



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

### List of issues in relation to the fourth periodic report of the Democratic Republic of the Congo\*

#### I. General information

1. In the light of article 215 of the Constitution, which establishes that international treaties take precedence over laws, please provide examples of court decisions invoking the International Covenant on Economic, Social and Cultural Rights.
2. Please provide information on the parts of the country that are not fully controlled by the State party owing to the presence of armed groups. Please also provide information on the strategies implemented to ensure that Covenant rights are upheld in these places.
3. With reference to the State party report (E/C.12/COD/6, paras. 114 and 127) and to reports that the Human Rights Liaison Body and the Unit for the Protection of Human Rights Defenders are not operational, please describe the specific measures adopted by the State party to protect human rights and environmental defenders, who continue to be subjected to reprisals and, in some cases, are held in prison or have been murdered. Please also indicate the obstacles that are delaying the adoption of the bill on the protection of human rights defenders.
4. Please explain how the State party is planning to implement the Guidelines on Business and Human Rights. Please state whether the State party is planning to develop an action plan on business and human rights, or regulations requiring companies to exercise due diligence in respect of human rights.

#### II. Issues relating to the general provisions of the Covenant (arts. 1–5)

##### Right to freely dispose of natural wealth and resources (art. 1 (2))

5. In view of the shortcomings in the legal and institutional framework that governed the mining sector in the State party until 2018, please provide information on the remedies available to communities that were relocated, displaced or resettled before the entry into force of the new mining regulations and who consider that they have been wronged as a result of the decisions taken. Please provide examples of appeals brought by such communities and their outcome, including in respect of compensation and restitution granted.

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\* Adopted by the pre-sessional working group at its sixty-sixth session (9–13 March 2020).



6. With respect to the mining regulations and their application, please provide information on:

(a) The objectives and nature of the consultations with the local community provided for in article 2 of Act No. 18/001 of 9 March 2018 amending and supplementing Act No. 007/2002 of 11 July 2002 on the Mining Code;

(b) The conditions that may justify population displacement and the decision-making process leading to that measure being taken;

(c) The allocation of mining royalty shares paid to provincial governments and decentralized territorial entities provided for in the provisions on the distribution of mining royalties;

(d) The role and rights of local communities, including women, in decisions on socioeconomic development projects and the technical specifications defining social responsibility, bearing in mind that the provisions of the mining regulations, particularly those of article 26 of Act No. 18/001, seem to accord responsibility for defining and implementing such projects mainly to the holder of mining rights and for approving the technical specifications to the provincial government;

(e) Management processes, including those involving community and civil society participation, and mechanisms to ensure transparency in the use of mining royalty shares;

(f) The measures adopted to ensure that the provisions of the mining regulations and the monitoring of their implementation comply with the Guidelines on Business and Human Rights;

(g) The possibility of introducing provisions on the free, prior and informed consent of indigenous peoples into the mining regulations.

7. Please describe, with examples, how the monitoring carried out by the State party authorities, in particular the Directorate responsible for the protection of the mining environment, makes it possible to enforce the provisions of mining and environmental legislation relating to the “polluter pays” principle.

**National Human Rights Institution (art. 2 (1))**

8. Please indicate the progress achieved in implementing the recommendations made by the Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions in respect of the level of resources required, including to operationalize the provincial offices.

**Obligation to take steps to the maximum of available resources (art. 2 (1))**

9. In order to assess whether the State party uses the maximum of its available resources to give effect to Covenant rights, please provide information on the changes over the past 10 years in:

(a) The proportion of persons living below the poverty line and the level of inequality, preferably defined as the ratio of the total income of the richest decile of the population to the total income of the poorest 40 per cent of the population;

(b) The share of government revenue financed by taxes, separating out income from mining royalties;

(c) The rates of tax on corporate profits and on personal income, the rates of value added tax (excluding taxes on luxury items, tobacco and alcohol, sugared drinks and snacks, and fuel) and the percentage of total revenue generated from the personal income tax levied on the richest decile of the population;

(d) Public expenditure as a percentage of gross domestic product and as a proportion of total public expenditure on social issues (employment, social security, food, housing, water and sanitation, health, education and culture), disaggregated by province and

by rural/urban area, updating the data given in the State party report (E/C.12/COD/6, para. 139), including explanations for any decrease in budget allocations, such as for health;

- (e) The percentage of public expenditure allocated to defence and public security;
- (f) Absolute levels of social spending, adjusted for inflation.

