



**International Covenant on  
Civil and Political Rights**

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**Human Rights Committee**

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**Consideration of reports submitted by States parties  
under article 40 of the Covenant**

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

**Addendum**

**Replies of Equatorial Guinea to the list of issues\***

[Date received: 8 July 2019]

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\* The present document is issued without formal editing.



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## Introduction

1. This document has been prepared in accordance with United Nations General Assembly resolution 60/251 of 15 March 2006 and paragraph 15 (a) of Human Rights Council resolution 5/1 of 18 June 2007, requiring States parties to draw up periodic reports for consideration by the Civil and Political Rights Committee in the framework of the universal periodic review (UPR) cooperative mechanism. The information provided in this report relates to the list of issues adopted by the Committee at its 124th session, on 8 October 2018.

2. The International Covenant on Civil and Political Rights was adopted on 16 December 1976, in order to guarantee human rights and fundamental freedoms, including the right to life, the prohibition of torture, slavery and forced labour, and the right to freedom. The Government of Equatorial Guinea, by ratifying the Covenant in 1987, assumed an unwavering commitment to take all necessary institutional and policy measures to comply with each and every one of its obligations and undertakings under the Covenant, and to promote the dissemination of and respect for human rights and civil liberties throughout the territory and in all private and public institutions of the Republic, in accordance with the Charter of the United Nations.

## Brief note on Equatorial Guinea

3. The Republic of Equatorial Guinea is a sovereign, independent, republican, united, social and democratic State, whose highest values are unity, peace, justice, freedom and equality. Its territory is made up of a mainland region called Río Mini and an insular region comprising the islands of Annobón, Bioko, Conga and nearby islets, Corisco, Elobey Chico, Elobey Grande, Mbañe and Cocoteros. It has a total surface area of 28,051 km<sup>2</sup>, of which 26,000 km<sup>2</sup> lie in the mainland region and the rest in the insular region. Equatorial Guinea lies on the Gulf of Guinea. The mainland region is bordered to the north by the Campo River and the Republic of Cameroon, to the east and south by the Republic of Gabon and to the west by the Atlantic Ocean. Its capital is Malabo, which is situated on the northern coast of the island of Bioko. According to data from the fourth Population and Housing Census (2015), it has a population of 1,225,377 and a broad-based pyramid, with 7 per cent of the population aged 0–4 years.

## The country's political development

4. The shift towards a modern democracy began in 1968, when Equatorial Guinea attained independence and adopted a Constitution in the same year. However, following the events of 5 March 1969 the liberation process foundered: the multi-party system was banned, a range of civil and political freedoms were curtailed, and the country plunged into a succession of crises that eventually led to a fully-fledged humanitarian crisis. With the political regime change in August 1979, and in particular with the launch of the “*ensayo democrático*” (democratic experiment) in the 1990s, the country embarked on a process of political and social normalization and the promotion of social, economic and cultural freedoms and, in particular, civil and political rights.

5. As part of this process of democratization, legislation was adopted on assemblies and demonstrations by civil and political associations, on political elections, and on the press and publications. The Centre for the Promotion of Human Rights and Democracy and the National Human Rights Commission were established, the latter being responsible for investigating human rights violations, and for taking decisions and measures to compensate victims and ensure respect for the rights involved, and the Habeas Corpus Act was enacted as a result. The constitutional reform adopted in 2012 has strengthened institutional safeguards for the protection of human rights in the country by establishing, in addition to existing institutions, the Office of the Ombudsman, which, by virtue of its constitutional mandate, is the High Commissioner of the Chamber of Deputies and the Senate, defending citizens' rights vis-à-vis the public administration by seeking *amparo* in respect of any dysfunction, misconduct or arbitrary action by public agencies.

6. Despite the Government's efforts, with the support of political movements and civil society, to give effect to its human rights commitments in practice, Equatorial Guinea has undergone a number of political and economic crises and a mass influx of displaced persons and economic refugees, which may have created the impression that human rights protection mechanisms have been neglected and the responsible institutions weakened. But this is an illusion, far removed from the strong political determination to realize and protect civil and political rights in the country.

