



International Covenant on Civil and Political Rights

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Human Rights Committee

List of issues prior to the submission of the third periodic report of the Congo*

A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

1. Please report on any significant developments in the legal and institutional framework within which human rights are promoted and protected that have taken place since the Committee's adoption of its previous concluding observations (CCPR/C/79/Add.118). Please report on progress made towards ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

B. Specific information on the implementation of articles 1–27 of the Covenant, including with regard to the previous recommendations of the Committee

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

2. In the light of the sixth preambular paragraph and article 223 of the Constitution, please indicate the measures taken to: (a) ensure in practice that the Covenant has precedence over domestic law; and (b) make the provisions of the Covenant more widely known to the public at large, in particular to public officials, judges, prosecutors and lawyers, and provide examples of cases in which the provisions of the Covenant have been applied by national courts. Please provide information on the remedies available and accessible to any person claiming to be a victim of a violation of the rights protected under the Covenant and indicate the measures taken to make the individual complaints mechanism under the Optional Protocol to the Covenant known to the public at large, in particular to lawyers. Please indicate whether the State party intends to review its criminal legislation, which has not undergone any major reforms since the middle of the twentieth century. Furthermore, with reference to the Committee's previous concluding observations (para. 16),¹ please indicate the steps taken by the State party to withdraw its reservation to article 11 of the Covenant.

3. With reference to Act No. 30-2018 of 7 August 2018 on the powers, organization and functioning of the National Human Rights Commission, please provide information on developments in this regard. In particular, please indicate the measures taken to bring the Commission into conformity with the principles relating to the status of national institutions

* Adopted by the Committee at its 129th session (29 June–24 July 2020).

¹ Unless otherwise indicated, paragraph numbers in parentheses refer to the previous concluding observations adopted by the Committee.



for the promotion and protection of human rights (the Paris Principles), including: (a) to ensure that the process for the selection and appointment of its members is transparent and independent and takes into account the importance of adequate representation of women; (b) to provide the Commission with sufficient resources to enable it to discharge its mandate in full, in particular with regard to its powers to conduct visits and to handle individual complaints; and (c) make the Commission known to the general public.

Anti-corruption measures and natural resource management (arts. 1, 2, 14 and 25)

4. In the light of article 44 of the Constitution and Act No. 3-2019 of 7 February 2019 establishing the High Authority to Combat Corruption, please indicate all measures aimed at: (a) combating corruption, particularly in the judicial system, by remunerating judges, prosecutors and other public officials at a level commensurate with the importance of their functions; and (b) prosecute on the basis of impartial criteria all individuals, including persons at the highest level of the State apparatus, suspected of corruption and illicit enrichment. In particular, please respond to allegations that the country's oil resources are managed without transparency and on terms that do not allow the population of the State party to reasonably enjoy the benefits derived from its national resources.

Efforts to combat impunity and to address past human rights violations (arts. 2, 6, 7 and 14)

5. With reference to the Committee's previous concluding observations (paras. 4 and 8), in particular in the context of the civil wars that shook the country from 1993 to 2002, and also in view of the violence that occurred in the Pool region in 2016 and 2017 and during the period when action was being taken against organized crime in the major urban centres, please provide information on the measures taken: (a) to shed light on past human rights violations committed by both government forces and militias, particularly cases of torture, enforced disappearances, extrajudicial executions and arbitrary arrest and detention; and (b) to guarantee the establishment of the truth and the right to reparation for victims and their families. With reference to the Committee's previous concluding observations (para. 12) and article 12 of the Constitution, please: (a) indicate the measures taken to review the provisions of amnesty laws, in particular Act No. 21-99 of 20 December 1999 on amnesty for acts of war arising from the civil wars of 1993-1994, 1997 and 1998-1999, and Act No. 32-2003 of 27 October 2003 extending Act No. 21-99 to acts of a similar nature committed after 15 January 2000, which promote impunity; and (b) respond to allegations that the ceasefire agreement concluded on 23 December 2017 with the former rebels in the Pool region enshrines, in practice, the impunity of perpetrators of serious violations in that part of the country.

