



ON THE BACK OF THE CRISIS

VIOLETIONS OF THE RIGHT TO HEALTH AND REPRESSION OF
ECONOMIC AND SOCIAL RIGHTS DEFENDERS IN THE REPUBLIC OF
CONGO

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GLOSSARY

| | |
|--------|---------------------------------------------------------------------------------------------------------|
| ARV | Antiretrovirals |
| ADB | African Development Bank |
| ACHPR | African Commission on Human and Peoples' Rights |
| CNDSS | <i>Caisse nationale de sécurité sociale</i> / National Social Security Fund |
| CNTS | <i>Centre national de transfusion sanguine</i> / National Blood Transfusion Centre |
| CRF | <i>Caisse de retraite des fonctionnaires</i> / Public Sector Pension Fund |
| CSI | <i>Centre de santé intégrée</i> / Integrated Health Centre |
| CHUB | <i>Centre hospitalier et universitaire de Brazzaville</i> / Brazzaville Hospital and University Centre |
| CESCR | Committee on Economic, Social and Cultural Rights |
| COUSP | <i>Centre des opérations d'urgences de santé publique</i> / Public Health Emergency Operations Centre |
| DTS | <i>Dépense totale de santé</i> / Total health expenditure |
| UPR | Universal Periodic Review |
| ECF | Extended Credit facility |
| IMF | International Monetary Fund |
| HALC | <i>Haute autorité de lutte contre la corruption</i> / Higher Authority for the Fight against Corruption |
| DSSI | Debt Service Suspension Initiative |
| MEEC | <i>Mouvement des élèves et étudiants du Congo</i> / Congolese Pupils' and Students' Movement |
| ILO | International Labour Organization |
| MDG | Millennium Development Goals |
| WHO | World Health Organization |
| ICESCR | International Covenant on Economic, Social and Cultural Rights |

| | |
|-----------------|----------------------------------------------------------------------------------------------------------------|
| PNDS | <i>Plan national de développement sanitaire / National Health Development Plan</i> |
| RENAPC | <i>Réseau national des associations des positifs du Congo / National Network of HIV+ Associations of Congo</i> |
| NCS | <i>Société nationale des pétroles du Congo / National Congolese Oil Company</i> |
| UNICONGO | <i>Union patronale et interprofessionnelle du Congo / Employers' and Interprofessional Union of Congo</i> |

1. EXECUTIVE SUMMARY

“I saw a young man from a nearby village, visibly unwell, abandoned in the emergency room for lack of money.”

Testimony of a patient from the Gamboma basic hospital (Plateaux department).

This report covers the dual economic crisis suffered by the Republic of Congo (Congo), exacerbated by the failure of the authorities, and analyses its consequences for the economic and social rights of Congo's five million citizens, particularly their right to health. It also focuses on the repression of those who denounce this situation.

Denis Sassou Nguesso, 77, was re-elected with 88.40% of the vote for a fourth consecutive term as head of Congo, following the presidential election on 21 March 2021. This year was his 37th year in office, having served as president from 1979 to 1992, and again since 1997. This exceptional longevity, made possible in particular by a contested change in the constitution in 2015, has been accompanied by human rights violations on the part of the authorities, further weakening a country in the grip of an appalling socio-economic situation.

Overly dependent on its oil, Congo has been sucked into a serious economic crisis since 2014 due to the collapse of the global price of a barrel of oil. This situation has been exacerbated by problems of governance, marked by corruption, colossal debts sometimes concealed by the authorities, and a privatization policy that has contributed to an increased cost of living. The financial burden of the debt amounted to some EUR 160 million in the draft budget for 2021, or more than 55% of the Ministry of Health's budget for the same year.

The consequences for the lives of the Congolese population have been brutal. Tens of thousands of workers have been laid off. Retirees, civil servants and students have been deprived of their pensions, salaries and scholarships. The effects of the crisis and the way it has been managed have had a negative effect on economic and social rights.

This led, in July 2019, to the signing of an agreement between the International Monetary Fund (IMF) and Congo for nearly US\$450 million in aid. Several months after this agreement, which was conditional upon efforts to improve transparency and good governance, the results were described by the IMF as “mixed”. It was against this already worrying economic and social backdrop that Congo was hit by the COVID-19 pandemic on 14 March 2020. Business activity in both the formal and informal sectors plummeted, increasing unemployment.

In this context, the health sector was put under particular strain. Not only was its budget inadequate but its implementation problematic. After reaching a peak in 2014, its budget began a steady decline, bottoming out in 2017 before stagnating in 2018 and 2019, then rising sharply in 2020 thanks to the COVID-19 pandemic, before declining again in 2021. At the same time, the Ministry of Health's share of the overall

budget evolved significantly but ended up at around the same rate in 2021 (10%) as it was in 2014 (9%), despite the pandemic. This percentage has only once come anywhere near to meeting the 2001 Abuja Declaration commitment to devote at least 15% of the national budget to health.

Announcements by the authorities that they would improve the health care system have not come to fruition. The construction of new hospitals and the improvement of existing infrastructure, while budgeted for, has not materialized. Impoverished, the Congolese people have been unable to rely on their health system as it is inadequate, failing, undermined by accusations of mismanagement and regularly paralyzed by strikes. According to a statement by the Minister of Health in July 2020, the health sector has lost more than 40% of its active staff in the last three years. The dilapidated infrastructure, shortages of equipment and quality of staff have seriously compromised the right to health. Amnesty International's research contradicts the stated claim of free care in certain areas of health, particularly for people living with HIV (PLHIV).

Faced with the dual economic and pandemic crisis, the authorities' preferred response has been repression. The implementation of restrictive measures taken under the state of health emergency has been accompanied by serious human rights violations, which have so far gone unpunished. Moreover, those Congolese people who have demanded their economic and social rights in this unfavourable context have been repressed. Human rights defenders, trade unionists, journalists and students have been the target of legal proceedings, threats, administrative sanctions and torture.

In this report, Amnesty International makes recommendations for the protection of human rights. The organization reminds the Congolese authorities of their obligations to respect economic and social rights, in particular the right to health. It also calls on the government to protect freedom of expression and peaceful assembly, to release those arbitrarily detained, and to cease the judicial harassment and intimidation of critical voices. Amnesty International is further calling on Congo's financial partners to ensure that all measures taken to support economic policies and reforms also promote respect for human rights.

2. METHODOLOGY

This publication is part of Amnesty International's ongoing work on the human rights situation in the Republic of Congo. In March 2018, the organization published "Congo. Political Opposition under Pressure",¹ ahead of the session of the Universal Periodic Review (UPR) Working Group. In 2019 and 2020, several press releases were issued regarding, among other things, the detentions of Jean-Marie Michel Mokoko and André Okombi Salissa, both candidates in the 2016 presidential election. These detentions were deemed arbitrary by the relevant UN Working Group.

Due to the COVID-19 pandemic, Amnesty International delegates were unable to visit Congo. On-site research was conducted by a consultant in Brazzaville and in the departments of La Cuvette and Les Plateaux. Interviews and exchanges were conducted in Congo and remotely with more than 50 people: patients, trade unionists and members of associations, including non-governmental human rights organizations. Research and analysis were conducted on the basis of at least 100 documents, speeches and official press releases, national and international media articles, reports from international and national organizations, and regulatory, legislative and administrative texts. Both international law and Congolese law were used as the basis for identifying human rights violations and making recommendations. The anonymity of most of the interviewees, either at their request or after Amnesty International had considered the risks involved, is indicative of the ongoing climate of fear and intimidation in Congo.

On 26 March, Amnesty International wrote to the Congolese authorities outlining the main findings of the report and requesting a response from them. Of the six ministries contacted, only the Ministry of the Economy had responded by 16 April. Elements of this response have been incorporated into the report. The latter, which is based on information available at the time of interviews and research, was completed in March 2021 and covers the period from 2015 to 2021.

¹ <https://www.amnesty.org/en/documents/afr22/8655/2018/en/>

3. THE ECONOMIC CRISIS AND ITS MANAGEMENT

“We no longer know how to get by. A number of female students have been forced into prostitution and many other students have dropped out of school to do odd jobs.”

Testimony of a Congolese student holding a scholarship abroad.

3.1 FINANCIAL RUIN DESPITE THE OIL

3.1.1 A SINGLE-COMMODITY PRODUCER: VICTIM OF A GLOBAL CRISIS

The global situation from 2014 on was marked by over-production in the main oil-producing countries, leading to a collapse in the price of oil on the world markets. Average prices fell from more than US\$ 100 a barrel between early 2011 and mid-2014 to less than US\$ 40 in mid-2016.² The consequences were particularly damaging for highly dependent countries such as Congo. Before the crisis, oil production accounted for 58% of the country's GDP, oil exports for 78% of its exports, and oil revenues for 74% of its total budgetary revenues.³ The recession turned to negative growth in 2016 and 2017, leading to a large number of job losses in the oil-related, construction and hotel sectors.⁴ In December 2019, the president of the Pointe-Noire Chamber of Commerce, Industry, Agriculture and Trades (CCIAM) estimated that 50,000 jobs had been lost between 2014 and 2017.⁵ According to other estimates, 12,000 workers were laid off in 2016 and 3,000 in 2017,⁶ under conditions that were denounced by human rights organizations and

² IMF Report No. 19/244, July 2019.

³ World Bank, “Economic Update for the Republic of Congo. Changing Course and Taking Charge of its Destiny,” September 2018, <http://documents1.worldbank.org/curated/en/771451538593927070/pdf/128717-REPL-SITUATION-ECONOMIQUE-EN-REPUBLIQUE-DU-CONGO-FINAL-08-01-2019.pdf>

⁴ IMF Report No. 19/244, July 2019.