### **Methodology of the document**

7. Given the limited time between the receipt of the list of issues and the due date for submission of the replies to the Civil and Political Rights Committee at its 126th session in July 2019, His Excellency the Third Deputy Prime Minister for Human Rights, acting on behalf of the Government of the Republic, tasked the Department of Human Rights attached to the Office of the President with consulting with the various ministerial departments, courts, non-governmental organizations (NGOs) and other institutions and authorities, with the aim of obtaining reliable information for the preparation of this report. Accordingly, the Department of Human Rights has engaged with experts and authorities in order to ensure that the present replies to the list of issues in the absence of an initial report draw on verifiable sources.

### **The International Covenant on Civil and Political Rights in the hierarchy of sources**

8. With regard to the hierarchy of sources and the place of the Covenant in the domestic legal order, the Constitution of 1982, as amended in 1991, 1995 and 2011, established a fundamental principle, namely that the people of Equatorial Guinea anchored their Constitution in the Universal Declaration of Human Rights. Consequently, the power bestowed on the Head of State by the Constitution to negotiate and sign international agreements and treaties is indirectly subject to respect for the rights and freedoms deriving from these agreements and treaties. The *pacta sunt servanda* rule requires prior amendment of the Constitution in the event of potential conflict with a treaty or convention that is being negotiated or ratified, in order to prevent the State from invoking constitutional law as justification for a failure to meet an obligation under treaty law. Article 101.2 (g) of the Constitution provides that any such amendment requires a prior report from the Constitutional Court. Since the Constitution emanates from the constituent body, it flows from the Constitution itself that all legal norms coming from and adopted by State bodies other than the constituent body are laws in the broad sense. There can thus be no doubt that the signature and ratification of a treaty are legislative acts by the Executive, with parliamentary approval and in conformity with the Constitution. This derives from article 8 of the Constitution, which guarantees all human rights and civil liberties, read in conjunction with article 71 of the Judiciary Act which prohibits judges from interpreting the law in a manner contrary to the spirit of the Constitution or any other provision with the force of law, in particular international treaties and agreements ratified by the Republic of Equatorial Guinea.

9. Article 14 of the Constitution states that the list of rights and freedoms set forth in article 13 is not exhaustive, because it implicitly comprises all the other rights guaranteed by the Constitution, in addition to other civil rights and freedoms of a similar nature that derive from the inherent dignity of the human person. This concludes the debate on the status of the Covenant, which is fully incorporated into article 13 of the Constitution. According to the case law of the Constitutional Court, the agreements and treaties Equatorial Guinea has ratified in conformity with article 41 of the Constitution shall have the same rank and effect as the provisions of the Constitution itself, and that applies to the International Covenant on Civil and Political Rights.

## **Palea constitutional reform**

10. The commission tasked with drafting the constitutional reform bill, which met in the town of Palea on the island of Annobón in 2011, was established by presidential decree. It was composed of persons proposed by State institutions and civil society.

## **Amendments to the Criminal Code and the Code of Criminal Procedure**

11. The National Codification Commission, under the Ministry of Justice, Religion and Prisons, is a group of legal experts that was assigned the task of developing a new criminal code and code of criminal procedure reflecting the provisions of the Constitution, the rights and freedoms set forth therein, and the provisions of the International Covenant on Civil and Political Rights. One of its main objectives was the decriminalization of acts inherent in the simple exercise or enjoyment of civil and political rights.

## **Customary law and judicial proceedings**

12. The potential conflict of norms between customary law and international law has been resolved by articles 4 (3), second paragraph, and article 71, of the Judiciary Act. This instrument of national law establishes a descending hierarchy of sources comprising laws, customs and general principles of law. Customary or local law may be applied only if the contentious matter is not covered by any other law. Judicial acts performed without regard for the hierarchy of sources or resulting from wrongful interpretation of a law, treaty or international agreement ratified by Equatorial Guinea are null and void. This legal position, among others, was adopted by the Constitutional Court in its Decision No. 3/2017 of 16 August.

