



Economic and Social Council

Distr.: General
11 June 2013
English
Original: French

Committee on Economic, Social and Cultural Rights Fiftieth session

Summary record of the 12th meeting

Held at the Palais Wilson, Geneva, on Monday, 6 May 2013, at 3 p.m.

Chairperson: Mr. Kedzia

Contents

Consideration of reports

- (a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Initial report of Togo

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 3.05 p.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant *(continued)*

Initial report of Togo (E/C.12/TGO/1; HRI/CORE/1/Add.38 and Rev.1 and 2; E/C.12/TGO/Q/1; and E/C.12/TGO/Q/1/Add.1) (in French only)

1. *At the invitation of the Chairperson, the delegation of Togo took places at the Committee table.*
2. **Ms. Wilson de Souza** (Togo) said that the Government had devised a strategy to speed up growth and promote employment along with policies, programmes and schemes in response to the Poverty Reduction Strategy Paper. Acts including the Water Code Act setting up public services to distribute clean drinking water and community sanitation services to treat domestic sewage, the Social Security Code, regulations for the Free Trade Zone, the Individuals and Family Code and civil service regulations, as well as a health insurance Act, had all been adopted since the submission of the report. Preliminary bills containing a land code and a town-planning, building and property development code were being drawn up.
3. Social programmes, such as the Work Integration and Employment Support Programme which had been launched in September 2011, had enabled 5,780 first-job seekers between the ages of 18 to 40 to undergo either one or two six-month periods of training in private and semi-public production units. Those programmes went hand in hand with a policy to encourage young entrepreneurs, which was financed by the Youth Integration Fund and the African Development Bank.
4. The State party had adopted an Act containing a social security code the provisions of which brought in, inter alia, compulsory health insurance for civil servants and persons of a similar status and abolished the requirement that a couple had to be civilly married in order to be eligible for family allowances.
5. In the health field, Togo was taking part in the campaign to speed up the reduction in maternal mortality in Africa. In February 2012 the World Health Organization (WHO) had certified the eradication of Guinea worm disease in Togo and a national health policy had been approved. The national rate of access to drinking water was currently 47.3 per cent (as against 30 per cent in 2007). Some 1,500 manually-operated pumps had been installed between 2010 and 2011 and the percentage of rural dwellers with access to latrines had risen from 10 per cent to 11.7 per cent between 2000 and 2010.
6. In February 2012 the Government had launched the National Agricultural Investment and Food Security Programme in order to boost farmers' income and improve the living conditions of vulnerable rural population groups. In 2012 some of Togo's cereal surplus had been sold to the World Food Programme.
7. The education sector accounted for 13.6 per cent of State expenditure. The implementation of the Education Sector Plan (2010–2020) had made it possible under the “education and institutional strengthening” project to equip 4,358 State primary schools with 3 million textbooks, to build 2 primary teachers' training colleges — with funding from the French Development Agency — and to set up 2 science colleges. The current rate of enrolment in primary education was 82.2 per cent for girls and 85.5 per cent for boys (with an average of 60 pupils per class) compared with 53.6 and 76 per cent respectively at secondary level. The literacy rate among the over-15s stood at 53.6 per cent. The Government's efforts to increase those numbers were being hampered by sociocultural and

financial difficulties, as well as a lack of infrastructure and qualified teachers. Private specialized centres or schools which received State subsidies catered for children living with severe disability.

8. In January 2011 the Government had adopted the National Gender Strategy and in December 2013 the Head of State had announced the introduction of the parity principle in elective and decision-making posts. Togo had ratified the Convention on the Rights of Persons with Disabilities and its Optional Protocol in 2011 and in March 2013 it had adopted a national strategy to promote and protect persons living with disabilities, along with an operational plan (2013–2015).

9. The Individuals and Family Code recognized women's right to inherit an equal share of land; awareness-raising campaigns were being conducted to bring about a change in attitudes in that respect.

10. On 30 March 2011 the Government had adopted a cultural policy designed to lay the foundations of cultural and artistic development and it had included some appropriations in the 2013 budget to subsidize cultural events. The Directorate of Studies, Research and Cultural Promotion had been established in 2011 and the Regional Cultural Action Centre had become the Regional Institute of Higher Education and Research in Cultural Development.

11. The Togolese Government fully realized that it needed to make further efforts and was determined to give effect to the Committee's recommendations, with the support of the international community.

Articles 1 to 5

12. **Mr. Atangana** (Country Rapporteur), welcoming the efforts made by the State party, said that there were still a number of concerns, namely insufficient access to justice, corruption, the situation of persons with disabilities, unemployment – above all among young people, the fact that the civil service pay scale had not changed for more than 40 years, breaches of labour law in the Free Trade Zone, the precarious situation of the elderly and widows, the cost of living, shrinking purchasing power, the right to food, security of land tenure, the insufficient health budget, annual epidemics, the high dropout rate, and failure to teach indigenous languages in schools.