10. Please provide information on the impact of the fight against corruption and of fiscal policy, including the revision of the mining legislation, on the State party's capacity to mobilize more domestic resources for investment in the realization of economic, social and cultural rights. In this regard, please provide information on the impact of the anti-corruption measures described in the State party report (E/C.12/COD/6, paras. 118–126), including data on: (a) the number of cases brought before the Attorney General of the Republic in the past five years; (b) the sanctions imposed on the perpetrators; and (c) the assets resulting from corruption that have been recovered.

#### **Non-discrimination (art. 2)**

11. Please provide information, including statistical data, on the enjoyment of the rights to health, education, housing, water and sanitation by disadvantaged groups (children, persons with disabilities, internally displaced persons and refugees, indigenous peoples, persons with albinism, and lesbian, gay, bisexual, transgender and intersex persons). Furthermore, pending the adoption of the dedicated legislation mentioned in the State party report (E/C.12/COD/6, para. 144), please specify the assistance that is provided to persons with disabilities to prevent them from having to resort to begging in order to survive. Please also specify whether the State party envisages adopting comprehensive legislation to protect against discrimination in all areas.

#### **Equal rights of men and women (art. 3)**

12. Please provide information on specific measures taken by the State party to ensure that women, many of whom are active in the mining sector, are able to earn more income from their activities and are better protected against violence.

### **III. Issues relating to the specific provisions of the Covenant (arts. 6–15)**

#### **Right to work (art. 6)**

13. Please provide information on the impact of the projects and programmes listed in the State party report (E/C.12/COD/6, para. 39), including statistical data for the past five years showing trends in unemployment and underemployment, disaggregated by sex, disability, age group and province, as well as on unemployed persons who have benefited from the services of the National Employment Office.

#### **Right to just and favourable conditions of work (art. 7)**

14. In the absence of a system of indexation, please describe how the State party ensures that the national minimum wage provides a decent standard of living for workers and their families. Please provide information on the findings of the recent deployments of labour inspectors and labour monitors in the field to monitor the implementation of labour and social security laws and regulations. Furthermore, please indicate whether the State party is considering strengthening legal protection against discrimination in the workplace.

15. Given the extent of the informal economy in the State party, please provide information on the measures taken to address the obstacles to its formalization and their impact, including an update of the statistical data presented in the State party report (E/C.12/COD/6, para. 42). Please also describe the mechanisms in place to ensure respect for the basic rights to just and favourable conditions of work in the informal economy.

16. Please provide information on measures taken by the State party to ensure respect for workers' rights to just and favourable conditions of work in the mining sector. Describe, in particular, action taken in response to the reports of lack of compliance with health and

safety standards at both artisanal and multinational mining sites, which compromises the health and safety of workers and their families. Please also provide statistical data on the findings of unlawfulness in connection with the exploitation and trade in mining products resulting from a violation of legislation on the protection of human rights, children's rights or women's rights, pursuant to article 28 of Act No. 18/001.

**Right to social security (art. 9)**

17. Given that, according to the information provided, the expansion of social security coverage provided for in Act No. 16/009 of 15 July 2016 is still limited to workers in the formal economy (E/C.12/COD/6, paras. 48 and 51), please provide information on the areas of social security reform envisaged by the commission set up for that purpose. In that connection, please also provide recent information on the implementation of Organic Act No. 17/002 of 8 February 2017 setting out the fundamental principles relating to mutual insurance and welfare funds, which is mentioned in the State party report (E/C.12/COD/6, para. 78) and is aimed at progressively extending social protection to the entire population. Pending this reform, please specify what forms of social assistance there are to cover lack of income among the most disadvantaged and marginalized groups, such as women working in artisanal mines who, when pregnant, are forced by law to stop work.

**Protection of the family and children (art. 10)**

18. Please provide information on the impact of the measures listed in the State party report (E/C.12/COD/6, para. 166) on reducing the number of street children and, more generally, the number of children who have dropped out of school, including former child soldiers, and on their enjoyment of the rights to health, education and an adequate standard of living, including the right to housing and food. Please also provide information on the impact of the implementation of the 2017–2020 three-year action plan on reducing child labour in the mining sector. Furthermore, please provide information on the measures used to expel children and pregnant women during the 2016 inspection mission to Ituri Province and other similar missions, as well as on the measures taken to strengthen services and structures intended to provide care for children in mining areas.