## **Remedies for victims of violations of rights and freedoms**

13. The domestic legal system provides a series of remedies available to anyone – citizens, foreigners, physical or legal persons – seeking restitution of their fundamental rights or claiming compensation for damages arising from any violation of their rights and freedoms. Avenues of complaint range from parliamentary commissions for complaints and petitions, the Office of the Ombudsman, the National Human Rights Commission and ordinary courts, to individual complaints to the African Commission on Human and Peoples' Rights.

## **Office of the Ombudsman**

14. The institution of the Ombudsman was established in the 2011 constitutional reform as the High Commissioner of the Chamber of Deputies and the Senate, in order to defend citizens' constitutional rights. The Office's functions, which were described in article 126 of the Constitution, were set forth in law in Act No. 4/2012 of 16 November and it began work in 2015. To summarize the Act, the institution of Ombudsman was created as part of efforts to strengthen institutional safeguards against acts or omissions by the authorities contrary to citizens' rights and freedoms. Its mandate is to protect citizens against administrative provisions or acts that violate their rights and freedoms and it may act *ex officio* to investigate any violation of constitutional rights.

15. The activities and investigative powers of the Ombudsman's office cover members of the Government, central and regional authorities, civil servants and officials working for government agencies and other State institutions.

16. Measures in place to guarantee the independence of the Ombudsman's Office include budgetary independence and incompatibility with any elected office, political position or publicity for a political party.

## **National Human Rights Commission**

17. In a decision dated 25 May 2012, the National Human Rights Commission announced that it would put in place a number of mechanisms in order to fully meet all the criteria for membership of the commission of Central African national human rights institutions, based in Yaoundé, and the Network of African National Human Rights Institutions, based in Nairobi. It has not been possible to conclude this process, owing to a series of problems that are being resolved.

## **Activities of the Department of Human Rights (Third Deputy Prime Minister for Human Rights)**

18. The Office of the Third Deputy Prime Minister for Human Rights is conceived and organized as the ministerial department responsible for coordinating all government initiatives and activities for the dissemination and protection of human rights. Part of its mandate is to determine whether any constitutional amendments might be needed when negotiating and signing international human rights treaties and agreements or in order to realize civil liberties.

19. Among the various activities of the Department of Human Rights to disseminate and promote fundamental rights are nationwide awareness campaigns for local authorities and law enforcement bodies on combating trafficking in persons and migrant smuggling, carried out with support from the Office of the Ombudsman, the United Nations Development Programme (UNDP) and the United States embassy.

## **Combating corruption**

20. Corruption is a stain on all countries in our subregion and Equatorial Guinea is not exempt from this scourge. It is therefore addressed in article 15 (2) of the Constitution, which states that all acts of corruption shall be punishable. As corruption can have many faces, measures are being taken in various sectors and at various levels.

21. The Presidential Order of 5 August 2016 has driven action at the national level, creating a commission for the verification of situations of double employment, improper receipt of multiple salaries and conflicts of interest for public figures and dignitaries serving as State officials. In addition, Decree No. 75/2018 of 18 April strengthens the functions and mechanisms of the National Financial Investigation Agency established by Decree No. 11/2007 in response to the recommendations of the Financial Action Task Force concerning the laundering of the proceeds of crime.

22. Decree No. 75/2018 of 18 April established a national coordinating committee for policies to combat money laundering and financing of terrorism, for the purpose of gradual implementation of the 40+9 recommendations of the Financial Action Task Force, in collaboration with the National Financial Investigation Agency.

23. Decree No. 131 governing the national economic and financial policy gave instructions to “end illegal tax collection”. The order effectively means ending a practice that runs counter to the concept of a central State Treasury, whereby ministerial bank accounts are held outside the public treasury and beyond State control. The Decree also seeks to put an end to the widespread practice whereby some civil servants collect fees, levies and duties not provided for in law. In the same vein, Decree No. 67/2017 of 12 September established a one-stop “enterprise centre” to direct and expedite procedures for the creation and registration of companies.