13. **Mr. Ribeiro Leão** asked the delegation to supply updated statistics. He asked about the position of the Covenant in the domestic legal order and requested information about case law concerning the Covenant's implementation. Were the birth certificates of stateless children, or of children born of a Togolese mother and a foreign father, issued on the same conditions as to Togolese children?

14. **Ms. Ravenberg** enquired about the existence of special measures to secure gender equality in matters of inheritance and about steps to ensure that women's rights were respected when customary law was applied.

15. **Ms. Bras Gomes** asked about the effects of the Act adopted in 2001 which obliged multinationals to return part of the added value derived from mining mineral resources to the affected communities. She wished to know whether impact surveys were conducted before mining concessions were issued and whether there were any procedures for compensating the population concerned. She asked if the adoption of the draft act to combat discrimination was imminent, if the text mentioned all the grounds set forth in article 2, paragraph 2, of the Covenant, including sex, and if the State party intended to devise a plan for the implementation of treaty monitoring bodies' recommendations, similar to that put in place for recommendations stemming from the universal periodic review (UPR).

16. **Ms. Shin** asked how the data-collection system operated and whether there was a statistics institute, whether the State party intended to ratify the Optional Protocol to the Covenant, whether special temporary measures were planned to foster equality between men and women and whether the Gender Strategy made provision for a comprehensive review of legal texts in order to remove discriminatory provisions.

17. **Mr. Sadi**, noting that the State party reported much more regularly to the other treaty monitoring bodies, asked how much priority was given to economic, social and cultural rights. He also wondered about the Togolese authorities' capacity to process the hundreds of recommendations stemming from the UPR and whether the Covenant's implications were borne in mind when the State party concluded a mining agreement.

18. **Mr. Tirado Mejía** requested information about the activities of the National Human Rights Commission (CNDH) and the Ministry of Human Rights, set up in 1987 and 1992 respectively. How effective was their action? He also wished to know whether the CNDH had participated in the drafting of the report under consideration. In its 2001 concluding observations concerning the consideration of Togo's implementation of the rights embodied in the Covenant (E/C.12/1/Add.61, para. 18) the Committee had recommended that the Government of Togo should avail itself of the advisory services of the Office of the United Nations High Commissioner for Human Rights so that it could submit, as soon as possible, a comprehensive report on the implementation of the Covenant. He wished to know whether the State party had availed itself of that support and to what effect. He enquired about the main thrust and outcome of the National Gender Strategy. He welcomed the President's initiative to apply the parity principle in the senior ranks of the civil service and asked if steps had been taken to put that principle into practice.

Articles 6 to 9

19. **Ms. Shin**, pointing out that the State party could ask for the technical assistance of a body such as the United Nations Development Programme (UNDP) in order to acquire the capacity to gather data on employment in the formal and informal sectors, asked whether steps had been taken in that direction. She noted the lack of labour inspection data, including that on the formal sector and wished to know how the State party checked on the existence of breaches of labour law. The delegation might wish to supply information regarding progress with the draft law on the organization of the court system. Lastly, she asked whether there were areas or sectors where the right to strike was restricted and if there were job quotas for persons with disabilities.

20. **Mr. Ribeiro Leão** enquired about the existence of up-to-date unemployment figures and asked whether the Employment Promotion and Poverty Reduction Policy framework had given rise to specific measures to reduce poverty.

21. **Ms. Bras Gomes** asked whether the national employment policy and action plan were actually in place and, if not, whether a target date had been set for their implementation. She noted that, under an Act of 2001, the Labour Code applied in the Free Trade Zone which, however, came under a different authority and inspectorate to the rest of Togolese territory. What action did the Government intend to take to offer greater protection to workers in that zone? She also wished to know why the minimum wage did not apply to rural and domestic workers and why the "shopping basket" had not been borne in mind when that wage had been raised in the years between 2009 and 2011. Why had the adoption of the national social welfare policy been delayed? The information supplied by the State party in paragraph 62 of the replies to the list of issues (E/C.12/TGO/Q/1/Add.1) concerning the widening of the general social security system to cover workers in the informal sector and the self-employed differed from information in the Committee's possession. What was the exact position? Since the future of the Togo Pension Fund and the National Social Security Fund (CNSS) was uncertain, the delegation might wish to

outline the measures the State party intended to take in that connection. She also requested additional information about the insurance scheme run by the National Health Insurance Institute (INAM), which policyholders had complained was cumbersome and complicated.

