



International Covenant on Civil and Political Rights

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Human Rights Committee

List of issues in the absence of the initial report of Equatorial Guinea*

Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. In the light of article 41 (i) of the Constitution, which provides that the President negotiates and signs international agreements and treaties, please provide information on the status of the latter in the hierarchy of norms of the State party and on all the measures taken to ensure that the International Covenant on Civil and Political Rights takes precedence over domestic law in practice. Please provide examples of any cases in which the courts have directly applied the provisions of the Covenant. With regard to the constitutional amendments adopted in 2011, please provide information on the committee responsible for preparing the draft amendments, in particular on the appointment of its members and on its independence. Please indicate whether the State party intends to revise its Criminal Code and Code of Criminal Procedure of 1963, with a view to bringing them into line with the Constitution and the Covenant.

2. Please provide information on the customary law system in force in the State party and on its interaction with the positive legal system and indicate what measures have been adopted to identify potential incompatibilities between customary law and Covenant provisions and to ensure that the latter take precedence. Please provide further information on the availability of effective remedies for individuals claiming a violation of the rights protected by the Covenant. In the light of the interministerial human rights commission, established by Decree No. 45 of 16 May 2014, please provide information on measures to raise awareness of the Covenant, including the individual communications procedure under the Optional Protocol thereto, among the entire population, in particular judges, prosecutors, lawyers and members of the defence and security forces.

3. With regard to chapter 10 of the Constitution, relating to the Ombudsman's Office, please clarify the Office's mandate, its powers and the date it became operational, as well as the measures taken to guarantee its independence. With regard to the National Human Rights Commission, please specify the Commission's powers, especially in terms of investigating cases of violations of human rights and fundamental freedoms, staffing levels, actions undertaken and reports produced, and measures to raise awareness of the institution among the general public. Please also indicate the measures taken to (a) ensure the transparent selection of members and a membership that guarantees the independence of the institution; (b) ensure the equal representation of women on the Commission and among its staff; and (c) provide the Commission with sufficient resources to implement its mandate in full. Please provide information on the Deputy Prime Minister in charge of human rights

* Adopted by the Committee at its 124th session (8 October–2 November 2018).



and the Human Rights Department reporting to the Office of the President, particularly on their mandates and the activities they have carried out.

Anti-corruption measures and natural resource management (arts. 1, 2 and 25)

4. In the light of article 15 (2) of the Constitution, please indicate all the measures taken to effectively combat corruption, which undermines the rule of law and leads to violations of the Covenant. Please describe all the measures taken to ensure the transparent management of natural resources, in line with the provisions of article 1 (2) of the Covenant.

States of emergency and counter-terrorism measures (arts. 2, 4, 6, 7, 9 and 19)

5. In the light of article 44 of the Constitution, in particular paragraph 5, please provide information on existing legislation on states of emergency and its conformity with article 4 of the Covenant. Specifically, please clarify whether derogations from provisions of the Covenant which may not be derogated from during a state of emergency are expressly prohibited. Please also indicate the number of states of emergency that have been declared since the adoption of the Committee's concluding observations of 2004 (CCPR/CO/79/GNQ) and all the measures taken to ensure that the defence and security forces do not commit abuses during a state of emergency. Please provide information on counter-terrorism legislation, in particular, the definition of the crime of terrorism and measures taken to ensure that persons accused of terrorism benefit from the basic guarantees set out in the Covenant. Please respond to allegations that accusations of "support for terrorism" are made on unrelated grounds, including political motives.

Non-discrimination (arts. 2, 7, 13, 26 and 27)

6. In the light of article 15 (1) of the Constitution, please clarify if there is comprehensive legislation that (a) provides a clear definition of and that criminalizes direct and indirect discrimination; (b) contains a comprehensive list of prohibited grounds of discrimination, including sexual orientation, gender identity and disability; and (c) provides effective remedies for victims. Please state the number of complaints of discrimination filed and of prosecutions brought in the State party. Please describe the measures taken to combat and prevent acts of discrimination, stigmatization and violence against (a) persons with disabilities; (b) foreign persons; (c) lesbian, gay, bisexual and transgender persons; (d) persons with HIV; and (e) persons belonging to ethnic minorities. With reference to paragraph 14 of the Committee's previous concluding observations, please specifically address the allegations that the Bubi people of the island of Bioco is a victim of discrimination, oppression and serious abuse.