24. The requirement for politically exposed persons to submit a sworn statement of assets, and the monitoring of conflict of interest and the use of privileged information, procedures that were introduced under Decree-Law No. 1/2004 on ethics and dignity in the exercise of public office, are taking on increasing importance.

25. Articles 115ff. of the Constitution established the Court of Auditors. Act No. 5/2010 of 16 November regulates the Court’s mandate; article 2 gives the Court of Auditors the

power to demand accountability from all persons who administer government funds and assets, review and verify on an ongoing basis the accounts kept by persons responsible for the public purse, require them to report, and establish the attendant responsibilities. Those authorities are vicariously liable for any misappropriation of public funds occasioned by negligence on their part. Article 15 of the Act expressly provides that the Court's right of action in respect of accounting liability may be exercised against those accountable for collecting, arranging, managing, holding, handling or using public funds, assets or effects. The Act also establishes an Accounts Trial Chamber and a Prosecutor's Office at the Court of Auditors.

26. As regards the management of natural resources, Decree No. 42/2007 of 30 July regulates civil society participation in the Extractive Industries Transparency Initiative.

27. At the subregional level, the procedure for letters of request under the judicial cooperation agreement between the member States of the Central African Economic and Monetary Community (CEMAC) facilitates the prosecution of acts of corruption through effective judicial cooperation.

28. Also at the subregional level, there is Regulation No. 01/03/CEMAC/UMAC/CM on the prevention and suppression of money laundering and financing terrorism in Central Africa, as revised in Regulation No. 02/10 of 2 October. On 10 December 2018, the International Monetary Fund (IMF), in cooperation with CEMAC, issued a report containing recommendations for a regional approach to reducing the opportunities for corruption. This requires strengthening the Regulation's implementation mechanisms. Throughout 2018, the Government held discussions with the IMF, in Malabo, which culminated in a series of recommendations, including strengthening governance and anti-corruption measures, transparency in the hydrocarbon sector and data dissemination. This measure involves the publication of production-sharing contracts and periodic reporting on the income generated and its transfer to the public purse. In addition, a specialist company was hired to audit the accounts of State-owned gas and oil companies.

29. Another important multilateral instrument to fight transnational corruption is the cooperation agreement concluded between CEMAC and the International Criminal Police Organization (INTERPOL).

### **State of emergency and efforts to combat terrorism**

30. Combating terrorism is covered by the CEMAC regulations on the prevention and suppression of money laundering and the financing of terrorism as part of a joint subregional process. The Republic of Equatorial Guinea has adopted the definition of terrorism given in article 2 of the CEMAC regulation, in line with the provisions of international treaties. The basic laws of Equatorial Guinea consistently hold that constitutional rights and guarantees may be suspended, individually or collectively, only in the event of imminent danger or upon proclamation of a state of emergency or siege, and for a maximum of three months. Thus the activities of terrorist elements or armed groups may justify the suspension of constitutional rights and guarantees, but only for the purpose of neutralizing the activities of those groups, in that extremely short space of time, or to drive them from the national territory, in order to prevent any assault on national independence, national sovereignty, territorial integrity, State security, public order, the regular functioning of State institutions or the form of Government.

31. Act No. 4/2010 of 31 May on civil defence and prevention, a component of public security, makes reference to the proclamation of states of alert, emergency or siege. However, no implementing regulations governing states of emergency have been drafted. The Government of Equatorial Guinea is aware that none of these situations entails a derogation of the rule of law as such and that, consequently, all decisions and actions by the State may still be challenged through the applicable procedures and that any individuals harmed as a result of the measures taken or actions performed by the public authorities must be duly compensated once order has been restored.

32. Fortunately, Equatorial Guinea has never been in a situation requiring the proclamation of any of the states of emergency provided for in the Constitution.

