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## Human Rights Council

Working Group on the Universal Periodic Review

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### **Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21**

#### **Congo\***

The present report is a summary of three stakeholders' submissions<sup>1</sup> to the universal periodic review. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. As provided for in resolution 16/21 of the Human Rights Council, where appropriate, a separate section is provided for contributions by the national human rights institution of the State under review that is accredited in full compliance with the Paris Principles. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

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\* The present document was not edited before being sent to the United Nations translation services.

## **Information provided by other stakeholders**

### **A. Background and framework**

#### **1. Scope of international obligations**

1. Joint Submission 1 (JS1) reports that the Congo made a commitment to ratify the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. Although the Congo has taken some steps in this regard, JS1 states that most of these instruments have not been submitted to parliament.<sup>2</sup>

2. JS1 recommends that the Congo ratify all the international legal instruments to which it is not a party, including the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.<sup>3</sup>

#### **2. Constitutional and legislative framework**

3. JS1 reports that the Congo began reviewing all legislative codes in 2008, but that no revised codes have been enacted. According to JS1, to compensate for this delay, the Government prepared a draft for a temporary order on the prevention and punishment of acts of torture. However, JS1 notes that neither the draft codes nor the draft order have been issued, which leaves a gap in the State's policy on preventing and punishing torture.<sup>4</sup>

4. JS1 recommends that the Congo expedite the review of all legislative codes so as to bring them into line with the international instruments it has ratified, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and that it publish the draft order preventing and punishing acts of torture as a temporary measure until the new codes are published.<sup>5</sup>

#### **3. Institutional and human rights infrastructure and policy measures**

5. JS1 recommends including a module on human rights in the training provided to gendarmes and police officers.<sup>6</sup>

6. Joint Submission 2 (JS2) notes that the Congo is making efforts to combat corruption in its institutions. JS2 welcomes the implementation of new decentralization programmes at the national level and the strengthening of regional integration within the Commission of the Central African Economic and Monetary Community (CEMAC) and the Economic Community of Central African States (ECCAS).<sup>7</sup>

7. JS2 notes the adoption in 2009 of the first National Plan to Combat Corruption, Extortion and Fraud. JS2 adds that the plan was aimed at bringing about, in partnership with civil society and the private sector, the adoption of the Anti-Corruption Act of 2009.<sup>8</sup>

8. JS2 recommends that the Congo should: (i) encourage joint efforts between the National Commission to Combat Corruption and members of civil society, in particular by implementing a national action plan; and (ii) raise awareness among the general population, State officials and the media about the impact corruption has on the enjoyment of human

rights, with a view to punishing and bringing to justice the perpetrators of acts of corruption.<sup>9</sup>

## **B. Cooperation with human rights mechanisms**

### **1. Cooperation with treaty bodies**

9. JS1 indicates that the Congo does not have a good track record with regard to drafting and submitting reports to the various United Nations committees or to the African Commission on Human and Peoples' Rights. JS1 adds that the Congo has justified the situation by pointing to its lack of expertise in preparing, drafting and submitting reports and the lack of leadership in some ministries.<sup>10</sup>

10. JS1 notes that the interministerial commission responsible for drafting all such reports and following up on the commitments made has submitted some of the reports that were overdue, including the second periodic report to the Committee on the Rights of the Child and the initial report to the African Commission on Human and Peoples' Rights.<sup>11</sup>

11. JS1 points out that the initial report on the implementation of the Convention against Torture has not been submitted. JS1 recommends that the Congo submit its human rights reports regularly and within a reasonable time frame.<sup>12</sup>

## **C. Implementation of international human rights obligations**

### **1. Right to life, liberty and security of the person**

12. JS1 reports that the Congo has imposed a de facto moratorium on the death penalty since October 1982, but that murder, treason and espionage are punishable by death under the Criminal Code. JS1 notes that the Congo accepted the recommendations made during the first cycle of the universal period review on abolishing the death penalty. None of these commitments have been fulfilled, however. JS1 recommends that the Congo abolish the death penalty for all offences.<sup>13</sup>