⁵ Le Monde, “Pointe-Noire a toujours le blues malgré le pétrole qui coule à flots au Congo-Brazzaville”, 27 December 2019, www.lemonde.fr/afrique/article/2019/12/27/pointe-noire-a-toujours-le-blues-malgre-le-petrole-qui-coule-a-flots-au-congo-brazzaville_6024172_3212.html

⁶ World Bank, Economic Update for the Republic of Congo. Changing Course and Taking Charge of its Destiny, September 2018, <http://documents1.worldbank.org/curated/en/771451538593927070/pdf/128717-REPL-SITUATION-ECONOMIQUE-EN-REPUBLIQUE-DU-CONGO-FINAL-08-01-2019.pdf>

opponents as in contravention of labour law, including the non-payment of severance pay and a lack of staff and union representation in some companies.⁷

3.1.2 GOVERNANCE IN THE SPOTLIGHT

In addition to the decline in oil prices, endogenous factors also contributed to a situation of “unsustainable public finance and debt policies”.⁸ These included “governance weaknesses” involving “discounts on the sale price of government oil, non-transparent oil-for-infrastructure barter arrangements and oil pre-purchase loans from traders, and large off-budget expenditure in a context of weak anti-money laundering and anti-corruption legal frameworks.”⁹ By 2017, public debt had reached a record 117% of GDP,¹⁰ which the Congolese authorities concealed from the IMF.¹¹ By the end of September 2019, the debt was estimated at 87.8% of GDP.¹² In January 2020, a new hidden debt of US\$ 3.3 billion came to light, owed by the *Société nationale des pétroles du Congo* (National Congolese Oil Company / SNPC) to several banks and oil companies, including Total, Chevron and ENI. Between 2012 and 2018, despite sales of US\$ 5.7 billion, the SNPC made profits of only US\$ 123 million while incurring US\$ 741 million in debt solely with these foreign companies. Debt repayment alone could amount to US\$ 1.5 billion between 2019 and 2022,¹³ or five times the health budget allocation in the 2021 Finance Bill. The financial costs of debt servicing come to EUR 160 million in the 2021 Finance Bill, or more than 55% of the Ministry of Health's budget for the year.

At the same time, the justice system has been looking into several alleged cases of embezzlement involving the president's family (see box below). The courts have also been looking into intermediaries. In 2018, the Swiss justice system sentenced a Belgian employee of oil trader Gunvor to a suspended 18-month prison sentence for corruption. He had admitted organizing the payment of US\$ 43.3 million in bribes to Congo and Côte d'Ivoire between 2008 and 2012 in exchange for oil shipments.¹⁴ Again in Switzerland, Gunvor was fined approximately US\$ 95 million in 2019 for bribing oil executives in both countries between 2009 and 2011. According to the Swiss Attorney General's office, the Congolese president and members of his family were among the beneficiaries of the bribes.¹⁵

⁷ Congolese Human Rights Observatory, Annual Report 2019, <http://ocdh-brazza.org/wp-content/uploads/2019/05/OCDH-RAPPORT-A5-COMPLET-V10.pdf>

⁸ IMF Report No.19/244, July 2019.

⁹ IMF Report No.19/244, July 2019.

¹⁰ IMF Report No. 20/26, January 2020.

¹¹ RFI, “La dette cachée du Congo-Brazzaville”, 2 August 2017, www.rfi.fr/fr/afrique/20170802-congo-brazzaville-dette-cachee-fmi-chine-trafigura-glencore-info-rfi

¹² IMF Report No. 20/26, January 2020.

¹³ IMF Report No.19/244, July 2019.

¹⁴ Le Temps, “Condamné pour corruption, un ancien trader de Gunvor va collaborer avec la justice”, 28 August 2018,

www.letemps.ch/suisse/condamne-corruption-un-ancien-trader-gunvor-va-collaborer-justice

¹⁵ www.agencecofin.com/compagnies/1710-70215-le-negociant-de-petrole-gunvor-condamne-a-une-amende-de-95-millions-pour-corruption-au-congo-et-en-cote-d-ivoire

PRESIDENT'S FAMILY IMPLICATED IN COURT CASES



In 2015, some 15 luxury cars were seized from members of the Sassou Nguesso family in Neuilly-sur-Seine, France, after a complaint was filed in 2008 regarding the “ill-gotten gains” of three African heads of state, including the Congolese president. In March 2017, Wilfrid Nguesso, the president's nephew, was indicted in France for “laundering funds embezzled from the public purse coming from the company Socotram.”¹⁶ In June 2017, the president's daughter, Julienne Sassou Nguesso, and her son-in-law, Guy Johnson, were in turn indicted in France for misappropriation of public funds. A month later, it was the turn of Edgar Nguesso - another nephew of the president and director of the Presidential Estate - and his mother, Catherine Ignanga, again for the same reasons. In April¹⁷ and August¹⁸ 2019, the non-governmental organization Global Witness accused the president's son, Denis Christel Sassou Nguesso, of embezzling more than US\$ 50 million in public funds, or 40% of the investment planned by the Ministry of Health in the 2021 Finance Act. The president's daughter, Claudia Sassou Nguesso, reportedly received nearly US\$ 20 million in public funds which were used to purchase a luxury apartment in the Trump Hotel & Tower in New York. Federal prosecutors in the United States have filed a complaint to seize a luxury apartment in Miami owned by Denis Christel Sassou Nguesso.¹⁹ The document further details how he allegedly spent over US\$ 29 million on luxury items between 2007 and 2017.

3.1.3 PRIVATIZATIONS QUESTIONED

During the crisis, a series of privatizations took place that were deemed to be of little benefit to the Congolese people. A concession awarded in 2019 for National Highway No. 1 between Brazzaville and Pointe-Noire (the only existing road)²⁰ resulted in an increase in tolls. Set by decree²¹ in February 2019, these increases were met with protests,²² following which the government revised the rates downward in August 2019.²³ According to Mermans Babounga, Executive Secretary of the Congolese Observatory of Consumer Rights, “The lobbying did not produce the expected outcome since the review of toll rates only resulted in a 30% reduction in the rates charged at the time the toll booths were implemented. In the end, the concession led to a twofold increase in the rate, affecting the prices of food in the markets.”²⁴ Interventionist measures were taken to limit price increases,²⁵ such as an obligation for merchants to “display the prices charged at the

¹⁶ Le Monde, “Congo-Brazzaville: pour Wilfrid Nguesso, ‘quand on gagne de l'argent, c'est pour se faire plaisir’”, 21 January 2021, www.lemonde.fr/afrique/article/2021/01/21/congo-brazzaville-pour-wilfrid-nguesso-quand-on-gagne-de-l-argent-c-est-pour-se-faire-plaisir_6067104_3212.html

¹⁷ Global Witness, “Trump's Luxury Condo: A Congolese State Affair”, 10 April 2019,

<https://www.globalwitness.org/en/campaigns/corruption-and-money-laundering/trumps-luxury-condo-a-congolese-state-affair/>

¹⁸ Global Witness, “Sassou-Nguesso's Laundromat: A Congolese State Affair – Part II”, August 2019,

<https://www.globalwitness.org/en/campaigns/corruption-and-money-laundering/sassou-nguessos-laundromat-a-congolese-state-affair-part-ii/>

¹⁹ Miami Herald, “Miami feds file lawsuit to seize Congo minister's \$3 million Biscayne Bay penthouse,” 18 June 2020, www.miamiherald.com/news/local/article243595392.html

²⁰ Les Dépêches de Brazzaville, “Infrastructures routières: l'État concède la route Brazzaville - Pointe-Noire à deux concessionnaires”, 18 December 2018, www.adiac-congo.com/content/infrastructures-routieres-letat-concede-la-route-brazzaville-pointe-noire-deux

²¹ Decree No. 2018-39 of 28 February 2019, <https://economie.gouv.cg/sites/default/files/D%20n%C2%B02019-39%20du%2028%20fe%CC%81vrier%202019.pdf>

²² Les Dépêches de Brazzaville, “Transport routier: les opérateurs économiques déplorent le coût élevé des péages”, 9 April 2019, www.adiac-congo.com/content/transport-routier-les-operateurs-economiques-deplorent-le-cout-eleve-des-peages-98179; Unicongo, “Le président du Sénat a reçu Unicongo le 9 avril 2019 au sujet du péage sur la RN 1”, www.unicongo.org/le-president-du-senat-a-recu-unicongo-le-9-avril-2019-au-sujet-du-peage-sur-la-rn1/

²³ Les Dépêches de Brazzaville, “Compte rendu du Conseil des ministres du mercredi 7 août 2019”, 7 August 2019, www.adiac-congo.com/content/compte-rendu-du-conseil-des-ministres-du-mercredi-7-aout-2019-103946

²⁴ Email from Mermans Babounga Ngondo received 1 December 2020.