### **Non-discrimination**

33. Like every society immersed in the changes of the postmodern era, Equatorial Guinea has certain characteristic features all its own. One of them is the presence of citizens who, for religious or cultural reasons, or simply because of a flawed upbringing, perceive perfectly natural human activities or life choices that are part of the diversity of opportunities and rights as sins, crimes or reprehensible strangeness. This is at the root of what sometimes occurs with persons who have opted for one of the many sexual orientations. Yet homosexuality is fully acknowledged and accepted in the country. The Criminal Code, though outdated compared with the overall national legal order, enriched as it has been by the ratification of treaties and agreements, nevertheless contains several provisions that criminalize and punish discriminatory behaviour.

34. In structural or formal terms there are no discriminatory provisions. Indeed, with regard to women, persons with disabilities and older persons a number of awareness-raising and affirmative action mechanisms have been put in place. Between 2010 and 2018, following the ratification of the Convention on the Rights of Persons with Disabilities, measures taken include the adoption of the Regular Home Health Visits Plan, the effective integration of persons with disabilities into the social security system, and the creation of a special service for such persons within the Social Security Institute. Thus persons with disabilities receive an allowance amounting to 60 per cent of the minimum wage, in addition to the health visits and free medical and pharmaceutical care to which they are entitled. There are also special schools for persons with disabilities, such as the Virgen María de África school in Malabo, and the Red Cross schools in Malabo, Bata and Niefang. The Equatorial Guinea Red Cross, which has received State subsidies in the amount of 300 million CFA francs (CFAF) in the last three years (2016–2018), runs a school for the deaf.

35. A Multisectoral Directorate-General to combat AIDS has been established, whose work includes conducting awareness-raising activities among young people and prevention campaigns such as the free distribution of condoms across the country. The department acts through the four HIV/AIDS infectious disease reference units in Malabo, Bata, Ebibeyin and Mongomo. In terms of awareness-raising, training and information, schools and military facilities have served as bases for campaigns targeting the most affected population groups, the staff of health facilities and military personnel.

### **Gender equality, discrimination, domestic violence**

36. Article 15 of the Constitution classifies gender-based discrimination as a constitutional offence, in accordance with article 5 of the Constitution which provides for gender equality in all areas of social and family life as the foundation of society. This is also in keeping with the constitutional mandate set forth in article 13 (2) to take “legal initiatives and mechanisms to promote the adequate representation and participation of women in public posts and in the performance of other functions in State institutions”. As a result, the gender ratio in the Government, Senate (whose president is a woman) and Chamber of Deputies has increased significantly, and in the current legislature 20 out of 100 deputies, one Vice-President and one member of the Bureau are female. In the Senate, the proportion of women is 10 per cent.

37. As to jurisprudence on the protection of women’s property rights and related rights, as set forth in the National Multisectoral Plan of Action for the Advancement of Women and Gender Equity, the Constitutional Court, in amparo proceedings No. 08/2015, issued judgment No. 3/2017 of 16 August 2017, based on article 101 (2) (b) of the Constitution. By this judgement it was established that, in the Republic of Equatorial Guinea, any married woman, whether married in a religious, civil or customary ceremony, inalienably possesses the same property rights as her husband in respect of assets jointly acquired



during the marriage for, if that is not the case, the Court stated, “the woman’s dignity is erased”.

38. One of the indicators of the National Multisectoral Plan of Action for the Advancement of Women and Gender Equity is the improvement of the legal framework for gender-based protection. This prompted the drafting of a bill on gender-based violence, during the first ordinary session of the Senate in 2018, which was transmitted to the executive branch for its consideration and further action with a view to legislative approval and enactment. A draft family code was similarly prepared. The study, drafting and adoption of a new civil code is on the agenda of the Codification Commission.