State of emergency, combating the coronavirus pandemic (COVID-19), and measures to combat attacks on State security and terrorism (arts. 2, 4 and 25)

6. With reference to article 157 of the Constitution, please provide information on the existing regulations regarding the application of the state of emergency and their conformity with article 4 of the Covenant. Specifically, please clarify whether the provisions of the Covenant which are non-derogable during a state of emergency are expressly protected. Please provide information on the legal frameworks relating to crimes and offences against State security and their implementation in practice. Please provide information on counter-terrorism legislation and measures taken to ensure that persons suspected and accused of terrorism benefit from the basic guarantees set out in the Covenant. Please also provide information on the measures taken in the context of the COVID-19 pandemic, including on the implementation of article 2 of Decree No. 2020-93 of 30 March 2020 declaring a state of health emergency in the Republic of the Congo and its consequences for the exercise of fundamental freedoms.

Non-discrimination (arts. 2, 3 and 26)

7. With reference to article 15 of the Constitution, please indicate whether the State party intends to enshrine in its Constitution a general prohibition of discrimination and to adopt comprehensive legislation that: (a) provides a clear definition of and criminalizes both direct and indirect discrimination; (b) contains a complete list of prohibited grounds for discrimination, including sexual and gender identity and disability; and (c) provides

effective remedies for victims. Please describe the measures taken to combat and prevent in practice acts of discrimination, stigmatization and violence against persons living with HIV and persons with disabilities. Please provide information on measures taken to prevent and combat acts of discrimination against persons on the grounds of their sexual orientation or gender identity and respond to allegations that: (a) persons frequently suffer stigmatization, discrimination and violence on the grounds of their sexual orientation or gender identity; and (b) members of law enforcement agencies allegedly harass individuals because of their sexual orientation or gender identity, claiming that homosexuality is prohibited, in order to extort money from them.

Unlawful and arbitrary executions and enforced disappearances in the territory of the State party and abroad (arts. 6, 7, 9 and 14)

8. Please indicate the measures taken to combat impunity for law enforcement officials and to respond to allegations that: (a) law enforcement officials have resorted to unlawful and arbitrary killings, including in the context of combating organized crime; and (b) such cases of killing are not systematically investigated. With regard to the case of the 13 young people found dead at Chacona police station on the night of 22–23 July 2018, please: (a) indicate how the judgment of the third criminal tribunal of the Brazzaville Regional Court complies with the provisions of the Covenant; (b) provide information on the outcome of the appeal lodged by the civil parties against the said judgment; and (c) respond to allegations that the investigation was conducted by the police alone, without a medical report and in a summary manner. Please provide information on: (a) the training, oversight and accountability mechanisms intended to ensure that police forces comply with the provisions of the Covenant, including in addressing mob violence; and (b) mechanisms used to investigate abuses committed by law enforcement officials, in particular with regard to their independence and impartiality.

9. Please respond to allegations that: (a) law enforcement officials are still involved in cases of enforced disappearance; (b) such cases are only rarely investigated; and (c) relatives of the disappeared are subject to acts of intimidation. With reference to the case of the 1999 Brazzaville Beach disappearances, please indicate: (a) in what way the judgment handed down by the Criminal Division of the Brazzaville Court of Appeal on 17 August 2017 acquitting the 15 accused persons complies with the provisions of the Covenant; and (b) the measures taken to guarantee the right to the truth for the families of the victims and to ensure that those responsible are identified and punished.

10. In view of the enforced disappearances, acts of torture and arbitrary executions committed on 24 March 2014 in Boali, Central African Republic, by Congolese soldiers of the African-led International Support Mission in the Central African Republic, please confirm the information that please confirm the information that, in April 2018, the Brazzaville Court of Appeal imposed a 3-year suspended prison sentence on three soldiers and, if that is the case, please indicate how this judgment is in line with the provisions of the Covenant.

Protection of civilians and population displacement (arts. 2, 6, 7 and 12)

11. Please respond to the allegations that, during the violence in the Pool region in 2016, government armed forces carried out air strikes against civilian buildings, including schools, causing numerous deaths and material damage, and indicate the measures taken to: (a) establish the chain of responsibility for the strikes, punish those responsible and compensate the victims; and (b) guarantee the protection of civilians in conflict zones. In view of the significant population movements that occurred following the violence in the Pool region in 2016 and 2017, please indicate whether the State party intends to put in place a legislative framework for the protection and assistance of displaced persons.