²⁵ Les Dépêches de Brazzaville, “Consommation: la hausse des prix des produits inquiète les Congolais”, 23 September 2019, www.adiac-congo.com/content/consommation-la-hausse-des-prix-des-produits-inquiete-les-congolais-106007

point of sale” and to obtain invoices from their suppliers.²⁶ On 9 October 2018, an order was issued setting a ceiling on the price of butane gas.²⁷

In February 2018, two pieces of draft legislation dissolved the *Société nationale d'électricité* (National Electricity Company / SNE) and the *Société nationale de distribution d'eau* (National Water Distribution Company / SNDE) when a “technical situation of near-bankruptcy” and “underperformance in distribution and marketing” were found that “resulted in a complete collapse of their relationship with their respective customers and users to the point of making them extremely bad”.²⁸ They were replaced by *Energie Electrique du Congo* (E2C) and *La Congolaise des eaux*, “the emphasis being on private management and a stronger commercial dimension”.²⁹ The Ministry of Economy informed Amnesty International that “SNE and SNDE have changed from EPIC to commercial company status; in the long term, the government aims to open up the share capital of these companies to the private sector”.³⁰ The obsolescence and inadequacy of facilities was still being criticized in 2020,³¹ as was the frequency of power outages³² and the way in which payments were being handled.³³ The privatizations continued thereafter. The Swiss company 3P Renewables Switzerland S.A. was awarded a water utility concession³⁴ “to develop and run a new drinking water production facility at Lake Gambouissi”,³⁵ in the department of Pointe-Noire. The Turkish company Aksa Energy Company Congo obtained a concession for the Djeno power plant.³⁶

In 2018, the UN Special Rapporteur on extreme poverty and human rights recalled the harmful effects that privatization can have on human rights. In particular, “Water, sanitation, electricity, roads, transport, education, health care, social services and financial services are far less likely to be provided adequately or at good quality levels to the poor.”³⁷ The report also cited the example of the proliferation of expensive toll roads, which forces the poor to make do with “inferior, badly maintained and increasingly marginalized alternative options”.

3.2 CONCRETE IMPACTS ON CONGOLESE LIVES

3.2.1 RETIREES, EMPLOYEES, STUDENTS: THREE GENERATIONS DEPRIVED OF INCOME

The impact of the financial crisis and its management on the daily lives of the Congolese people has been as rapid as it has been brutal and is still being felt today. The provisional suspension of Congo's voting rights at the UN General Assembly in January 2021 for non-payment of contributions due³⁸ has given international publicity to the drift of the Congolese state, which has been unable to pay its retirees, civil servants and students for years.

²⁶ Ministry of Commerce, Supplies and Consumer Affairs, Press Release, Ref No. 00374/MCAC-CAB, 18 November 2019, https://ecofin.assemblee-nationale.cg/sites/default/files/2020-05/Communiqu%C3%A9%20n%C2%B0%2000374_MCAC_CAB.pdf

²⁷ Bylaw No. 91-94/MH/MCAC/MFB revising the price of butane gas under the price structure, www.finances.gouv.cg/sites/default/files/documents/Arr%C3%AAt%C3%A9%20n%C2%B0%209194-MH-MCAC-MFB%20du%209%20octobre%202018%20portant%20r%C3%A9vision%20de%20la%20structure%20de%20prix%20du%20gaz%20butane%20soumis%20%C3%A0%20la%20structure%20des%20prix.pdf

²⁸ Les Dépêches de Brazzaville, “Compte rendu du Conseil des ministres du vendredi 2 février 2018”, 2 February 2018, www.adiac-congo.com/content/compte-rendu-du-conseil-des-ministres-du-vendredi-2-fevrier-2018-78908

²⁹ Les Dépêches de Brazzaville, “Compte rendu du Conseil des ministres du vendredi 2 février 2018”, 2 February 2018, www.adiac-congo.com/content/compte-rendu-du-conseil-des-ministres-du-vendredi-2-fevrier-2018-78908

³⁰ Email sent to Amnesty International from the Ministry of the Economy on April 13, 2021.

³¹ Les Dépêches de Brazzaville, “Éclairage public: le noir s'installe durablement sur les grandes artères de Brazzaville”, 27 November 2020, www.adiac-congo.com/content/eclairage-public-le-noir-sinstalle-durablement-sur-les-grandes-arteres-de-brazzaville-121904

³² Voice of America, “Confinement sans électricité à Brazzaville, malgré la gratuité”, 16 April 2020, www.voaafrique.com/a/confinement-sans-%C3%A9lectricit%C3%A9-%C3%A0-brazzaville-malgr%C3%A9-la-gratuit%C3%A9/5374711.html

³³ Les Dépêches Brazzaville, “Énergie électrique du Congo: cacophonie autour de l'application de la gratuité de l'électricité”, 21 May 2020, www.adiac-congo.com/content/energie-electrique-du-congo-cacophonie-autour-de-lapplication-de-la-gratuite-de-lelectricite

³⁴ Decree No. 2020-12 of 9 January 2020

³⁵ Decree No. 2020-12 of 9 January 2020, published in the Official Journal of 23 January 2020.

³⁶ www.facebook.com/1302386766550818/posts/3423190947803712/?d=n

³⁷ Report of the Special Rapporteur on extreme poverty and human rights, 26 September 2018, <https://undocs.org/en/A/73/396>

³⁸ “Member States in arrears in the payment of their contributions within the meaning of Article 19 of the Charter of the United Nations”, www.un.org/fr/ga/about/art19.shtml

As of 19 November 2020, more than 40,000 retirees affiliated to the *Caisse de retraite des fonctionnaires* (Public Sector Retirement Fund / CRF) had a backlog of 28 months of unpaid pension, according to a “fact sheet”.³⁹ “The responsibility for finding solutions to these problems lies with the Government of the Republic, which unfortunately does not respect the laws, decrees, orders, resolutions, recommendations or commitments it makes,” denounced the National Executive Board of the CRF, according to which some 420,000 Congolese depend directly on these pension payments for their survival. Associations denounced the “misappropriation” of their pensions.⁴⁰ A press release from these same retirees dating back to 8 April 2017 denouncing “the dramatic situation of retirees under the CRF who, to date, have a total of four months of unpaid pensions,” testifies to their deteriorating situation over the years.⁴¹ On 8 December 2019, the Prime Minister, Clément Mouamba, acknowledged the State’s difficulty in paying the pensions, due to the economic crisis.⁴² The Director-General of the *Caisse nationale de sécurité sociale* (National Social Security Fund / CNSS) announced on 5 March 2021 that all pension arrears covering the period 1997 to 2004 would be cleared.⁴³ On the same day, Denis Sassou Nguesso announced, the day after the launch of the presidential election campaign, that the arrears would be paid in full.⁴⁴

Active civil servants have also been deprived of their salaries, as have the staff of the *Société des postes et de l'épargne du Congo* (Postal and Savings Company / SOPECO). In February 2021, 280 staff members were still claiming 17 months of salary arrears, according to the union,⁴⁵ following a strike in September 2020⁴⁶ and a sit-in triggered on 9 April 2019 by the general management’s suspension of strikers’ wages.⁴⁷ At the Marien Ngouabi public university (Brazzaville), teachers and administrative staff went on strike between September 2017 and January 2018 because they had not been paid for six months. Staff of the *Société de transport public urbain* (Urban Public Transportation Corporation / UPTC) did the same in March 2018.⁴⁸ In Dolisie (Niari department), municipal workers went on strike for more than six months, after an initial mobilization in 2015, to demand payment of salaries due since 2014.⁴⁹ In 2016, the municipal morgue in Brazzaville was paralyzed by a strike of city workers who were also demanding payment of their salaries.⁵⁰

As for Congolese students abroad, they have mobilized across several continents to demand payment of their scholarships. In Benin, they demonstrated in January 2021 to demand payment of 21 months of arrears.⁵¹ In Morocco, dozens of them camped out in front of the Congolese embassy in Rabat in July 2019 to claim scholarships unpaid since 2016.⁵² In Cuba, in April 2019, police cracked down on a protest by Congolese students living in Havana under a health cooperation agreement signed between the two

³⁹ Coordination nationale des associations des fonctionnaires et assimilés retraités affiliés à la caisse des retraites des fonctionnaires (CNAFARA/CRF), “Fiche d’information sur la situation actuelle des retraités de la caisse de retraite des fonctionnaires”, 19 November 2020.

⁴⁰ RFI, “Congo-B: les retraités se plaignent du détournement de leurs pensions”, 20 November 2020,

www.rfi.fr/fr/afrique/20201120-congo-b-les-retrait%C3%A9s-se-plaignent-du-d%C3%A9tournement-de-leurs-pensions

⁴¹ Union pour la défense des intérêts des retraités de la caisse de retraite des fonctionnaires, Press Release, 8 April 2017, <http://zenga-mambu.com/2017/04/11/union-pour-la-defense-des-interets-des-retraites-de-la-crf-communique-de-presse/>

⁴² Congolese News Agency, “Congo/Société: Difficulté pour le gouvernement de verser 11 milliards de Fcfa au titre des pensions de retraite”, 9 December 2019, www.aci.cg/congo-societe-difficulte-pour-le-gouvernement-de-verser-11-milliards-de-fcfa-au-titre-des-pensions-de-retraite/?fbclid=IwAR2RxtGHAHOKYFJgUjO8_KJL6unOdrwnrKybtW071BWG2VZ--uOAGIYbuTk

⁴³ Les Dépêches de Brazzaville, “CNSS: résolution des arriérés de pensions de 1997 à 2004”, www.adiac-congo.com/content/cnss-resolution-des-arrieres-de-pensions-de-1997-2004-124965

⁴⁴ Les Dépêches de Brazzaville, “Sécurité sociale: les retraités auront bientôt la totalité de leurs arriérés”, 6 March 2021, www.adiac-congo.com/content/securete-sociale-les-retraites-aurent-bientot-la-totalite-de-leurs-arrieres-124967

⁴⁵ RFI, www.rfi.fr/fr/afrique/20200229-congo-brazzaville-sopeco-arri%C3%A9s%C3%A9s-salaires-intersyndicale-grogne

⁴⁶ RFI, “Congo-B: la grève des postes contrarie les services de transferts d’argent et de colis”, 29 September 2020,

<https://fr.news.yahoo.com/congo-b-gr%C3%A8ve-postes-contrarie-033820547.html>

⁴⁷ www.vox.cg/2019/04/les-grevistes-de-la-sopeco-percevront-leur-salaire-de-janvier-2019/

