Establish shelters for victims and ensure that victims have access to assistance, rehabilitation and reintegration programmes.**

#### **Poverty**

37. The Committee is concerned about the high rates of poverty in the State party, particularly in rural areas and among women and children, despite the implementation of poverty reduction programmes such as the National Plan for Economic and Social Development 2016–2020.

38. **The Committee recommends that the State party continue to combat poverty, including by adopting specific measures targeting rural areas, women and children. The Committee recalls goal 1 of the Sustainable Development Goals and draws the State party's attention to the statement it adopted in 2001 on poverty and the Covenant (E/C.12/2001/10). It urges the State party to incorporate a human rights-based approach into its poverty reduction strategies.**

#### **Right to food**

39. The Committee takes note of the Accelerated Food and Nutrition Security and Sustainable Agriculture Programme 2016–2020 but notes with concern that a large number of people suffer from anaemia and face food insecurity and that access to safe drinking water and sanitation remains a major problem, particularly in rural areas. It also regrets the low breastfeeding rate.

40. **The Committee recommends that the State party:**

- (a) **Progressively guarantee all peasants access to support programmes and agroecological solutions without discrimination, respecting the choice of each person, in accordance with the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (A/RES/73/165, annex);**
- (b) **Promote peasants' access to local markets in order to reduce rural poverty;**
- (c) **Build the resilience of agriculture to environmental shocks, taking account of target 1.5 of the Sustainable Development Goals;**

- (d) **Take measures to ensure access to safe drinking water and sanitation throughout the country;**
- (e) **Encourage exclusive breastfeeding for the first six months after birth, including by obliging employers to make accommodations for employees who wish to breastfeed;**
- (f) **Enhance the accessibility of school and community feeding programmes, and the quality of the food they provide, throughout the country;**
- (g) **Take due account of general comment No. 12 (1999) on the right to adequate food.**

#### **Right to housing**

41. The Committee is concerned about the difficulties faced by the most vulnerable persons in obtaining access to adequate housing. It notes with concern that many forced evictions carried out by the State party have left many people without shelter, and that these people have been unable to claim their rights and often do not receive adequate compensation or even humanitarian support.

42. **The Committee recommends that the State party strengthen its efforts to ensure access to adequate housing for all. It urges the State party to take the necessary measures to ensure that evictions, when unavoidable, are carried out in accordance with due process of law, are preceded by consultation with the persons concerned and consideration of alternatives, are subject to appeal, and result in adequate compensation or provision of adequate alternative housing. In this regard, the Committee recalls its general comment No. 7 (1997) on forced evictions.**

#### **Right to health**

43. The Committee notes the numerous programmes adopted by the State party to improve the level of health of its inhabitants, including the formulation of a national health policy. It also notes that the Ebola virus disease epidemic of 2014–2015 had a devastating effect on the State party's health system. The Committee remains concerned at the high maternal and infant mortality rates, the high prevalence of HIV/AIDS and the lack of access to antiretroviral treatment, the lack of medical facilities and the dilapidated condition of existing facilities, the lack of training for medical personnel, the low number of medical personnel per capita and the excessive burden health-care expenditure represents for low-income households.

44. **The Committee urges the State party to take due account of its general comment No. 14 (2000) on the right to the highest attainable standard of health and to take all appropriate measures to:**

- (a) **Effectively combat maternal and infant mortality;**
- (b) **Increase access to antiretroviral treatment and reduce the prevalence of HIV/AIDS;**
- (c) **Improve health-care facilities and the training of health workers;**
- (d) **Increase the number of doctors and paramedical staff.**

#### **Sexual and reproductive health**

45. The Committee is concerned at the high rates of early and unwanted pregnancies, the low level of sexual and reproductive health education, the low level of access to contraceptives and the very restrictive conditions under which abortions can be performed.