Prohibition of torture and cruel, inhuman and degrading treatment and treatment of persons deprived of their liberty (arts. 6, 7, 9 and 10)

12. With reference to the Committee's previous concluding observations (para. 13) and the numerous allegations of torture and ill-treatment resulting in death, most often practised with impunity in places of detention, particularly police stations, gendarmeries and the premises of the General Directorate for Territorial Surveillance, please provide information on: (a) measures taken to include a definition of torture in the Criminal Code and to make it

a separate and imprescriptible offence; and (b) complaint mechanisms and remedies available to persons who claim to have been subjected to torture or ill-treatment. In addition, please respond to allegations that: (a) torture is used as a means of punishment and extortion against detainees and as a means of obtaining confessions in the course of investigations; and (b) confessions extracted under torture are accepted as evidence in court.

13. With reference to the Committee's previous concluding observations (para. 15), please provide information on all measures taken to improve the living conditions of detainees and respond to allegations of severe overcrowding, chronic malnutrition and physical abuse leading to deaths, and of unqualified and inadequate numbers of staff in prisons. The Committee notes the measures taken by the State party to improve the hygiene conditions in which detainees are held in order to reduce the spread of COVID-19 and the measures intended to decongest prisons. In this regard, please provide details of: (a) the long-term measures taken to combat prison overcrowding; (b) the status of the prison management reform project, including the construction of new prisons and the rehabilitation of old prisons throughout the country; and (c) the progress achieved in drafting a special status for prison officers and a prison code that gives priority to, inter alia, non-custodial measures. With reference to Order No. 12900 of 15 September 2011 on the internal regulations of places of detention, please elaborate on measures taken to ensure access to places of detention, in practice, for all relevant institutions, including civil society institutions, as well as information on the situation in prisons in the country.

Liberty and security of person and treatment of persons deprived of their liberty (arts. 6, 7 and 9)

14. Please provide information on measures taken to prevent arbitrary behaviour by law enforcement officials and respond to allegations that such officials regularly commit arbitrary acts of violence, racketeering and extortion against the population. Please indicate the measures taken to ensure that fundamental legal safeguards are respected with regard to persons in detention, that arbitrary detentions are prohibited and that those responsible are duly prosecuted. In this regard, please respond to the allegations that: (a) many persons are detained on the basis of mere suspicion or denunciation, without the presentation of a warrant; (b) police officers frequently hold individuals in custody for very long periods, beyond the legal 72-hour limit; and (c) some persons are reportedly detained incommunicado, in particular on the premises of the General Directorate for Territorial Surveillance. In addition, please respond to allegations that the use of pretrial detention is almost systematic and frequently exceeds the legal time limits provided for in the Criminal Code.

Treatment of foreign nationals, particularly refugees and asylum seekers (arts. 2, 6, 7, 9 and 13)

15. Please provide information on the legal frameworks relating to the protection of refugees, migrants and asylum seekers, and on measures to prevent: (a) forced expulsions and returns of asylum seekers and refugees; and (b) acts of violence and discrimination against them. Please respond to allegations that law enforcement officials are frequently guilty of arbitrary acts and violence against refugees from Rwanda, the Central African Republic and the Democratic Republic of the Congo. With regard to the "Mbata ya bakolo" operation carried out between April and September 2014, please indicate the measures taken to: (a) identify and punish those responsible for abuses, including torture, rape and arbitrary detention; and (b) guarantee any person who has been unlawfully expelled the right to request to return to Congolese territory.

Independence of the judiciary and the right to a fair trial (art. 14)

16. With reference to article 168 of the Constitution, please describe measures taken to strengthen the independence of the judiciary, in particular to ensure respect for the principle of the separation of powers, including the independence of the Supreme Council of the Judiciary, and respond to allegations that: (a) the executive branch, in particular the Government, exercises inappropriate and excessive control over the judiciary, namely judges and prosecutors; and (b) the judiciary suffers from a chronic lack of financial resources, leading to serious delays in the administration of justice. With reference to article 9 of the Constitution, please provide information on measures taken to guarantee the rights

of the defence and respond to allegations that opponents of the regime are subjected to summary trials, with judgments handed down in violation of the principle of adversarial proceedings, the right to be presumed innocent and the right of the accused to be present and represented during the proceedings. Please also respond to allegations that some lawyers are subjected to arbitrary arrest.