⁴⁸ Les Dépêches de Brazzaville, “Dossier fin d’année. Grèves et manifestations: le front social agité en 2018”, 2 January 2019, www.adiac-congo.com/content/dossier-fin-dannee-greves-et-manifestations-le-front-social-agite-en-2018-93605

⁴⁹ Les Dépêches de Brazzaville, “Dolisie: les agents municipaux en grève”, 10 August 2017, www.adiac-congo.com/content/dolisie-les-agents-municipaux-en-greve-68055

⁵⁰ Les Dépêches de Brazzaville, “Revendications sociales: la morgue municipale de Brazzaville complètement paralysée ce 23 août en matinée”, 23 August 2016, www.adiac-congo.com/content/revendications-sociales-la-morgue-municipale-de-brazzaville-completement-paralysee-ce-23

⁵¹ [JournaldeBrazza.com, “Les étudiants congolais au Bénin réclament 21 mois de bourse d’étude”, 19 January 2021,](http://journaldebrazza.com/les-etudiants-congolais-au-benin-reclament-21-mois-de-bourse-d%E9tude/)

www.journaldebrazza.com/les-etudiants-congolais-au-benin-reclament-21-mois-de-bourse-detude/

⁵² Les Observateurs, “Maroc: des étudiants congolais dorment devant leur ambassade pour réclamer trois années de bourses impayées”, <https://observers.france24.com/fr/20190725-maroc-etudiants-congo-brazzaville-ambassade-bourses>

countries in 2013.⁵³ Similar protests took place in Togo in 2021,⁵⁴ Senegal in 2019,⁵⁵ and Russia in 2017.⁵⁶ “Cash flow tensions, due to the drastic decline in State revenues, have resulted in irregular payment of academic scholarships and retirement pensions,”⁵⁷ justified Denis Sassou Nguesso on 23 December 2020.

Amnesty International has gathered testimonies from some of these students. Their anonymity has been preserved because of the threats they have received and the risks they face:

“Our situation has not changed. Despite our protests, we are still ignored. The last payments were made over six months ago. The government still owes us more than 24 months of arrears and is not about to pay this money. We are the most deprived African students here. We have never received an official explanation for the delays, they think we’re too stupid. They do what they want and don’t explain themselves to anyone because they think they are kings.”⁵⁸

“We are waiting for the payment of almost 36 months of scholarship fees. Our department has asked students in some subjects to conclude their studies at Bachelor’s level instead of taking the full five years of study in order to reduce the debt. Students have left without a diploma or certificate of completion because our government has not paid their academic fees. The university even refused to renew our residence permits, so several of us are not living here regularly. We haven’t received any explanation; our embassy tells us nothing. What’s more, it’s difficult to work in this country so we don’t know how to survive. Some female students have been forced into sex work to survive and many other students have dropped out of school to do odd jobs. More than 200 people are affected.”⁵⁹

3.3 IMF ARRANGEMENT IN ARREARS

This untenable situation led to the IMF’s approval, on 11 July 2019, of a three-year (2019-2022) arrangement with Congo under the Extended Credit Facility (ECF). This interest-free loan,⁶⁰ for an amount of some US\$ 448.6 million, “supports the authorities’ efforts to restore fiscal sustainability and rebuild regional reserves while improving governance and protecting vulnerable groups,” said the press release issued that same day.⁶¹ An initial disbursement of approximately US\$ 44.9 million was made at the time of programme approval, with the remaining amount to be phased in over time “subject to semi-annual reviews”, with the success of the reforms measured by “quantitative performance criteria and indicative targets established by the Congo authorities and staff of the International Monetary Fund”.⁶² A significant part of this agreement relates to the implementation of measures aimed at debt transparency, financial flows and the fight against corruption. The Congolese authorities also pledged to devote a higher share of the budget to social spending in order to “mitigate the impact of the adjustment on vulnerable populations”. In terms of health, priority is thus given to “vaccinations, the acquisition of anti-retroviral drugs to combat AIDS, the campaign against tuberculosis and malaria, performing Caesarean sections free of charge, providing essential generic medicines, laboratory testing, as well as the revitalization of health districts.”⁶³

⁵³ Les Observateurs, “À Cuba, la police réprime des étudiants congolais réclamant le versement de leurs bourses”, 12 April 2019, <https://observers.france24.com/fr/20190412-cuba-congo-brazzaville-etudiants-police-bourses-repression>

⁵⁴ Les Échos du Congo Brazzaville, “4 ans sans bourses, les étudiants congolais du Togo très fâchés crient leur ras-le-bol”, 21 September 2020, <https://lesechos-congobrazza.com>

⁵⁵ African News Agency, “Des étudiants congolais assiègent leur Ambassade à Dakar pour des bourses”, 15 April 2019, <http://apanews.net/fr/news/des-etudiants-congolais-assiegent-leur-ambassade-a-dakar-pour-des-bourses>

⁵⁶ Les Échos du Congo Brazzaville, “Plus de 14 mois sans bourses, les étudiants congolais de la Russie crient leur ras-le-bol”, <https://lesechos-congobrazza.com/societe/3753-plus-de-14-mois-sans-bourses-les-etudiants-congolais-de-la-russie-crient-leur-ras-le-bol>

⁵⁷ State of the Nation Message, 24 December 2020, <http://ambacongofr.org/index.php/l-ambassade/actualites/687-message-sur-l-etat-de-la-nation-denis-sassou-n-guesso-fait-le-bilan-de-l-annee-qui-s-acheve-et-qui-marque-egalement-la-fin-de-son-quinquennat?start=1>

⁵⁸ Testimony received via social media on 5 February 2021.

⁵⁹ Testimony received via social media on 8 February 2021.

⁶⁰ International Monetary Fund, “IMF Extend Credit Facility (ECF)”, 3 March 2020, www.imf.org/en/About/Factsheets/Sheets/2016/08/02/21/04/Extended-Credit-Facility

⁶¹ IMF, “IMF Executive Board Approves US\$448.6 Million Arrangement Under the Extended Credit Facility (ECF) for the Republic of Congo (FEC)”, Press Release No. 19/274, 11 July 2019.

⁶² IMF Report No. 19/244, Appendix No. 2. Technical Memorandum of Understanding, October 2019.

⁶³ IMF Report No. 19/244, Memorandum of Economic and Financial Policies, 2019-2022.

As part of this agreement, the Congolese authorities also undertook to “adopt a privatization strategy to support the programme’s financing assurances”, this being “guided by the results of a study by an internationally renowned firm with the support of the African Development Bank (AfDB)”. According to the agreement, these privatizations “could include the Maloukou industrial complex, the State’s shares in two ailing commercial banks, the insurance company and the Brazzaville-Ouessou highway.” In January 2020, the Congolese government conducted “a detailed analysis of its public enterprise portfolio, to assess better the strategic position and viability of 32 public companies, and to propose a privatization strategy for each enterprise.”⁶⁴

The Congolese authorities and the IMF are to conduct a credible human rights impact assessment to ensure that these privatization plans do not contravene the Guiding Principles on Foreign Debt and Human Rights⁶⁵ (see box below).

FOREIGN DEBT AND HUMAN RIGHTS



The Guiding Principles on Foreign Debt and Human Rights (2012) were conceived as a tool for “identifying existing basic human rights standards applicable to sovereign debt and related policies, as well as in elaborating the implications of these standards”.⁶⁶ They are broken down into Foundational Principles, such as the primacy of human rights, progressive realization, minimum core obligations and non-retrogression; and Operational Principles. These include that States and lenders must not use or lend funds to finance any activity or project that would contribute to or exacerbate human rights violations, particularly economic, social and cultural rights. To avoid this possibility, lenders are required to conduct a credible human rights impact assessment before granting a new loan (paragraph 40).⁶⁷ For their part, debtor States - among other obligations - should not allow their external debt repayments to reach an

excessive or disproportionate level that would prevent them from fulfilling their minimum essential obligations. Congo’s debt servicing will, nonetheless, average US\$ 1.5 billion (approx. 12.5% of GDP) between 2019 and 2022, largely due to debts with oil traders.⁶⁸ These Principles were supplemented in 2019 by the “Guiding Principles on Human Rights Impact Assessment of Economic Reforms”, which set out the obligations of states, international financial institutions and creditors when designing, formulating or proposing economic reforms.

Congo is one of 73 countries that have been accepted for a temporary suspension of debt service payments to its official bilateral creditors under the Debt Service Suspension Initiative (DSSI).⁶⁹ This initiative was launched by the IMF and the World Bank to “help countries focus their resources on fighting the pandemic and protecting the lives and livelihoods of millions of vulnerable people”. Between January and June 2021, the potential savings from the DSSI are estimated at US\$ 190 million.

Despite disbursement expected in January 2020, the second planned amount of US\$ 48 million has not been made due to poor progress in implementing the arrangement. That same month, the IMF called the results “mixed”, noting that “the three ITs [indicative targets] on poverty reducing spending, non-oil revenues, and disbursements of external loans for investment projects were missed.”⁷⁰ A few weeks earlier, at the end of a mission to Congo from 24 October to 6 November, the IMF told the authorities that: “Greater efforts are needed in the implementation of structural reforms, including those that target improvements in

⁶⁴ IMF, Selected Issues, Report No. 20/27, February 2020, <https://www.imf.org/en/Publications/CR/Issues/2020/01/27/Republic-of-Congo-Selected-Issues-48985>

⁶⁵ Guiding Principles on Foreign Debt and Human Rights, <https://www.ohchr.org/EN/Issues/Development/IDebt/Pages/GuidingPrinciples.aspx>

⁶⁶ Guiding Principles on Foreign Debt and Human Rights, <https://www.ohchr.org/EN/Issues/Development/IDebt/Pages/GuidingPrinciples.aspx>

⁶⁷ Contacted by Amnesty International on 23 March, the IMF had not provided an answer as of 16 April to the question of whether such a study had been carried out within the framework of the agreement signed with the Congo in July 2019.