13. JS1 indicates that, despite the recommendations made in the first cycle of the universal period review, torture and cruel, inhuman or degrading treatment are still practised. JS1 states that ACAT Congo has also reported deaths in prison and cites a case that occurred in August 2012 at the central police station (City Centre) in Pointe-Noire.<sup>14</sup>

14. JS1 notes that torture is not explicitly defined in the law. JS1 reports that acts of torture are frequent in the Congo and that, unless an individual is incriminated, no investigation is conducted to identify and punish the persons responsible, who enjoy total impunity. JS1 indicates that victims of torture often fear reprisals, which prevents them from lodging a complaint with the competent courts. JS1 notes that there is a complete lack of will to put an end to acts of torture, let alone to punish the perpetrators of such acts.<sup>15</sup>

15. JS1 recommends that the Congo expedite investigations into allegations of torture and into deaths in places of detention, in order to identify and punish the perpetrators.<sup>16</sup>

16. JS1 welcomes the fact that the Congo, with the support of various partners, is in the process of modernizing its prison infrastructure and improving human rights training for prison staff.<sup>17</sup> However, JS1 regrets that the Congo has not taken adequate measures to reduce prison overcrowding.<sup>18</sup>

17. JS1 notes that, in order to facilitate the monitoring of places of detention by independent bodies, the Government has prepared a draft order authorizing the Directorate General of Human Rights and Fundamental Freedoms and the National Human Rights

Commission to conduct unannounced visits of places of detention. JS1 adds that human rights NGOs should also be able to visit detention centres, provided they give the person in charge of the centre 48 hours' notice of the visit. However, according to JS1 this draft order has not been published.<sup>19</sup>

18. JS1 recommends that the Congo should: (i) ensure the timely implementation of judicial procedures, establish alternatives to detention and put an end to arbitrary arrests and detentions in order to combat prison overcrowding; (ii) take measures to ensure that detainees can receive visits, have access to counsel and basic medical care, and are properly fed; (iii) ensure that prison registers are maintained in a regular and transparent manner; and (iv) publish the draft order on strengthening the monitoring of places of detention by independent bodies, including NGOs, as a transitional step towards establishing a national mechanism for the prevention of torture.<sup>20</sup>

19. The Global Initiative to End All Corporal Punishment of Children (GIEACPC) is pleased that in 2010 the Congo achieved law reform to prohibit corporal punishment of children in all settings, including the home. It notes that the law provides a firm foundation for protecting children from being hit and hurt in the name of discipline. It adds that efforts should now be focused on ensuring implementation of the law: States' obligations under the Convention on the Rights of the Child and other human rights treaties require them to both prohibit and eliminate corporal punishment.<sup>21</sup>

## **2. Administration of justice, including impunity and the rule of law**

20. JS1 notes that the justice system is characterized by a lack of independence and by slowness and corruption. JS1 also flags the lack of confidence in the judicial system.<sup>22</sup>

21. JS1 recommends strengthening the powers of investigation of the courts, judicial services and the High Council of the Judiciary.<sup>23</sup>

22. Although the maximum legal duration of pretrial detention is 48 hours, JS1 notes that this limit is not respected. JS1 adds that the detention of accused persons in gendarmerie and police stations is not monitored by the public prosecutor, who has no control over detention registers in these places.<sup>24</sup> Under the Code of Criminal Procedure, according to JS1, detainees are entitled to the assistance of a lawyer, a medical examination and, if they are poor, legal aid. JS1 notes that these principles are not respected in practice, however. JS1 urges the Congo to lift the restrictions on family visits in places of detention.<sup>25</sup>

## **3. Right to privacy, marriage and family life**

23. JS2 points out that during the first cycle of the universal periodic review in 2009 a recommendation was made regarding birth registration, and that the Congo undertook to take measures in this regard. JS2 notes that many families are reluctant to register their children at birth.<sup>26</sup>

24. JS2 recommends that the Congo should: (i) improve procedures to increase the percentage of children registered at birth in remote and rural areas; and (ii) ensure the implementation of birth registration that is free of charge and free from corruption for all children, without any discrimination, and in all regions.<sup>27</sup>