Gender equality and discrimination, violence and harmful practices against women (arts. 2, 3, 6, 7, 11, 23, 24, 25 and 26)

7. In the light of article 13 (2) of the Constitution and the multisectoral national action plan for the advancement of women and gender equality (2005–2015), please provide further information on the practical implementation of the plan, statistics and other data on its practical impact and any updates. Please indicate all the measures taken to ensure in practice that women are represented in elected positions, in political and public life, especially in decision-making positions. Please indicate whether the State party intends to review its Civil Code, which it inherited from the colonial system, in order to lift all discriminatory measures and adopt a family code in line with the Covenant. Please indicate all measures taken to ensure that women are not subjected to discriminatory practices under customary laws on matters relating to personal status, in particular marriage, polygamy, repudiation and divorce; custody of children; and succession and landownership. Please

indicate whether the State party intends to ensure access to civil justice for women in customary marriages so that disputes having arisen within the context of such marriages can be settled. Please respond to allegations that a decree of the Ministry of Education makes it compulsory for girls to take a pregnancy test prior to their enrolment in school and prohibits their enrolment if they are found to be pregnant.

8. In view of the prevalence of domestic violence against women, please indicate whether the State party intends to adopt a law that establishes it as a separate offence and that proposes an overall strategy to combat such violence. Please respond to allegations that the authorities have failed to respond promptly to reports of abuse, including sexual abuse, and provide the number of complaints filed, investigations initiated and convictions handed down for acts of violence, including sexual violence, against women in the past five years. Please indicate the measures taken to eradicate sexual violence, particularly initiatives to (a) define and explicitly criminalize marital rape; (b) break taboos and dispel fears of stigmatization and encourage victims to file complaints; and (c) provide the police, hospital staff and court officials with training on sexual violence issues. Please provide updated information on the persistence of practices that are harmful to women, including forced and early marriage and the levirate, in the territory of the State party and indicate all the measures taken to counter such practices. Please clarify that the practice of imprisoning women for non-repayment of dowries in case of separation no longer exists.

Voluntary termination of pregnancy and maternal health (arts. 3, 6 and 7)

9. In the light of article 23 (1) of the Constitution, please provide information on existing legislation on voluntary termination of pregnancy and indicate if book I, part VIII, chapter III, of the Criminal Code (arts. 411 ff.) continues to apply in practice. Please indicate, for the period of the last five years, the number of women convicted of intentionally terminating their pregnancies and the penalties imposed, and the number of persons convicted of performing an abortion. Please provide updated information on maternal and infant mortality rates and teenage pregnancy. Please provide information on efforts to ensure access to safe contraception and to education and information relating to contraception and sexual and reproductive health throughout the country, and to address teenage pregnancy.

Death penalty (art. 6)

10. In the light of article 13 of the Constitution, please provide information on the provisions of the Criminal Code, the Code of Criminal Procedure and the Code of Military Justice that relate to the death penalty and indicate (a) the crimes that are punishable by death and those for which a death sentence is mandatory; (b) the groups of people to whom the death penalty does not apply; (c) the number of death sentences handed down since 2008 and the crimes for which the sentences were handed down; and (d) the number of executions that have taken place since 2008. With reference to the information contained in paragraph 48 of the State party's national report submitted for the 2014 universal periodic review (A/HRC/WG.6/19/GNQ/1), please provide information on the draft text establishing a moratorium on executions and the decree establishing a temporary amnesty with respect to the death penalty. Please provide information on the obstacles that are preventing the State party from ratifying the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty.