39. The evaluation of the National Plan sounded the alarm bells, as it revealed, for example, that 63 per cent of the women surveyed (aged 15–49) had suffered some form of domestic or gender-based violence and, of those, 32 per cent reported having suffered sexual violence. This leaves much work to be done in the coming years. Although it must be acknowledged that nearly 30 per cent<sup>1</sup> of women with partners have been subjected to gender-based violence, such conduct is an offence under the Criminal Code, as are sexual transgressions, and courts correctly apply the law with regard to the punishment of such crimes. The family and juvenile courts established some years ago have jurisdiction to hear cases of gender-based violence and, if necessary, inform the public prosecutors for legal action to be taken.

40. Ministerial Order No. 1 of 18 July prohibiting pregnant girls from attending school sparked a wide debate, including during the Third National Economic Conference, and as a result it is not applied in practice.

### **Voluntary termination of pregnancy**

41. Articles 411ff of the Criminal Code, which establish abortion as a punishable offence, have not been applied in Equatorial Guinea for more than twenty years. No criminal investigations have been instituted or convictions handed down by any national court, either against women having had an abortion, or against anyone assisting them or performing the abortion.

42. Decree No. 41/2016 of 11 March adopting the Plan of Action for the implementation of social measures in the short and medium term established free maternal, child and neonatal health care, including caesarean delivery, as well as care for women in difficult health situations. These measures include free early diagnosis, prevention and treatment of cervical and uterine cancer. The policies implemented under the 2016 Decree provide for free medical consultations in regional and provincial hospitals and in health centres, particularly in cases of HIV/AIDS or malaria in mothers.

43. At the national level, the Prenatal Monitoring Service has been created as part of the awareness-raising campaign on hospital delivery and pre- and postnatal care, which is part of the road map for cutting maternal mortality by 80 per cent by 2020. This explains the significant reduction in the maternal and infant mortality rate, recorded in the fourth General Census of Population and Housing, which enabled Equatorial Guinea to attain Millennium Development Goal 5. These measures are linked to the access of all women to reliable reproductive health and related services, provided through the network of family planning centres in all hospitals in the provincial capitals nationwide. Compared with other CEMAC countries, Equatorial Guinea also performs well when it comes to maternal mortality, with a rate of one third of the regional average, and one half of the average for sub-Saharan Africa.

44. The Department of Family Health has been established and is responsible for strengthening and monitoring the coordinated activities of the National Reproductive Health Programme. More than 1,500 people have been trained as qualified staff (including

<sup>1</sup> Ministry of Social Affairs and the Advancement of Women, “Estudio socioeconómico de la situación de la mujer en GE” (Socioeconomic study on the situation of women in Equatorial Guinea), 2012.

health centre directors, health workers, laboratory assistance and auxiliary nurses) and 91 doctors, nurses, paediatricians, internists, surgeons and anaesthesiologists were sent on specialized university training courses in foreign countries with similar health problems.

### **Death penalty**

45. No competent ordinary national court has handed down a capital sentence since 2010, when two death sentences handed down two years before were carried out. Since then, there has been an implicit de facto non-application of this penalty, which is provided for in articles 27, 45, 70 (1), 73(1.1) and (2.1), and 83 of the Criminal Code, and the provisions of article 13 (1) (a) of the Constitution have been effectively set aside. Confirming that this procedural practice constituted a legal vacuum, and through an exhaustive interpretation of article 5 in conjunction with article 8 of the Constitution, which enshrines the right to life as one of the obligations arising from international law, the Government issued Decree No. 426/2014, establishing a moratorium on the death penalty in the Republic of Equatorial Guinea. Since then, no ordinary court has handed down a capital sentence.

46. As part of this process and in line with its political commitment, the Government, in close cooperation with human rights bodies, is studying the mechanisms and legislative amendments or derogations necessary for accession to and incorporation of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty; there are no obstacles of any kind to its ratification.