## **4. Right to participate in public and political life**

25. JS2 indicates that women's participation in political life is not in line with the parity principle as enshrined in the Constitution and the 2006 Political Parties Act.<sup>28</sup>

26. JS2 indicates that as at 2013 women hold 13 per cent of seats in the Senate and 7 per cent in the National Assembly, while 4 of the 38 government ministers (10 per cent) are

women, as are 6 of the 26 advisers to the Office of the President of the Republic (23 per cent), 1 of the 9 members of the Constitutional Court (11 per cent), 15 of the 44 members of the National Human Rights Council (34 per cent), 27 of the 75 members of the Economic and Social Council (36 per cent) and 10 per cent of district mayors. JS2 indicates that there are no women serving as local mayors, prefects or chairs of departmental, communal or district councils, and that women remain underrepresented in the leadership of political parties.<sup>29</sup>

27. JS2 recommends that the Congo should: (i) adopt a bill on parity in political and administrative positions and elected offices, make it a priority bill for 2013 and make plans to enact it; (ii) identify the obstacles preventing women from holding decision-making positions and establish a capacity-building programme; and (iii) establish national programmes to empower women's organizations and groups, for example through technical and financial support and microcredit.<sup>30</sup>

## **5. Right to work and to just and favourable conditions of work**

28. JS2 welcomes the commitment by the Congo to declare 2013 the year of basic education, with a special focus on vocational training. JS2 notes, however, that better job opportunities for youth are still needed. JS2 notes that a growing number of young people are employed in the informal sector and therefore have no access to social security. In this context, women, and young women in particular, are the primary victims of discrimination in access to employment.<sup>31</sup>

29. JS2 recommends that the Congo continue its efforts to achieve equal access for women to the labour market, particularly through vocational training programmes.<sup>32</sup>

## **6. Right to health**

30. JS2 highlights the impact of corruption on the right to health and its harmful effects on the most disadvantaged population groups.<sup>33</sup>

31. While acknowledging the measures the Congo has taken, JS2 states that access to health care remains a serious problem. JS2 notes with regret that the entire health-care system is adversely affected, to the extent that corruption affects the allocation of resources, the distribution of medical supplies and the relationships between health-care professionals and patients.<sup>34</sup>

32. JS2 notes that in some cases the recruitment of health-care professionals seems to depend more on nepotism than on a real selection process based on the candidates' abilities, and that this practice has resulted in a lack of qualified and competent staff. JS2 adds that medical staff are poorly paid, which reinforces the vicious circle of poverty and corruption.<sup>35</sup>

33. JS2 recommends that the Congo should: (i) establish an action plan to keep a closer watch on how medical and pharmaceutical administrators manage their funds and staff; and (ii) ensure that State-licensed doctors and pharmacists are present in the most remote areas.<sup>36</sup>

34. JS2 welcomes the efforts by the Congo to promote gender equality, maternal health and the health of girls, especially in rural areas, in order to combat maternal and infant mortality. JS2 indicates, however, that access to health care is restricted by excessively high prices for medicines and by the practice of charging additional fees for consultations that are supposed to be free. JS2 also notes that early pregnancy is still the primary reason why girls drop out of school. JS2 adds that the lack of adequate medical care often leads to more serious health problems, resulting in girls' permanent exclusion from the educational system and, consequently, the labour market.<sup>37</sup>

35. JS2 recommends that the Congo adopt specific measures to reduce the health risks related to early pregnancy and to ensure that young mothers are reintegrated in the educational system.<sup>38</sup>

## 7. Right to education

36. JS2 notes that many measures are needed to improve access to education in the south of Brazzaville department.<sup>39</sup>

37. While recognizing that compulsory education is guaranteed for every child under 16 years of age under the law of 1995, JS2 says that the law is not being effectively implemented. Although State schools are free, JS2 reports that the quality of the educational system remains relatively poor and that classes are overcrowded and can hold as many as 60 students. In addition, JS2 says that the educational system does not provide good preparation for secondary education. Because of these difficulties and students' resulting lack of motivation, JS2 indicates that about one third of children leave school after their primary education.<sup>40</sup>