Unlawful and arbitrary killings and behaviour of security forces (arts. 2, 6, 7 and 9)

11. Please respond to the continuing allegations that the security forces of the State party commit unlawful, arbitrary killings, including during arrests at roadblocks, with the support of the authorities, in particular the Minister of State responsible for national security. Please

respond to allegations that these cases only rarely result in investigations and sanctions against those responsible, which in turn fosters a climate of impunity, and provide, for the period covering the past five years, the number of complaints filed, investigations and prosecutions undertaken, and convictions handed down for unlawful or arbitrary executions. Please provide information on legislation relating to the use of force by security forces and specify whether it is in compliance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, in particular, whether it requires the use of force only where strictly necessary and only to the extent required for the performance of their duty.

Prohibition of torture and cruel, inhuman and degrading treatment and treatment of persons deprived of their liberty (arts. 6, 7, 10 and 17)

12. Please indicate all the measures taken to prevent and combat torture and to ensure the effective application of Act No. 6/2006 of 2 November 2006 on the prevention and prohibition of torture. Please respond to allegations that (a) the defence and security forces of the State party routinely inflict torture and ill-treatment following arrests and during interrogations for the purpose of obtaining forced confessions, especially in the central police stations in Bata and Malabo; and (b) persons suspected of wanting to overthrow institutions are detained and tortured under the direct orders of the executive authorities. Please provide information on the mechanisms for investigating cases of alleged torture or ill-treatment and for filing complaints and gaining access to effective remedies in cases where a person claims to have been subjected to torture or ill-treatment by State officials. Please respond to allegations that judges pay little attention to allegations of torture and indicate whether there are legal provisions establishing the inadmissibility of statements or confessions obtained through torture. Please indicate the measures taken to (a) encourage victims of torture to file complaints and to prevent acts of reprisal or stigmatization; (b) provide victims with reparation and rehabilitation measures in accordance with Act No. 6/2006 relating to the seriousness of offences; and (c) prosecute and punish perpetrators of acts of torture and ill-treatment. Please supply the exact number of complaints filed, investigations and prosecutions undertaken, convictions handed down and compensation payments awarded for acts of torture in the past five years.

13. Please respond to allegations of overcrowding, lack of separation of men, women and children, lack of access to sanitation, medical care and good-quality food, and conditions that generally undermine the dignity of detainees being held in custody in police and gendarmerie holding cells and in prisons. Please provide updated information, disaggregated by place of detention, on the official capacity of places of detention and the actual number of detainees. Please also indicate the budget allocated to prison administration in the past five years. Please respond to allegations that detainees are the victims of violence and abuse, often as a form of punishment, and of inter-prisoner violence that are tolerated by the Government, and indicate the measures to prevent and punish such acts. Please indicate the measures taken to ensure that prison inmates in all of the State party's prisons may receive family visits. Please provide further information on the mechanisms for inspecting places of detention and indicate the number of inspections, disaggregated by place of detention, as well as the follow-up to such inspections.

Slavery, forced labour and trafficking in persons (arts. 3, 6, 7, 8 and 24)

14. Please indicate all the measures taken to ensure the effective application of Act No. 1/2004 of 14 September 2004 on the smuggling of migrants and trafficking in persons, and respond to allegations that (a) the measures taken to combat migrant smuggling and trafficking remain sporadic; (b) smuggling and trafficking is on the rise because of the country's economic appeal; and (c) State party officials are involved in acts of trafficking. In particular, please provide information on measures to protect women and children – nationals and non-nationals – who are among the more vulnerable to sexual exploitation, domestic servitude and forced labour. Please provide information on the measures taken to effectively detect and prevent trafficking cases, to investigate such violations, to punish the

perpetrators and to provide assistance to victims and promote their rehabilitation. Please provide the Committee with detailed information from the last five years on the number of complaints of human trafficking received, the investigations and prosecutions pursued, the convictions secured, the nature of the sentences imposed and the reparation and protection afforded to victims.