Right to privacy (art. 17)

17. With reference to the Committee's previous concluding observations (para. 17) and Decree No. 2010-554 of 26 July 2010 on the identification of subscribers to fixed and mobile telephone services and the storage of electronic communications data, please provide information on the provisions applicable to intelligence and specify the safeguards limiting any surveillance, interception, analysis, use and storage of communications and private data.

Freedom of expression (arts. 19 and 25)

18. In the light of article 25 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 for by law and are strictly necessary. Please provide information on the mandate and guarantees of independence of the Higher Council for Freedom of Communication and comment on reports that: (a) the publication and operating licences of certain newspapers or radio programmes have been suspended or withdrawn following the publication of critical content; (b) journalists have been prosecuted, convicted and imprisoned; and (c) journalists have been subjected to expulsion, threats, attacks or acts of police violence. Please clarify whether the measures of 19 March and 20 October 2015 aimed at cutting off all telecommunications in the country are in conformity with the provisions of the Covenant.

Freedom of peaceful assembly and association (arts. 6, 7, 9, 21, 22 and 25)

19. In the light of article 27 of the Constitution and Ordinance No. 62-28 of 23 October 1962 on demonstrations on the public highway, please indicate whether the State party intends to review its legal framework relating to demonstrations in order to ensure that it complies with article 21 of the Covenant. Please respond to allegations that demonstrations are rarely authorized, organizers are frequently arrested and security forces often resort to violence or use force. In this regard, please comment on the allegations that, during the citizens' marches in October 2015, the army was mobilized in Brazzaville and Pointe-Noire and that more than 20 people were killed.

20. Please provide information on the legal and regulatory frameworks governing freedom of association and on the status of the new law adopted by Parliament in 2016. In particular, please clarify how this law is in conformity with the provisions of the Covenant and respond to allegations that, under the new law, the Minister of the Interior could dissolve an association without any judicial supervision.

Participation in public affairs and treatment of political opponents and human rights defenders (arts. 7, 9, 19 and 25)

21. With reference to the work carried out by the National Dialogue Council, please provide information on measures aimed at restoring citizens' confidence in the democratic institutions and ensuring universal access to elected positions and regular rotation of those positions. Please indicate how the October 2015 referendum and the subsequent constitutional reform contribute to the above-mentioned objectives. Please indicate whether the State party intends to review the provisions of Act No. 21-2006 of 21 August 2006 on political parties, which provides for the dissolution of political parties that undermine State security and public order.

22. In view of the 2015 referendum, the 2016 presidential election and the 2017 legislative elections, as well as Act No. 19-2017 of 12 May 2017 amending and supplementing Act No. 9-2001 of 10 December 2001, as amended, on electoral law, please indicate all measures taken to ensure the holding of free, reliable and transparent elections and, in particular, to guarantee the independence of the National Independent Electoral

Commission. Please respond to allegations that the quality of the electoral register does not guarantee the full credibility of elections and that the President of the National Independent Electoral Commission was appointed by the President of the Republic, despite provisions referring to the need for a consensus between the parties in respect of the appointment to that position. Please clarify whether the legal framework contains restrictions on the right to vote and the right to stand for election and, if so, whether they are compatible with the provisions of the Covenant.

23. Please respond to allegations that, following the presidential election of 2016, a large number of opponents were arrested and some of them, including the main opponents, were arbitrarily detained on the basis of Act No. 21-2006 for disturbing public order or undermining State security, and subjected to inhuman treatment. In the light of allegations that political opponents and human rights defenders are subjected to intimidation, violence or arbitrary arrest, please indicate whether the State party intends to adopt a legal framework for the protection of political opponents and human rights defenders.

Rights of ethnic minorities (arts. 2, 25 and 27)

24. With reference to the Committee's previous concluding observations (para. 21), please indicate all measures taken to ensure in practice that there is no de facto discrimination against Pygmy populations, particularly with regard to access to education, participation in public life and the obtention of birth certificates and identity documents. Please respond to allegations that these populations are subject to: (a) acts of violence, including by forest rangers; and (b) evictions or land grabbing. Please indicate measures that have been taken to ensure the participation and prior consultation of these populations.