⁶⁸ IMF, Report No.19/244, October 2019.

⁶⁹ World Bank, “COVID-19: Debt Service Suspension Initiative,” 9 March 2021, www.banquemondiale.org/fr/topic/debt/brief/covid-19-debt-service-suspension-initiative

⁷⁰ IMF, Report No.20/26, January 2020.

governance and anti-corruption.”⁷¹ Following discussions with the Congolese authorities in February 2021, the IMF concluded that “Congo's debt remains unsustainable.”⁷²

3.4 COVID-19: A DOUBLE PENALTY

It was against this very fragile backdrop that the COVID-19 pandemic reached Congo. On 14 March 2020, the government announced the first case in the country.⁷³ All flights from high-risk countries were suspended on 16 March and, the following week, a pandemic response technical committee⁷⁴ and a committee of experts⁷⁵ were established. On 3 April 2020, public and private sector health personnel were requisitioned, as well as all students in their final year at the Faculty of Health Sciences and paramedical schools.⁷⁶ In a speech on 28 March 2020, the president announced a state of health emergency commencing 31 March 2020, for 20 days.⁷⁷ Following the Council of Ministers meeting on 24 March 2021, this was extended for the 18th time.⁷⁸ Between 14 March 2020 and 18 March 2021, Congo recorded 9,681 positive cases and 135 deaths.⁷⁹ On 24 March, the authorities announced that vaccination operations had begun the day previously.

The pandemic had a severe impact on the economy, with a drop in formal business activity of between 34% and 76% among companies whose activity was deemed essential or “core” by the government, and between 77% and 96% for companies engaged in “non-core” activities.⁸⁰ Companies affiliated to the *Union patronale et interprofessionnelle du Congo* (Employers’ Association / Unicongo) laid off 10,821 of their 43,005 employees, or 25.16% of the workforce. Across all industries, 40 to 85% of employees were laid off or made redundant.⁸¹

| Non-essential sectors | Trend in activity Mar/Apr 2020 Staff | Employees | |
|--------------------------------------|--------------------------------------|-----------------------|-----------------------|
| | | In work in April 2020 | Laid off or redundant |
| Vehicles and engines | -86% | 8% | 85% |
| Insurances | -81% | 22% | 49% |
| BTP | -92% | 13% | 62% |
| Insurance / construction | -95% | 7% | 38% |
| Trade exc. hotel and catering | -96% | 9% | 68% |
| Metallurgy, boiler making, paintwork | -77% | 17% | 78% |

 UNICONGO (2020). Table taken from the report “Évaluation des impacts économiques et sociaux de la pandémie de Covid-19”, United Nations in the Republic of Congo, 12 August 2020.

Financial projections have been turned upside down since the outbreak of COVID-19. The 2020 Amended Finance Act, presented to the Senate on 27 April 2020, was prepared on a projection of -9% negative

⁷¹ IMF, “IMF Staff Completes Mission for the 2019 Article IV and First ECF Review with the Republic of Congo”, 6 November 2019, <https://www.imf.org/en/News/Articles/2019/11/06/pr19400-congo-imf-staff-completes-mission-for-the-2019-article-iv-and-first-ecf-review>

⁷² IMF, “IMF Staff Completes Review Mission for the First Review of the Extended Credit Facility (ECF) for the Republic of Congo”, 26 February 2021, <https://www.imf.org/en/News/Articles/2021/02/26/pr2149-congo-imf-staff-completes-review-mission-to-the-republic-of-congo>

⁷³ Government Statement, 14 March 2020.

⁷⁴ Decree No. 2020/92 of 27 March 2020 establishing the Committee of Experts for the National Committee on the Response to the Coronavirus Pandemic (COVID-19).

⁷⁵ On April 3, microbiologist Fidèle Yala and pharmacologist Antoine Ange Abena were appointed as chair and vice-chair of the Expert Committee respectively.

⁷⁶ Decree No. 2020/101 of 3 April 2020 on the requisition of health personnel working within the national territory.

⁷⁷ Decree No. 2020/93 of 30 March 2020 declaring a state of health emergency in the Republic of Congo.

⁷⁸ “Minutes of the Council of Ministers of Wednesday 24 March 2021”, <https://gouvernement.cg/compte-rendu-du-conseil-des-ministres-du-mercredi-24-mars-2021/>

⁷⁹ “Coronavirus: Communiqué de la coordination nationale de gestion de la pandémie de coronavirus Covid-19 suite à sa réunion du mercredi 24 mars 2021.” <https://gouvernement.cg/coronavirus-communique-de-la-coordination-nationale-de-gestion-de-la-pandemie-de-coronavirus-covid-19-suite-a-sa-reunion-du-mercredi-24-mars-2021/>

⁸⁰ UN, “Évaluation des impacts économiques et sociaux de la pandémie de Covid-19”, 12 August 2020.

⁸¹ “Coronavirus: Communiqué de la coordination nationale de gestion de la pandémie de coronavirus Covid-19 suite à sa réunion du jeudi 11 février 2021.” <https://gouvernement.cg/coronavirus-communique-de-la-coordination-nationale-de-gestion-de-la-pandemie-de-coronavirus-covid-19-suite-a-sa-reunion-du-jeudi-11-fevrier-2021/>

economic growth by the end of 2020, compared to the positive growth of 1.2% that was initially expected.⁸² In the same text, expected budgetary income had collapsed by -50.2% compared to the initial Finance Act, while budgetary expenditure had increased by 12.2%, “essentially due to the inclusion of new investment and operating expenses related to the fight against the COVID-19 pandemic”.⁸³ This budgetary situation is not unique to Congo since “almost all states in the sub-region have modified their finance laws in response to this deteriorating environment”.⁸⁴

⁸² Department of Finance and Budget, “Présentation du projet de loi de finances rectificative exercice 2020 au Sénat,” 27 April 2020.

⁸³ Department of Finance and Budget, “Présentation du projet de loi de finances rectificative exercice 2020 au Sénat,” 27 April 2020.

⁸⁴ Bank of Central African States, Note sur les finances publiques des pays de la CEMAC à fin juin 2020, www.beac.int/wp-content/uploads/2020/11/NOTE-SUR-LES-FINANCES-PUBLIQUES-T2-2020-JR_2.pdf

4. HEALTH IN BAD SHAPE

“When the power goes out, someone has to walk to the generator to turn it on. It can take several minutes. Meanwhile, patients are dying.”

Testimony of a patient's family member.

4.1 CONGO'S OBLIGATIONS UNDER THE RIGHT TO HEALTH, INCLUDING IN TIMES OF CRISIS

The consequences of the dual economic crisis, compounded by management and governance issues, have had a particular impact on the health system. While the overall State budget has declined drastically since 2014, the share of health within that budget has increased only slightly - with the exception of 2020 in the context of the COVID-19 pandemic. Above all, the budget's implementation has revealed significant shortcomings, demonstrating the authorities' insufficient efforts to protect enjoyment of the right to health, guaranteed under Congolese national law and international law.

Article 36 of the 2015 Constitution states that “The state is responsible for public health.”⁸⁵ The Republic of Congo has also ratified several international conventions protecting economic and social rights, including the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1983 and the African Charter on Human and Peoples' Rights in 1982. According to these instruments, States parties have an obligation to respect, protect and fulfil these rights, including the right to health. The bodies responsible for monitoring their implementation have issued observations recalling States' obligations in this regard, including in times of crisis (see table below).

⁸⁵ www.assemblee-nationale.cg/wp-content/uploads/2019/06/constitution_du_Congo_2015.pdf



CONGO'S INTERNATIONAL OBLIGATIONS UNDER THE RIGHT TO HEALTH, INCLUDING IN TIMES OF CRISIS

The right to health in international law

Article 16 of the African Charter on Human and Peoples' Rights states that "Every individual shall have the right to enjoy the best attainable state of physical and mental health." It adds that States parties shall "take the necessary measures to protect the health of their people and ensure that they receive medical attention when they are sick."

Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) states that States parties "recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health." The Committee on Economic, Social and Cultural Rights (CESCR), the body responsible for monitoring implementation of the ICESCR, clarified the content of the right to health in its General Comment 14 adopted in 2000. According to the Committee, the realization of the right to health requires the existence of the following four interrelated elements:

1/ *Availability*. "Functioning public health and health care facilities, goods and services, as well as programmes, have to be available in sufficient quantity within the State party" but also "trained medical and professional personnel receiving domestically competitive salaries, and essential drugs".

2/ *Accessibility* is as much about the physical accessibility of patients as it is about economic accessibility and non-discrimination of patients.

3/ *Acceptability* refers to services that are "respectful of medical ethics and culturally appropriate".

4/ *Quality* includes the requirement for "skilled medical personnel, scientifically approved and unexpired drugs and hospital equipment, safe and potable water, and adequate sanitation".

The State's obligations

The right to health imposes three levels of obligation on States parties: the obligation to respect, to protect and to fulfil. According to Article 2 of the ICESCR, "Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures."

The Committee clarifies in its General Comment 14 that progressive realization means that "States parties have a specific and continuing obligation to move as expeditiously and effectively as possible towards the full realization of Article 12". It adds that "retrogressive measures taken in relation to the right to health are not permissible".