Liberty and security of person (arts. 6, 9, 12 and 14)

15. With reference to the information contained in paragraph 20 of the State party's national report submitted for the 2014 universal periodic review, please indicate the measures taken to ensure that the basic legal safeguards of persons in custody are observed, in particular the filing of an arrest report and access to a lawyer. Please respond specifically to the allegations that (a) security forces frequently make arbitrary arrests, specifically targeting foreigners, during which they often request the payment of bribes; (b) many detainees are held for long periods of time unaware of the charges related to their arrest; (c) detainees are arbitrarily denied access to a lawyer; and (d) the right of detainees to be brought promptly before a judge is frequently violated. Please provide information on the provisions relating to pretrial detention, the average duration of pretrial detention, the number of persons held in pretrial detention, and the proportion of the total prison population being held in such detention. Please indicate the measures taken to ensure that all defendants have access to legal assistance and the option of being released on bail, and describe the effectiveness of such measures in practice.

16. Please respond to allegations that individuals are held incommunicado, especially after being abducted in the territory of other States. With reference to paragraph 5 of the Committee's previous concluding observations, please indicate the measures taken to establish a central register for all persons being held in custody and to publish a list of all detainees and detention facilities.

Freedom of movement (art. 12)

17. With reference to paragraph 12 of the Committee's previous concluding observations and in the light of the significant number of checkpoints in the State party, please provide information on the legal provisions regulating the freedom of movement and restrictions thereon, and on the measures taken to ensure that restrictions on freedom of movement, especially those relating to checkpoints, are strictly necessary. Please indicate the measures taken to prevent, combat and punish officers of the security forces who request bribes to allow people to move freely in the territory of the State party. Please respond to allegations that the authorities arbitrarily impose restrictions on freedom of movement and deny entry into the territory to certain individuals, including nationals of the State party.

Independence of the judiciary, administration of justice and the right to a fair trial (arts. 9 and 14)

18. In the light of articles 92 and 96 of the Constitution, as well as paragraph 7 of the Committee's previous concluding observations, please provide information on the measures taken to strengthen the independence of the judiciary, in particular to ensure the principle of separation between the executive and the judiciary. Please respond to allegations that the executive authority, in particular the President, exercises excessive control over the judiciary and that judges consult with the Office of the President regarding some cases. Please provide information on (a) the budget allocated to the justice sector over the past five years, as well as the number of judicial staff and the measures taken to ensure proper training for the judiciary; (b) the procedures for appointing and removing judges and prosecutors and the authorities with powers of appointment and removal; and (c) the functioning of the Supreme Council of Justice and the safeguards aimed at ensuring its freedom from any pressure or interference, especially by the executive power and the President. Please indicate whether there is a legal aid system and, if so, what the

requirements are for granting a lawyer ex officio. In that connection, please respond to the allegations that the executive power has intervened in the operation and composition of the Bar Association.

19. Please provide information on the customary law system, including courts, and on measures to ensure those courts' compatibility with article 14 of the Covenant and paragraph 24 of general comment No. 32 (2007), on the right to equality before courts and tribunals and to a fair trial. Please also provide information on the military justice system introduced in 1968 and on the measures taken to ensure the compatibility of these systems with article 14 of the Covenant and paragraph 22 of the same general comment. Please respond to allegations that military courts have been used to try civilians on the basis of fabricated charges and that judges and defence lawyers have been appointed by political or military authorities.

Communications surveillance and the right to privacy (art. 17)

20. Please provide information on the legal framework for communications, especially with regard to personal data protection, that covers the surveillance, interception, analysis, use and storage of communications and private data. Please respond to allegations that civil society activists, opposition members, journalists and foreign diplomats are the subjects of Internet and telephone surveillance.

Freedom of expression, peaceful assembly and association, and protection of journalists and human rights defenders (arts. 6, 7, 9, 19, 21, 22 and 25)