19. Please provide information on the steps taken by the State party to: (a) combat the stigmatization faced by survivors of sexual violence and their children; and (b) improve their access to health care, including mental health services, and to livelihoods that enable them to enjoy an adequate standard of living. Please provide recent statistical data (up to 2019) on the number of persons who have benefited from such measures and their socioeconomic conditions.

**Right to an adequate standard of living (art. 11)**

20. Given that the National Strategic Development Plan referred to in the State party report (E/C.12/COD/6, para. 168) aims in the medium term to enable the State party to achieve emerging country status, please describe its contributions compared to those of previous development plans that have led to only a moderate reduction in extreme poverty in the State party. In particular, please explain how the Plan is intended to bring the expected economic benefits to the most disadvantaged and marginalized groups, including internally displaced persons and refugees.

21. Please provide information on the impact of the measures described in the State party report (E/C.12/COD/6, para. 171) on reducing poverty and malnutrition in rural areas. Please also provide information on specific measures adopted by the State party to adapt to climate change, including for households and individuals whose livelihoods depend on natural resources.

22. Please provide an estimate of the shortfall in affordable and social housing in the State party and indicate whether the State party envisages taking any measures other than those described in the State party report (E/C.12/COD/6, paras. 74–75) to achieve progressive realization of the right to housing, including in rural areas where the vast majority of houses are made of non-durable materials. Please provide information, together

with supporting statistical data, on the impact of the implementation of the Participatory Slum Upgrading Programme mentioned in the State party report (E/C.12/COD/6, para. 172).

23. Please provide information, together with supporting statistical data, on the progress made since the promulgation of Act No. 15/026 of 2015 of 31 December 2015 on water, one of the objectives of which is to improve the rate of access to drinking water. Furthermore, please indicate how the State party alleviates the financial burden on households in some rural areas, which reportedly spend more than half of their income on access to safe drinking water.

24. Please describe the impact of the implementation of the national sanitation policy on the improvement of waste and wastewater treatment and sanitation in urban areas of the State party. Please also provide an update on measures, such as the sanitation tax, aimed at ensuring the sustainable financing of sanitation while not imposing any additional burden on the most disadvantaged and marginalized groups.

#### **Right to physical and mental health (art. 12)**

25. Please describe how the 2016–2020 national health development plan, referred to in the State party report (E/C.12/COD/6, para. 76), has improved health-care coverage in the State party, as well as the rate of access to the available services by the population, bearing in mind that the low utilization of these services is one of the priority problems that the plan seeks to address. Please explain how the Plan has strengthened the capacity of the health system to respond to epidemics and health emergencies.

26. Please explain how the 2018–2021 National HIV/AIDS Strategic Response Plan: (a) eliminates the problem of frequent disruptions in supplies; (b) distributes resources in a manner that takes provincial disparities in the prevalence of HIV and AIDS into account; and (c) alleviates the financial burden of treatments on households.

27. In the light of the information provided in the State party report (E/C.12/COD/6, paras. 97–98), please describe the measures taken to significantly increase the availability of mental health services, particularly community-based services, including in areas affected by conflict.

#### **Right to education (arts. 13 and 14)**

28. Please describe how the increase in the budget for education administration has translated into the effective provision of free primary education in public schools. Please explain the policy on expanding access to public preschool education, especially for the most disadvantaged and marginalized groups. Please also state how the State party has implemented the commitments undertaken in the Safe Schools Declaration. In this regard, please indicate how the State party: (a) prevents the recruitment of children by armed groups; (b) protects school infrastructure from attacks by armed groups or paramilitary or self-defence groups; and (c) mitigates the disproportionate impact of conflict on girls' access to education.

29. Please provide information on the ongoing discussions on improving the provision of technical and tertiary education and vocational training to enable young people to flourish and find employment.

#### **Cultural rights (art. 15)**

30. Please explain the obstacles that are delaying the adoption of the bill on the protection and promotion of the rights of indigenous peoples mentioned in the State party report (E/C.12/COD/6, para. 27).