### **Extrajudicial executions and conduct of the security forces**

47. Neither the Government of Equatorial Guinea nor any of its competent institutions condone criminal conduct on the part of civil servants or State officials. Moreover, all complaints relating to deaths in State custody or excessive use of force at the border have been investigated and pretrial proceedings launched, in those cases where the perpetrators could be duly identified. Several complaints were filed in this regard to the Office of the Ombudsman and other institutions, such as the Military Court. Under the Government Act and the Act on administrative procedure, the State is vicariously liable to compensate the victims of any such conduct. The military orders contained in Decree-Law No. 10/1980 as amended provide in article 50 clear instructions on the authorized use of service firearms and the use of force. Any use that does not meet those criteria engages the responsibility of the civil servant in question and the superior authorizing or permitting such use.

### **Torture and security of persons**

48. The Government has the firm political will to bring to a conclusion the ongoing investigations into these crimes and, in its capacity as bearer of subsidiary civil liability, to compensate the victims and injured parties fully once responsibility has been established. This action is undertaken pursuant to the recommendations of the Special Rapporteur on torture and in application of Act No. 6/2006 on the prohibition of torture. As part of its transparent cooperation with the Special Rapporteur on torture, the Government is taking steps towards hiring independent consultants and experts, as well as creating an interministerial committee, to prepare the country's first national report on torture, in close collaboration and with technical support from the Office of the United Nations High Commissioner for Human Rights (OHCHR).

49. The Government of Equatorial Guinea is aware that the conditions in prisons, correctional institutions and police detention centres are essential to the application of good practices in respect of the safety and physical integrity of detainees and their subsequent rehabilitation. This concern has been paramount in the construction of the new prisons in Nkoantoma (Bata), Evinayong and Ovenga-Nzeng and the introduction of a habeas corpus procedure. The legislation is being reviewed to ensure that all persons deprived of their liberty receive a medical examination and legal assistance within one hour of their arrest.

## **Slavery, forced labour and trafficking in persons**

50. There is no slavery in the Republic of Equatorial Guinea. Since independence, the country has not seen any activities of that nature. Human traffickers and migrant smugglers have managed to gain a foothold and capitalize on migratory flows generated by the economic opportunities that started to arise in the 1990s. The Government has repeatedly responded to such cases and since the 1990s maritime surveillance services have intercepted several dugout boats engaged in such operations. Several years ago, the authorities monitoring the transit of persons place a total ban on the transport of persons in dugouts across national waters.

51. Later, the Act on smuggling of migrants and trafficking in persons was adopted and the Department of Human Rights attached to the Office of the President conducted a range of awareness-raising and training activities to implement the Act; most recently in a nationwide campaign launched on 17 June 2019. These activities are compliant with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

52. The Ministry for Social Affairs and the Advancement of Women, with support from the International Organization for Migration (IOM) and the United States Embassy in Equatorial Guinea, has organized meetings and courses to provide and disseminate information on migrant smuggling and human trafficking to civil servants, members of the national security service and border guards. The Ministry of the Interior and Local Communities has held seminars to inform and raise awareness about the challenges arising in connection with the Act on smuggling of migrants and trafficking in persons. The Government, for its part, has authorized the ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

## **Freedom of movement**

53. The checkpoints within the national territory are set up solely and exclusively for the purpose of customs control, and to prevent criminals from moving around the country and escaping. These roadblocks do not hinder the free movement of persons in any way.

## **Judiciary**

54. By virtue of articles 41 (f), 96, 98 and 100 of the Constitution, the appointment and dismissal of judges, magistrates and public prosecutors and of the members of the Supreme Council of the Judiciary is the exclusive prerogative of the Head of State. Their structural and functional independence are guaranteed in articles 89 and 92 of the Constitution.

55. The Government of Equatorial Guinea is aware of the serious problems that pervade the judiciary, for their persistence constitutes a bottleneck that stymies any policy to develop either civil and political rights or economic, social and cultural rights. One of the biggest constraints is justice officials' poor legal training and technical knowledge. A State official's standard of education is closely related to his or her self-motivation and personal autonomy, which is reflected in his or her degree of independence from other persons and institutions. The State will therefore assess what needs to be done to equip itself with properly qualified, professional judges and magistrates and provide them with the financial, logistical and structural means to properly carry out their functions.