38. JS2 notes with concern that, both in the south of Brazzaville and in Pointe-Noire, about 45 per cent of girls are illiterate or barely literate. Stereotypes about the role of women in the home are still very popular and are an obstacle to equality of opportunity for young girls.<sup>41</sup>

39. JS2 recommends that the Congo should: (i) continue its efforts to promote and facilitate school enrolment and attendance, especially among children from poor families; (ii) adopt the necessary measures to ensure the quality of education, including by improving the student-teacher ratio in primary schools in order to combat school dropout and increase attendance rates in secondary schools; and (iii) guarantee the right to education for girls by conducting awareness-raising campaigns on the importance of schooling, targeting families and the general public.<sup>42</sup>

## 8. Persons with disabilities

40. JS2 recommends that the Congo ratify the Convention on the Rights of Persons with Disabilities so as to promote opportunities for the employment and advancement of persons with disabilities in the labour market.<sup>43</sup>

### Notes

<sup>1</sup> The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: [www.ohchr.org](http://www.ohchr.org). (One asterisk denotes a national human rights institution with "A" status.)

#### *Civil society:*

- JS1 Joint Submission 1 by FIACAT et ACAT Congo;
- JS2 Joint Submission 2 by Franciscan International (FI), Istituto Internazionale Maria Ausiliatrice (IIMA), International Volunteerism Organisation for Women, Development and Education (VIDES International) and Office Internationale de l'Enseignement Catholique (OIEC);
- GIEACPC Global Initiative to End All Corporal Punishment of Children.

<sup>2</sup> JS1, pp. 6–7.

<sup>3</sup> JS1, p. 7.

<sup>4</sup> JS1, p. 3.

<sup>5</sup> JS1, p. 4.

<sup>6</sup> JS1, pp. 4 and 8.

<sup>7</sup> JS2, p. 3, para. 8.

- <sup>8</sup> JS2, p. 3, para. 9.  
<sup>9</sup> JS2, p. 3, para. 17.  
<sup>10</sup> JS1, p. 7.  
<sup>11</sup> JS1, p. 7.  
<sup>12</sup> JS1, pp. 7–8.  
<sup>13</sup> JS1, p. 6.  
<sup>14</sup> JS1, p. 3.  
<sup>15</sup> JS1, p. 3.  
<sup>16</sup> JS1, p. 4.  
<sup>17</sup> JS1, p. 4.  
<sup>18</sup> JS1, p. 4.  
<sup>19</sup> JS1, p. 4.  
<sup>20</sup> JS1, p. 5.  
<sup>21</sup> GIEACPC, p. 2.  
<sup>22</sup> JS1, p. 5.  
<sup>23</sup> JS1, p. 5.  
<sup>24</sup> JS1, p. 5.  
<sup>25</sup> JS1, p. 4.  
<sup>26</sup> JS2, p. 7, para. 25.  
<sup>27</sup> JS2, p. 7, para. 26.  
<sup>28</sup> JS2, p. 6, para. 21.  
<sup>29</sup> JS2, p. 6, paras. 22 and 23.  
<sup>30</sup> JS2, pp. 6–7, para. 24.  
<sup>31</sup> JS2, p. 9, para. 33.  
<sup>32</sup> JS2, pp. 9–10, para. 35.  
<sup>33</sup> JS2, p. 4, para. 11.  
<sup>34</sup> JS2, p. 4, para. 12.  
<sup>35</sup> JS2, pp. 4–5, paras. 15 and 16.  
<sup>36</sup> JS2, p. 5, para. 17.  
<sup>37</sup> JS2, p. 8, para. 31.  
<sup>38</sup> JS2, pp. 8–9, para. 32.  
<sup>39</sup> JS2, p. 7, para. 27.  
<sup>40</sup> JS2, pp. 7–8, paras. 28–29.  
<sup>41</sup> JS2, p. 8, para. 30.  
<sup>42</sup> JS2, pp. 8–9, para. 32.  
<sup>43</sup> JS2, p. 9, para. 35.
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