21. In the light of article 13 (1) (b), of the Constitution, please provide information on the legal and regulatory frameworks governing freedom of the press and indicate the measures taken to ensure a pluralistic media landscape free of censorship in the State party and to ensure that restrictions on freedom of expression are expressly provided by law and strictly necessary, in accordance with general comment No. 34 (2011) on the freedoms of opinion and expression. Please indicate the measures taken to remove the obstacles to journalists' freedom of expression, in particular (a) to allow the emergence of a trade union or association for journalists; (b) to waive the requirement of prior registration for all journalists in the official register; (c) to facilitate the creation of independent media, by establishing an independent public broadcasting licensing authority with the power to examine broadcasting applications and to grant licences; and (d) to remove the offence of contempt in the Criminal Code. Please respond to allegations that (a) national journalists critical of the Government are subjected to censorship, harassment, retaliation, suspension, dismissal and arbitrary detention; (b) newspapers are withdrawn from sale and copies burned, like the weekly *Ebano* in 2017; (c) journalists and foreign media representatives are frequently denied visas; and (d) access to social networks and to some Internet sites is blocked arbitrarily.

22. In the light of article 13 (1) (k), of the Constitution, please provide information on the legal framework in place regarding the granting of permits to hold peaceful assemblies and respond to allegations that permits are rarely granted for demonstrations, that organizers are frequently arrested and that security forces threaten the use of force, abuse and violence against organizers and demonstrators. Please also provide information on the legal framework governing the establishment, dissolution and activities of political parties and associations and describe the measures taken to remove restrictions on the free exercise of the right of association, in particular with regard to the requirement to obtain prior authorization from the Ministry of the Interior in order to establish an organization. Please respond to allegations that the establishment of non-governmental organizations for human rights are systematically denied and that human rights defenders are victims of threats, abuse and harassment. Please provide information on the number of convictions handed down to human rights defenders and journalists in the last five years and indicate the reasons for these convictions and the sentences imposed. With regard to the latter, please indicate the steps taken to ensure the protection of human rights defenders and journalists.

Protection of political opponents and activists and participation in public affairs (arts. 6, 7, 9, 14, 17, 19 and 25)

23. With reference to paragraph 12 of the concluding observations of 2004 and the calls for national dialogue of 29 August 2014 and July 2018, please provide information on measures to ensure political pluralism, universal access to elected positions and a regular rotation in respect of those positions. Please provide information on the measures taken to ensure the independence of the legislative branch of government from the executive branch. Please respond to allegations that (a) opposition parties to the Partido Democrático de Guinea Ecuatorial (Democratic Party of Equatorial Guinea) (PDGE) are given comparatively less time in the media, particularly during an election period; (b) for the 2017 elections, PDGE benefited from public funds, while opposition parties funded their own participation; and (c) public officials are pressured to support PDGE on pain of losing their jobs. Please comment on (a) the dissolution in 2017 of the Ciudadanos por la Innovación de Guinea Ecuatorial (Citizens for the Innovation of Equatorial Guinea) (CI) party and the decision of the Provincial Court of Mongomo, upheld by the Supreme Court, to sentence 21 of its members to heavy prison terms and fines; and (b) the suspension in 2016 of the presidential campaign of Gabriel Nse Obiang of CI. Please also respond to allegations that (a) political opponents are the targets of arrest and arbitrary detention, torture and unfair trials; and (b) opponents' family members are arbitrarily arrested and detained in order to exert pressure on opponents. Please respond to the allegations of the summary execution of a leader of the opposition who was arrested and detained following the attempted coup d'état in January 2018 and provide the results of the report of the investigation initiated by the Government into this case.

24. In the light of the 2016 presidential elections and the 2017 legislative elections, please describe all the measures taken to ensure the holding of free, reliable and transparent elections. Please provide information on the National Electoral Commission, specifically on (a) the guarantees of its independence; (b) its budget and resources in terms of personnel; and (c) on the appointment process and the composition of the Commission. Please comment on allegations of fraud and irregularities during the recent presidential election and respond to allegations that (a) military forces and members of PDGE were present at all polling stations and some polling stations were set up in military barracks or in the surrounding area; (b) the early convening of the presidential election was not in conformity with the Constitution; and (c) the voter registration process was flawed.

25. Please provide information on the legal framework governing citizens' right to information and indicate whether the State party intends to adopt measures to ensure respect for people's right to information, particularly in relation to the State budget, and to ensure the inclusion of all in public decision-making processes, reforms, especially constitutional reform, and the management of the economic benefits of natural resources.