Obligations in times of crisis

In its General Comment 3 adopted in 1990 on the nature of State obligations, the Committee took into account the constraints, including economic constraints, that a State may face. It noted that: "In order for a State party to be able to attribute its failure to meet at least its minimum core obligations to a lack of available resources it must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations." The Committee emphasized that, "Even where the available resources are demonstrably inadequate, the obligation remains for a State party to strive to ensure the widest possible enjoyment of the relevant rights under the prevailing circumstances." Finally, it insisted that: "Even in times of severe resources constraints whether caused by a process of adjustment, of economic recession, or by other factors the vulnerable members of society can and indeed must be protected".

Moreover, the Committee has clarified that states have a core obligation to ensure minimal levels of economic, social and cultural rights. In the case of the right to health, this includes essential primary health care and essential medicines, without delay. These measures include prevention, treatment and control of epidemics and other diseases by making relevant technologies available and implementing and/or enhancing relevant immunization programmes and other strategies. The CESCR has further established that these measures are “obligations of comparable priority” to core obligations of the right to health so states cannot justify non-compliance.

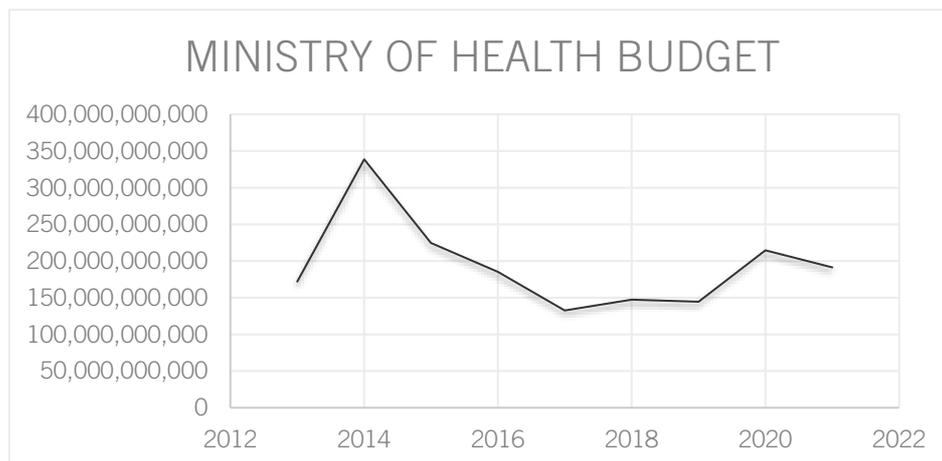
The African Commission on Human and Peoples' Rights (ACHPR) likewise establishes the minimum core obligations of the right to health include the following: ensure the right of access to health facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalized groups; ensure the provision of essential drugs to all those who need them, as periodically defined under the WHO Programme of Action on Essential Drugs and, particularly, anti-retroviral drugs (ARVs).⁸⁶

4.2 AN INSUFFICIENT AND POORLY EXECUTED BUDGET

4.2.1 AN INSUFFICIENT BUDGET

An analysis of the budget in recent years shows that while the Ministry of Health's share of the overall budget has remained roughly the same (albeit still far from the targets of the Abuja Declaration), its actual amount has decreased drastically. This analysis reveals insufficient efforts on the part of the State to remedy a catastrophic situation in the health sector.

Using data from available Finance Acts,⁸⁷ Amnesty International analysed the Ministry of Health's budget from a number of different angles. After reaching a record high in 2014 (around EUR 515 million), it began to steadily decline in 2015, reaching its lowest point in 2017 (around EUR 200 million, a drop of more than 60% compared to 2014), before stagnating in 2018 and 2019, then rising sharply in 2020 (to around EUR 325 million) thanks to the COVID-19 pandemic, before decreasing again in 2021 (to around EUR 290 million).

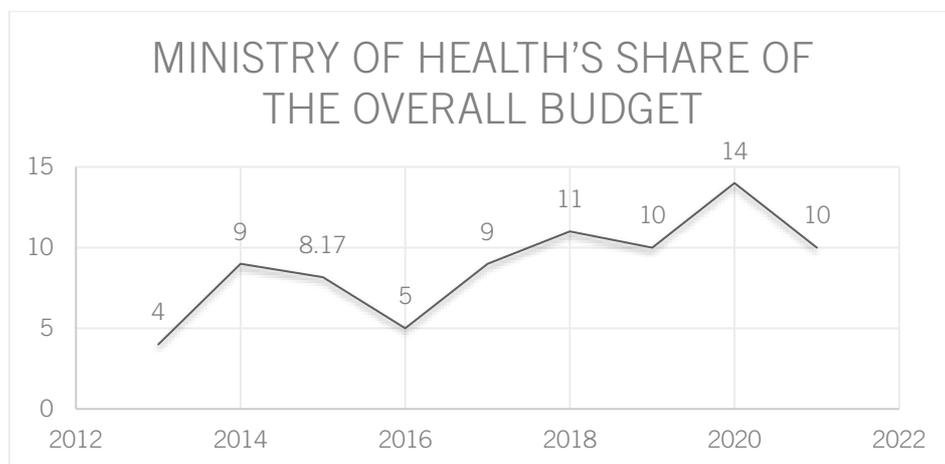


 Evolution of the Ministry of Health's budget, in billions of CFA francs. *Amnesty International*.

⁸⁶ African Commission on Human and Peoples' Rights, “Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights”, www.achpr.org/fr/legalinstruments/detail?id=30

⁸⁷ Analysis based on the Finance Acts or Amended Finance Acts available on the website of the Ministry of Finance and Budget or on the websites of other ministries.

At the same time, the Ministry of Health's share of the overall budget evolved to end up at around the same rate in 2021 (10%) as it was in 2014 (9%). After 8.7% in 2015, it reached its lowest level in 2016 (5%) before gradually rising in 2017 and 2018 to reach its maximum level in 2020 with the COVID-19 crisis (14%), before falling back to 10% in 2021. The budget has therefore only once come anywhere near to meeting the Abuja Declaration commitment made in 2001 to devote at least 15% of the national budget to health.



 Evolution of the Ministry of Health's share of the overall budget as a percentage. Amnesty International.

4.2.2 PARTIAL IMPLEMENTATION

Apart from the budget itself, its implementation has also been a major problem and “the main issue of health financing in Congo,” according to the National Health Development Plan (PNDS) 2018-2022. The lack of transparency surrounding it undermines accountability and good governance, which are essential for the effective exercise of the right to health. On 12 August 2014, in front of Parliament gathered together in Congress, Denis Sassou Nguesso announced the construction, “starting next year”, of “12 general hospitals in the departmental capitals; basic hospitals in the district capitals, in the neighbourhoods and urban communities”, and of other first-rate health structures.⁸⁸ In February 2016, on a visit to Kinkala, the president stated that the 12 hospitals “are being built simultaneously across the country; the work is progressing to plan”.⁸⁹ The given objective was to make Congo “a medical destination in the sub-region and even beyond Africa”, according to the Minister for Territorial Planning, Jean-Jacques Bouya.⁹⁰ And yet *Publiez ce que vous payez* (Publish What You Pay), which has made health budget implementation the focus of its work for several years now, noted in a December 2017 report that “construction sites for the 12 general hospitals in the departments have been at a standstill, for the most part, since 2016.”⁹¹ On 4 February, 2021, the Prime Minister visited the site of the general hospital of Nkombo (Brazzaville) whose commissioning was expected to be “in March”. On February 22, 2021, the President visited that of Nanga-Patra Hospital (Pointe-Noire). On this occasion, the Minister of Health announced that the facility “is being operationalized and will be available to the public in the coming days”. These are two of the twelve general hospitals announced in 2014.

Apart from the general hospitals, “only 12% of the projects planned by the Ministry of Health and visited were identified as up and running, and nearly 45% of the projects evaluated have not been implemented on

⁸⁸ Les Dépêches de Brazzaville, “Message du chef de l’État, Denis Sassou N’Guesso, devant le Parlement réuni en congrès, le 12 août à Brazzaville”, 12 August 2014, www.adiac-congo.com/content/message-du-chef-de-letat-denis-sassou-nguesso-devant-le-parlement-reuni-en-congres-le-12

⁸⁹ Les Dépêches de Brazzaville, “Santé publique: les travaux des hôpitaux généraux bientôt achevés”, 23 February 2016, www.adiac-congo.com/content/sante-publique-les-travaux-des-hopitaux-generaux-bientot-acheves-46407

⁹⁰ Xinhua, “Congo/Santé: Construction de 12 hôpitaux généraux dans le pays”, 23 February 2016, http://french.china.org.cn/foreign/txt/2016-02/23/content_37855498.htm

⁹¹ Publiez ce que vous payez, “Briser le cercle vicieux de l’impunité. Suivi de l’exécution des investissements publics dans le secteur de la santé. Exercice 2016”, December 2017.

the ground”.⁹² *Publiez ce que vous payez*'s latest report, analysing the implementation of nine 2017 health projects, and 59 2018 projects, found “extremely concerning results”.⁹³ According to the study, 67% of 2017 projects and 49% of 2018 projects had not been completed. The PNDS 2018-2022 also noted that “several countries in the sub-region with significantly lower health expenditure than Congo have achieved better results”.⁹⁴ On 4 February 2021, the Prime Minister visited the construction site of the Nkombo general hospital (Brazzaville) and, on 22 February, the construction site of the Nanga-Patra hospital⁹⁵ (Pointe-Noire), two of the 12 general hospitals announced in 2014.