22. **Ms. Cong** asked how many women had found a job through the Employment Promotion and Poverty Reduction Policy framework and in what sectors they were employed.

23. **Mr. Martynov** asked whether the National Employment Agency (ANPE), established in 2009, was operational at long last and, if not, if a timetable had been set. He also wished to know whether the State party had the financial wherewithal to apply the new (2011) Social Security Code.

24. **Mr. Atangana** referring to his report in which he had underscored the inadequate nature of infrastructure and of the courts and the scourge of corruption — especially in the judicial sector — asked for details of progress with plans for its reorganization. He wished to know if legal proceedings had been initiated against senior officials suspected of corruption.

The meeting was suspended at 4.15 p.m. and resumed at 4.50 p.m.

25. **Mr. Kodjo** (Togo) said that the Covenant had its place in domestic law. Case law concerning its application existed, for example, in the sphere of labour law, since the Labour Court heard cases related to the right to strike, the right to join a trade union and rules on the dismissal of staff representatives, where it had occasion to draw attention to Covenant provisions. More had to be done to make the Togolese population aware of its rights under the Covenant. The Nationality Code laid down that both parents, the father and the mother, passed on Togolese nationality to their children; a child born in or out of wedlock of a Togolese mother and a foreign father obtained Togolese nationality as soon as his or her birth was registered in Togo. Under the 1978 order organizing the court system, courts of first instance could deal with labour law cases. As labour law was complex, cases had been heard by a specialized court in Lomé which could no longer cope, hence the need to set up a labour court in each of the five regions of the country and then, if the number of cases warranted it, in prefectures. The reform of the court system also covered juvenile courts. In view of the insecurity of land tenure (double or even triple sales), the Government had conducted a survey with a view to drafting a land code which would replace the 1906 Act and produce unified law suited to current reality and applicable throughout the country. The draft criminal code, which took account of the international instruments ratified by Togo, expressly mentioned violence against women and all vulnerable persons. Corruption in the judiciary was certainly a problem, but did not go unpunished. In 2009 two judges had been suspended and one had been struck off the roll. The delegation could not speak about legal action against eminent persons, given the secrecy of investigations and the presumption of innocence.

26. **Ms. Azambo** (Togo) said that the Government had adopted a gender policy centred on six major objectives: (1) to enhance the position and potential of women in the family and in the community; (2) to boost women's productive capacity and their income; (3) to ensure equal access to basic social services for women and men; (4) to promote the equal participation of women and men in the administration of the State; (5) to respect women's rights and eliminate violence against them; and (6) to improve the capacity of institutions to act and implement policies. A national strategy had been devised to counter the renewed upsurge of violence against women. Its chief emphasis was on information and awareness-raising campaigns. A budgetary appropriation had been allocated to the Ministry for the Advancement of Women in 2012 and 2013 to fund the strategy. Judges and doctors had been trained in the care of girls placed in ritual bondage in fetishist convents. In 2012 the Government had conducted a survey of that and similar practices and was currently

drawing up a communication strategy to combat them. In 2013, the International Day of the African Child, celebrated on 16 June by member States of the African Union, would be devoted to the elimination of harmful social and cultural practices affecting children. Togo, which had ratified the Convention on the Rights of Persons with Disabilities in 2011, was striving to revise the relevant legislation and had formulated a national strategy to combat discrimination against persons with disabilities, especially women with disabilities who were victims of violence.

27. **Mr. Hamadou** (Togo) said that the civil service pay scale had been revised 14 times in the previous 40 years and that the monthly inter-trade minimum wage (SMIG) amounted to 35,000 CFA francs compared with 28,000 for the period August 2008 to May 2012. Since the adoption of the new Labour Code, the labour inspectorate had increased the number of checks in the Free Trade Zone, and employers who broke the rules could be prosecuted. No restrictions were placed on the right to strike, but in some sectors, such as the health sector, the Government could requisition civil servants in order to maintain a minimum service.

28. The Government, which realized that the gathering of statistics was a real problem in Togo, had asked for the assistance of the International Labour Office, which would send a team to the country in June 2013 to train labour inspectors responsible for supervising employees' working conditions and health. That project would be jointly financed by the International Labour Office and Togo. Since the passing of some new legislation, women who wished to be gainfully employed no longer needed to obtain their husbands' consent and they enjoyed free access to the labour market.