46. **Recalling its general comment No. 22 (2016) on the right to sexual and reproductive health, the Committee recommends that the State party:**

- (a) **Step up its efforts to ensure the availability and accessibility of sexual and reproductive health services and access to affordable, safe and effective contraceptives and emergency contraceptives, including for adolescents and particularly in rural areas;**

- (b) **Improve comprehensive, age-appropriate sexual and reproductive health education, including on contraception, for girls and boys in primary and secondary schools;**
- (c) **Relax the conditions under which abortion is permitted.**

#### **Right to education**

47. The Committee takes note of the information provided in the State party's initial report on the education-related challenges the country faces and welcomes the many measures taken to overcome them. The Committee is concerned, however, at:

- (a) The insufficient funds allocated to education;
- (b) The persistence of inequalities in access to education affecting children living in rural areas and children with disabilities in particular;
- (c) The high dropout rate in primary and secondary schools, especially among girls, owing to, inter alia, early marriage and the perception that girls' education is a burden on families;
- (d) The poor quality of teaching on account of the shortage of qualified teachers and the lack of teaching materials and facilities, particularly in rural areas;
- (e) The limited access to water and sanitation facilities in schools;
- (f) The high illiteracy rate, especially in rural areas and in particular among women.

48. **The Committee recommends that the State party:**

- (a) **Increase the resources allocated to education;**
- (b) **Strengthen the various measures and programmes in place in order to address the problem of access to school for children living in rural areas;**
- (c) **Take urgent measures to reduce the high dropout rate in primary and secondary schools, in particular among girls;**
- (d) **Improve the quality of teaching provided and invest more in teacher training, in particular by increasing the capacity of the teacher training colleges so as to provide teachers in need of capacity-building with adequate training;**
- (e) **Improve school infrastructure and learning materials, especially in rural areas, and ensure that all schools have adequate water supply and sanitation facilities and, in particular, separate bathrooms for girls and boys;**
- (f) **Intensify measures to execute the national policy on literacy and non-formal education;**
- (g) **Provide adequate oversight of private educational institutions and ensure that the development of private education does not lead to a two-tier education system, to the detriment of disadvantaged children or those living in rural areas;**
- (h) **Take due account of general comment No. 13 (1999) on the right to education.**

#### **D. Other recommendations**

49. **The Committee encourages the State party to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.**

50. **The Committee recommends that the State party take fully into account its obligations under the Covenant and ensure the full enjoyment of the rights enshrined therein in the implementation of the 2030 Agenda for Sustainable Development at the national level, with international assistance and cooperation when needed. Achievement of the Sustainable Development Goals would be significantly facilitated by the State party establishing independent mechanisms to monitor progress and treating beneficiaries of public programmes as rights holders who can claim**



entitlements. Implementing the Goals on the basis of the principles of participation, accountability and non-discrimination would ensure that no one is left behind. In this regard, the Committee draws the attention of the State party to its statement on the pledge to leave no one behind (E/C.12/2019/1).

51. The Committee recommends that the State party take steps to progressively develop and apply appropriate indicators on the implementation of economic, social and cultural rights in order to facilitate the assessment of progress achieved by the State party in complying with its obligations under the Covenant for various segments of the population. In that context, the Committee refers the State party to, *inter alia*, the conceptual and methodological framework on human rights indicators developed by the Office of the United Nations High Commissioner for Human Rights (see HRI/MC/2008/3).

52. The Committee requests that the State party disseminate the present concluding observations widely at all levels of society, including at the national and regional levels, in particular among members of the National Assembly, public officials and judicial authorities, and that it inform the Committee in its next periodic report about the steps taken to implement them. The Committee encourages the State party to engage with the independent national human rights institution, non-governmental organizations and other members of civil society in the follow-up to the present concluding observations and in the process of consultation at the national level prior to the submission of its next periodic report.

53. In accordance with the procedure on follow-up to concluding observations adopted by the Committee, the State party is requested to provide, within 24 months from the adoption of the present concluding observations, information on the implementation of the recommendations made by the Committee in paragraphs 17 (mining operations), 23 (a) (persons with disabilities) and 32 (birth registration) above.

54. The Committee requests the State party to submit its second periodic report, to be prepared in accordance with the reporting guidelines adopted by the Committee in 2008 (E/C.12/2008/2), by 31 March 2025. In addition, it invites the State party to update its common core document, as necessary, in accordance with the harmonized guidelines on reporting under the international human rights treaties (see HRI/GEN/2/Rev.6, chap. I).

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