At the end of 2017, the National Anti-Corruption Commission published the results of investigations conducted in previous years into a number of public structures. In particular, it pointed to major dysfunctions at the Brazzaville Hospital and Teaching Centre (CHUB), whose “managers do not observe the rules of financial orthodoxy”.⁹⁶ That same year, the Congolese bishops dismissed the pretext of the economic crisis regularly cited by the authorities, recalling that the health situation “while clearly linked to the economic crisis is, above all, the result of bad governance, in particular of an irrational management of human, logistical and financial resources.”⁹⁷ After the arrangement with Congo was reached, the IMF said in July 2020 that it was “concerned at the low rate of implementation of social spending”.⁹⁸

The partial non-implementation of budgeted health system improvement projects demonstrates the authorities' lack of efforts to improve enjoyment of the right to health. The failure to complete the 12 general hospitals, to take just one example, runs counter to the principle of availability, which requires States parties to have sufficient health facilities.

4.3 DYSFUNCTIONAL HEALTH SERVICES

An analysis of the functioning of public health care institutions shows that there are still significant unresolved problems, despite repeated demands from staff and unions. These long-term dysfunctions are characteristic of the authorities' insufficient efforts to guarantee basic needs in terms of the availability and quality of the right to health.

4.3.1 THE BRAZZAVILLE UNIVERSITY AND HOSPITAL CENTRE

The CHUB, successor to the general hospital completed in 1957 on the same site, has in recent years been symbolic of the state of decay of the country's health structures and of the errors in their management. These were highlighted in an audit⁹⁹ the results of which were released on 16 June 2017 by the Department of Health. Contracts by mutual agreement, payment of dead or absent employees, over-invoicing, revenues 20% to 40% lower than expected... The audit lists a series of “serious anomalies” in an institution where “the rules and principles of public accounting are not respected”.¹⁰⁰ In an open letter published on 16 June 2017, the then executive director denounced the existence within the CHUB of a “mafia network that steals, plunders, lies, disorients and misinforms”.¹⁰¹

These findings led to the signing of a partnership between Congo and Montreal University Hospital Centre/International Health Unit (CHUM/USI). This project to “strengthen the governance” of the CHUB “linked to a major rehabilitation/construction/equipment component”, began in 2019, with an expected

⁹² *Publiez-ce que vous payez*, “Suivi de l'exécution des projets d'investissements publics dans le secteur de la santé. Rapport sur les exercices budgétaires 2017-2018 et l'équipement de quelques structures sanitaires”, May 2020, www.rpdh-cg.org/news/2020/05/11/rapport-sur-les-exercices-budgetaires-2017-2018-et-lequipement-de-quelques

⁹³ *Publiez-ce que vous payez*, “Suivi de l'exécution des projets d'investissements publics dans le secteur de la santé. Rapport sur les exercices budgétaires 2017-2018 et l'équipement de quelques structures sanitaires”, May 2020, www.rpdh-cg.org/news/2020/05/11/rapport-sur-les-exercices-budgetaires-2017-2018-et-lequipement-de-quelques

⁹⁴ Republic of Congo, National Health Development Plan 2018-2022.

⁹⁵ On 2 March 2021, the Ministry of Health announced that its completion was scheduled for “March 2021”. See https://twitter.com/MSPPFIFD_cg/status/136675777671094275

⁹⁶ La Tribune Afrique, “Congo: l'administration publique gangrenée par la corruption”, 27 December 2017, <https://afrique.latribune.fr/politique/gouvernance/2017-12-27/congo-l-administration-publique-gangrenee-par-la-corruption-762969.html>

⁹⁷ Appeal to the authorities and health care workers, 15 October 2017.

⁹⁸ IMF Report No.20/26.

⁹⁹ Financial audit for the period 2013-2015, organizational audit for the year 2017.

¹⁰⁰ Dépêches de Brazzaville, “Les principaux dysfonctionnements révélés par l'audit du Centre Hospitalier et Universitaire de Brazzaville (CHUB)”, 23 June 2017.

¹⁰¹ Dépêches de Brazzaville, “Santé publique: l'heure de vérité pour le CHU-B?”, 17 June 2017, www.adiac-congo.com/content/sante-publique-lheure-de-verite-pour-le-chu-b-65527

completion date of 2022.¹⁰² This collaboration did not mark the end of the crisis, however, but ushered in new clashes between management and unions, the latter accusing the former of misappropriating funds in November 2019¹⁰³ and denouncing the lack of progress in July 2020.¹⁰⁴ In January 2020, the unions drew attention to the hospital's alarming situation, highlighting, among other things, several departments that were closed, a lack of water and an inadequately stocked pharmacy. In February 2020, the Minister of Health stated that there would be a "temporary cessation of activities in the paediatric intensive care and neonatal departments due to a short circuit occurring during the night of 19 February",¹⁰⁵ with patients consequently being transferred to other hospitals in the capital. On 4 September 2020, the unions again denounced serious problems, such as a CT and MRI scanner that had been out of service for more than two and three years respectively, and the absence of a functioning dental chair or panoramic X-ray machine. The executive director was replaced on 4 September 2020.¹⁰⁶ At the start of 2021, the situation at the hospital was still problematic, according to the testimony of one employee to Amnesty International:

"There's no running water. There is electricity but we suffer from intermittent power cuts, as does the whole city. There is no technical platform. The CT and MRI scanners are still not working."¹⁰⁷

In response to questions from Amnesty International, the Director of CHUM/USI said: "The collaboration can be described as good at different stages of the project".¹⁰⁸ According to this latter, "The partners have given themselves until 2022 to achieve the desired objectives. This will require many actions, including funding the transformation of the institution within its operating budget, which is a constant challenge."

4.3.2 OTHER STRUCTURES

In general, the availability and quality of health care and services is lacking at all three levels of the health pyramid: general hospitals, district hospitals and Integrated Health Centres (*Centres de santé intégrés / CSIs*).¹⁰⁹

At the general hospital level, "The availability of quality specialized care and services has not been evaluated," according to the 2018-2022 NDP. This latter lists a series of weaknesses common to these hospitals, including the absence of institutional projects, the inefficient organization and running of the emergencies department, and the poor capacity in the organization and provision of care.¹¹⁰ The city of Oyo (Cuvette department), where President Denis Sassou Nguesso is from, is home to one of the country's seven general hospitals,¹¹¹ the Edith Lucie Bongo Ondimba Hospital, founded in 2015¹¹² and inaugurated on 10 March 2017 by the president. On this occasion, the Minister of Health, Jacqueline Lydia Mikolo, said that: "The Edith Lucie Bongo Ondimba General Hospital will reduce the rate of medical referrals abroad by offering quality care in various specialisms on a par with overseas."¹¹³ The Ministry of Tourism, for its part, hailed an "establishment that is among the most modern in the Central African sub-region and one that will offer Congolese people the opportunity to obtain treatment at a lower cost locally, possibly even allowing for the development of medical tourism to Congo."¹¹⁴ And yet the hospital has never been able to achieve its international or even national ambitions. In a list of complaints sent to the sub-prefect of Oyo on 3 April 2020, the hospital unions listed the problems in the facility, including "a hospital pharmacy that has been without supplies constantly for almost a year"; "an emergency operating room that has been out of service

¹⁰² International Health Unit, Rapport d'activités 2018-2020,

https://usi.umontreal.ca/fileadmin/usi/Documents/Rapport_Final_annuel_USI_2018_2020.pdf

¹⁰³ RFI, "Congo-B: les syndicats du CHU de Brazzaville dénoncent un détournement de fond", 24 November 2019, www.rfi.fr/fr/afrique/20191124-congo-syndicats-chu-brazzaville-detournement-fond

¹⁰⁴ Les Dépêches de Brazzaville, "CHU: l'intersyndicale dénonce l'inobservation du contrat signé avec l'US", 20 July 2020, www.adiac-congo.com/content/chu-lintersyndicale-denonce-linobservation-du-contrat-signé-avec-lusi-117942

¹⁰⁵ Department of Health, Press Release.

¹⁰⁶ Ministry of Communication, Minutes of the Council of Ministers, 23 September 2020.

¹⁰⁷ Testimony received via social media on 21 January 2021.

¹⁰⁸ Email to Amnesty International from Karine Dubois-Nguyen, 18 March 2021.

¹⁰⁹ General hospitals represent the tertiary level, district hospitals (called basic hospitals, or referral hospitals) the secondary, and Integrated Health Centres the primary.

¹¹⁰ National Health Development Plan 2018-2022.

¹¹¹ Brazzaville University Hospital, Edith Lucie Bongo Ondimba Hospital, Loandjili Hospital, Adolphe Sicé Hospital, Dolisie Hospital, Owando Hospital and the Army Hospital.

¹¹² Established by Act No. 23-2015 of 29 October 2015.

¹¹³ Les Dépêches de Brazzaville, "Infrastructure sanitaire: l'hôpital général Edith-Lucie-Bongo-Ondimba inauguré", 11 March 2017, www.adiac-congo.com/content/infrastructure-sanitaire-lhopital-general-edith-lucie-bongo-ondimba-inaugure-62001

¹¹⁴ Ministry of Tourism and Environment, "Hôpital Général Edith Bongo Lucie Ondimba: Un atout supplémentaire pour la promotion de l'offre touristique congolaise", www.tourisme-environnement.gouv.cg/hopital-general-edith-bongo-lucie-ondimba-un-atout-supplementaire-pour-la-promotion-de-loffre-touristique-congolaise/

for more than two years for lack of air conditioning and electricity”; “no standard X-ray procedures due to the failure of three machines” and “only one generator out of four” operational..., plus “a permanent stock-out in some laboratory reagents”.¹¹⁵

The unions at the Adolphe Sicé General Hospital in Pointe-Noire also sent a list of demands to their managers on 13 November 2019. At the end of a general assembly on 31 July 2020, they noted that there was still “an obsolete and insufficient technical platform”.¹¹⁶ In the other general hospital in Pointe-Noire, in Loandjili, the staff denounced “the dilapidated state of the hospital's beds and equipment” and “the notorious insalubrity” of the facility in March 2020.¹¹⁷

In the Integrated Health Centres and the secondary level (district) hospitals, the *availability* and *quality* of care is equally, if not more, deficient. District hospitals face a lack of basic supplies and suffer from frequent stock-outs of basic medicines.¹¹⁸ In addition, many of them do not have running water, modern latrines or sewage treatment plants.¹¹⁹

The director of one of the country's¹²⁰ 31 district hospitals told Amnesty International:

“Since I have been in post, the hospital has never received enough money to keep it running properly. There is a hygiene problem, a problem of medical supplies and difficulties in catering for in-patients. In terms of electricity, we do not have a generator in case of a black-out. It's hard to say whether the situation is due to the economic crisis or COVID-19.”¹²¹

The head of one of the 334¹²² Integrated Health Centres in the country told the organization:

“We no longer have the funding to renew our stocks of medicine, especially since few people are coming for consultations now. They prefer to use traditional medicine during the COVID-19 pandemic. Our usual partners are not supporting us as they used to. We have electricity but, due to a lack of funds, we can no longer pay the water bills.”¹²³

¹¹⁵ Union branch of workers of the Edith Lucie Bongo Ondimba Hospital, Ref. No. 11/HGELBO/SST.20, 3 April 2020.