56. In 2017 and 2018, CFAF 2,872,637,000 from the general State budget were allocated to the judiciary and the Attorney General's Office, and CFAF 502,632,000 to the Constitutional Court.

57. Efforts have been made to guarantee free legal assistance for persons without the financial means to hire a lawyer. To this end, the Equatorial Guinea Bar Association receives an annual State subsidy, paid in monthly instalments. For the 2017–2018 biennium,

the Bar received a total subsidy of CFAF 150 million. Effective measures are being taken to remove the activities and operation of the Bar Association from the purview or influence of the Ministry of Justice and Religion.

58. Under article 71 of the Judiciary Act, when resolving disputes within their jurisdiction, traditional courts established under article 68 of the Act may only apply customary law, which may however not be interpreted in a way that runs counter to the Constitution or any other provision having the force of law, and in particular international treaties and agreements ratified by Equatorial Guinea.

### **Surveillance of communications**

59. The Government is unaware of any systematic surveillance of private communications, except by court order as part of judicial investigations. Communications are governed in part by Act No. 1/2017 on Internet communication and Act. No. 2/2016 of 22 July on the storage of data from electronic communications and communications networks, which require technical operators to store certain generated data so that they may be made available to the competent authorities on issuance of a court order. Under Act No. 1/2016 of 22 July, on the protection of personal data, citizens have the sole right to give consent to the use of such data, and to be informed and notified of any such use. Article 1 of the Act guarantees and protects the fundamental rights and freedoms of persons, in particular with respect to the handling of their personal information, their honour, dignity and individual and family privacy. Act No. 2/2017 of 10 January on electronic signatures and documents provides for the protection of information and documents processed online.

### **Freedom of expression and assembly**

60. National legislation on different types of associations and freedom of expression of ideas, opinions and knowledge, contains no provisions that restrict, hinder or complicate the exercise of those freedoms. In a few cases, administrators' understanding of the law has been found not to be in tune with the spirit or scope of those rights, and action has been taken to eliminate that outlook. Freedom of association is underpinned by Act No. 11/92 of 1 January.

61. Act No. 1/1999, of 24 February, relates to the status of NGOs. The 2011 Constitution addresses freedom of association in article 13 (k) and freedom of expression in article 13 (b). The relevant legal provisions establish a preventive regime whereby NGOs must file the appropriate application for administrative recognition with the Ministry of the Interior and Local Communities, in accordance with the procedure set forth in the Associations Act, subject to prior approval by the ministry responsible for the field they work in.

62. The Act on freedom of assembly and demonstration provides in its preamble that the democratic system must allow citizens to meet and demonstrate in order to express their views for lawful purposes. Accordingly, article 3 of the Act provided that "public meetings, whatever their purpose, are unrestricted; except by special authorization, meetings on public streets are prohibited". Article 3 stipulated that public meetings, whatever their purpose, are unrestricted. The 2003 legislature redefined public meetings as a gathering of more than thirteen persons in a public place, or place open to the public, with the aim of discussing political issues. This law has abolished the system of prior authorization; thus, meetings and demonstrations no longer require prior authorization. Instead, the Act only requires prior notification of the provincial governor seven days in advance of the planned meeting or demonstration.

63. Act No. 6/1997 on the press, publishing and audiovisual media was enacted on 30 May 1997. The principle of freedom is expressed as follows: Publication of printed media is unrestricted ... any natural or legal person of Equatorial Guinean nationality and residing in Equatorial Guinea ... may freely create or join enterprises whose purpose is the publication of printed periodicals.

64. The Press Association of Equatorial Guinea was established on 5 February 1997. According to its statutes, the Association "... defines itself as an autonomous organization, independent of any political party, political or religious institution, or financial or other pressure groups".

65. The question of lack of access sometimes raised by users is simply a result of ineffective management or technical failures on the part of Internet providers, not a government plot to harm consumers. The creation of the State telecommunications infrastructure management entity (GITGE) attests to the Government's interest in making fibre optic-based online telecommunications services widely available to all.

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