29. Domestic labour was increasingly regulated. Many employment agencies had been set up in collaboration with the Ministry of Labour, Employment and Social Security. Employers were bound to offer the minimum wage to their employees, in default of which, they could be fined. In order to forestall health insurance fraud, very strict arrangements had been put in place and had entailed many administrative delays. In response to criticism, procedures had been reviewed and streamlined. A survey which was being conducted should make it possible to rationalize and speed up the whole process. The National Employment Agency, which had been operational for two years, had helped a large number of young people to join the labour market and many of them had since been recruited by the companies in which they had been placed.

30. As far as mining — especially phosphate and limestone mining — and the production of clinker were concerned, the principles of solidarity and fair sharing of resources meant that natural underground resources benefited not only the people living on the land holding those resources (and who had been moved to make room for the extractive industries), but also the rest of the population: no population groups should be given preferential treatment to the detriment of another.

Articles 10 to 12

31. **Mr. Tirado Mejía** expressed surprise that, according to the United Nations Human Settlements Programme (UN-Habitat), 91 per cent of Togolese homes were without hygiene facilities. He asked for additional information about access to water and the sanitation network in order to avoid diseases such as diarrhoea or cholera. As far as the right to health was concerned, he wished to learn what form the State party's campaigns against cholera and HIV had taken, because he was reliably informed that only half of seropositive people were receiving suitable treatment.

32. **Mr. Ribeiro Leão** asked whether the State party had a genuine poverty alleviation plan which took human rights into consideration.

33. **Mr. Dasgupta** drew attention to the substantial fluctuations in the share of the budget devoted to health which had fallen from 8.8 per cent over the period 1995–1999 to 4.1 per cent in 2004. As he understood that in 2006 total health expenditure amounted to less than 1 per cent of GDP, he asked whether the State party was really trying, to the full extent of its available resources, progressively to ensure the full exercise of the rights embodied in the Covenant.

34. **Ms. Bras Gomes** considered that the percentage of the national budget allocated to poverty alleviation strategies and the supply of social services to vulnerable groups was far from adequate (0.4 per cent in 2010). She wished to know whether the provisions of the Health Code requiring a regular review of a person's placement in a psychiatric institution were respected in practice.

35. **Mr. Pillay** queried the outcome of the Poverty Alleviation Strategy given that, in 2006, 61 per cent of Togolese had been living below the poverty line. What was the current level? Had the State party managed to build 2,500 social housing units every year since 2009, as it had undertaken to do in the 2009–2013 period? Had it taken steps to combat corruption in the civil service, which made it difficult to obtain land title? He also asked whether the Togolese Government had adopted legislative or other measures to make it easier for low-income and disadvantaged or marginalized groups to rent social housing. How many homeless people were there in the country? How many forced evictions had taken place in the previous five years? Had they been regulated by a law which was consistent with international standards on the matter, including the Committee's general comment No. 7 (1997) on the right to adequate housing (article 11.1 of the Covenant): forced evictions? Lastly, he wished to know whether indemnities had already been paid under the scheme to compensate owners of property expropriated in mining areas.

36. **Mr. Sadi** asked if the State party intended to mount effective campaigns to combat female genital mutilation and polygamy, since the facts proved that previous campaigns had been fruitless. He wished to know whether campaigns to encourage the registration of marriages had been successful, in other words whether they were preventing early marriage and whether the State party had adopted legislation banning marital rape. Lastly, he would appreciate additional information about health insurance cover. Was it universal? Did it cover the whole population (the unemployed as well as the working population) throughout the country (rural and urban areas) and all kinds of care?

Articles 13 to 15

37. **Mr. Kerdoun** asked how many local initiative schools there were in the country and how much time the State party thought that it needed in order to turn them into primary schools in accordance with its plans. He was unhappy that the Togolese Government had not replied to the question regarding measures taken to improve access to, and the quality of, secondary, technical and higher education. He asked whether the State party had made sure that teachers received better training, that classes were less, or not, overcrowded and that suitable teaching aids were placed at teachers' disposal. Lastly, he wished to know what percentage of the national budget was allocated to education, in particular to vocational and technical training, and whether the State party would be able to achieve its target of guaranteeing universal primary education in the near future.

38. **Mr. Marchán Romero** requested additional information regarding the ethnic composition of the State party's population as, according to certain trustworthy sources, the report under consideration had failed to mention some 35 population groups who were undoubtedly especially vulnerable. He wondered if there was a technical obstacle to the State party's ratification of International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169) and wished to know what progress was being made towards the adoption of that instrument.

39. In view of the fact that the law on landownership, including the 1906 Act and even older customary law, was designed to preserve ethnic groups' access to their ancestral land, he asked what steps the State party was taking to ensure that those groups' acquired rights were preserved in the current land legislation reform. He also wished to know how the State party had managed to put an end to inter-ethnic tensions between communities in the north and south of the country.

The meeting rose at 6 p.m.