¹¹⁶ *Confédération syndicale des travailleurs du Congo* (Union Confederation of Congolese Workers / CSTC), Executive Committee at the Adolphe Sicé General Hospital, Minutes of an Extraordinary General Assembly, 31 July 2020.

¹¹⁷ “Strike at Loandjili General Hospital: Workers' Statement”.

¹¹⁸ National Health Development Plan 2018-2022, August 2018.

¹¹⁹ National Health Development Plan 2018-2022, August 2018.

¹²⁰ Data from the “National Health Development Plan 2018-2022”, August 2018.

¹²¹ The anonymity of the witness was preserved at their request, August 2018.

¹²² Data from the “National Health Development Plan 2018-2022”, August 2018.

¹²³ The anonymity of the witness was preserved at their request.



 ↑ Louloumbo Integrated Health Centre © private



 ↑ Louloumbo Integrated Health Centre © private

4.4 HEALTH CARE WORKERS ABANDONED

As per Article 7 of the ICESCR, “States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular ... (a) (i) Fair wages and equal remuneration for work of equal value without distinction of any kind ... (b) Safe and healthy working conditions ... (d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay”. To this end, States must ensure that health workers receive fair wages and enjoy the working conditions necessary to protect their health and safety, as well as a safe and enabling environment to exercise their work free from reprisals, intimidation or threats.

However, by ceasing to pay the salaries of health care workers and forcing them to withdraw their labour as a last resort to demand their rights, Congolese authorities have failed to implement the right to health or to meet the criteria of *quality* and *availability* in the country. Despite their situation, health care workers have been on the frontline of the fight against COVID-19, sometimes without adequate personal protective equipment. This is yet another illustration of the authorities' failure.

4.4.1 NON-PAYMENT OF WAGES

Between 2015 and 2021, Amnesty International documented at least 14 strikes, calls for strikes or demands by health care workers, mainly in relation to unpaid salaries.

In Brazzaville, in 2015 and 2016, staff of the Permanent Secretariat of the National AIDS Council (*Secrétariat permanent du Conseil national de lutte contre le SIDA / SEP/CNLS*) went on strike several times to claim up to 20 months of unpaid salary. In early August 2017, the CHUB's unions called an indefinite general strike “to demand payment of two months' salary, family allowances and bonuses”.¹²⁴ The strike was suspended on 10 August, and then revived on 6 October that same year. The same demands were made by staff of the National Blood Transfusion Centre (*Centre national de transfusion sanguine / CNTS*), who stopped work on 22 September 2017 to demand payment of three months' wages and consideration of their stated demands. “Last year, they ran up twelve months of salary arrears; four have now been paid, eight have not. This is serious, of course, but efforts are being made to clear this debt, in order to restore a good working climate,” said the Prime Minister to the National Assembly on 2 April 2019.¹²⁵ The National Federation of Health and Social Workers (*Fédération nationale des agents de la santé et des affaires sociales / Fenosas*) cancelled its strike notice issued on 6 March 2019 due to a resumption of dialogue with the administrative and political authorities.¹²⁶ In September 2020, health care workers at the Albert Leyono Clinic (Brazzaville), one of the centres treating COVID-19 patients, organized a protest at the non-payment of three months' pay.¹²⁷ On 18 September 2020, the hospital's branch of (Fenasas) announced a work-to-rule from 21 September “given the failure to conclude negotiations” with management on the payment of “at least 6 months of salary arrears out of 16”. On 30 September 2020, 64 National Public Health Laboratory (*Laboratoire national de santé publique / LNSP*) workers went public with a petition demanding payment of their salaries.¹²⁸

In Pointe-Noire, following their general assembly on 31 July 2020, workers at the Adolphe Sicé General Hospital gave the government an ultimatum to pay three months' wages, out of a total of eight months of unpaid wages, by 10 August 2020.¹²⁹ Their colleagues at Loandjili General Hospital went on strike from 5 March to 7 May 2018 to demand, among other things, payment of seven months of salary arrears and an increase in their index point.¹³⁰ This protest came on top of at least two previous ones: on 6 March 2017, the

¹²⁴ Les Dépêches de Brazzaville, “CHU de Brazzaville: l'intersyndicale décrète une grève générale illimitée”, 2 August 2017, www.adiac-congo.com/content/chu-de-brazzaville-lintersyndicale-decrete-une-greve-generale-illimitee-67709

¹²⁵ Les Dépêches de Brazzaville, “Centre de transfusion sanguine: les agents réclament le paiement des arriérés de salaires”, 3 April 2019, www.adiac-congo.com/content/centre-de-transfusion-sanguine-les-agents-reclament-le-paiement-des-arrieres-de-salaires

¹²⁶ Agence d'information d'Afrique centrale, “Revendications sociales: la Fenosas suspend l'avis de grève”, 13 March 2019, <http://www.adiac-congo.com/node/96926>

¹²⁷ www.facebook.com/watch/?v=343043823676992

¹²⁸ Les Dépêches de Brazzaville, “Santé publique: des agents du laboratoire national réclament leur salaire”, 30 September 2020, www.adiac-congo.com/content/sante-publique-des-agents-du-laboratoire-national-reclament-leur-salaire-120160

¹²⁹ *Confédération syndicale des travailleurs du Congo* (Union Confederation of Congolese Workers / CSTC), Executive Committee at the Adolphe Sicé General Hospital, Minutes of an Extraordinary General Assembly, 31 July 2020.

¹³⁰ Central African News Agency, “Hôpital général de Loandjili: les agents de nouveau en grève”, 6 March 2018, www.adiac-congo.com/content/hopital-general-de-loandjili-les-agents-de-nouveau-en-greve-80270

staff had demanded, among other things, “regular payment of salaries on a specific date”. The media reported that patients had been forced to leave the hospital.¹³¹ The strike was lifted on 14 March 2017 following a meeting with the Minister of Health.¹³² A strike had already paralyzed the hospital the previous year, in January 2016.

In Dolisie, on 18 September 2020, the Fenajas branch at the general hospital announced they would be stopping work as of 21 September, following the “failure of negotiations with the hospital’s general management concerning the payment of at least ten months of salary arrears out of 16”.¹³³ The hospital had already suffered a strike on 24 December 2018¹³⁴ when workers demanded several months of unpaid wages and their registration with the National Social Security Fund. The three hundred providers were denouncing 24 months of unpaid salaries.¹³⁵



 ↑ Placard at Dolisie General Hospital, September 2020 ©Brazzaneews

In Oyo, on 16 April, following the letter¹³⁶ and list of complaints¹³⁷ sent on 3 April 2020 to the sub-prefect of the city by the union at the Edith Lucie Bongo Ondimba Hospital and “given the failure to meet priority demands”, the union’s branch chair called “a general mobilization of all hospital staff for an open-ended strike of all workers”.¹³⁸

The precarious situation of health care workers has forced them to seek remuneration outside the public health service, taking advantage of the opportunities offered by a “booming” private health sector in the Republic of Congo.¹³⁹ This situation has contributed to an exacerbation of staff shortages in the public sector, as private structures draw on the same workers.¹⁴⁰ More than 150 Congolese doctors are said to be

¹³¹ Les Échos du Congo Brazzaville, “Pointe-Noire – Hôpital de Loandjili: La grève se durcit, des malades quittent l’hôpital”, 8 March 2017, <https://lesechos-congobrazza.com>

<https://lesechos-congobrazza.com/societe/2640-pointe-noire-hopital-de-loandjili-la- greve-se-durcit-des-malades-quittent-l-hopital>

¹³² Les Dépêches de Brazzaville, “Hôpital de Loandjili: l’intersyndicale accepte de lever la grève”, 14 March 2017,

<http://adiac-congo.com/content/hopital-de-loandjili-lintersyndicale-accepte-de-lever-la- greve-62090>

¹³³ CSTC, General Hospital Branch, Strike Notice, Ref. CSRC/FENASAS/CD/SHGD

¹³⁴ Established by Act No. 24-2015 dated 29 October 2015.

¹³⁵ Central African New Agency, “Hôpital général de Dolisie: les prestataires en grève”, 31 December 2018.

www.adiac-congo.com/content/hopital-general-de-dolisie-les-prestataires-en- greve-93579

¹³⁶ Union branch, Ref. No.011/HGELBO/SST.20.

¹³⁷ Union branch, Ref. No.010/HGELBO/SST.20

¹³⁸ Union branch, Ref. No.12/HGELBO/SST.20, 16 April 2020.

¹³⁹ National Health Development Plan 2018-2022, August 2018.

¹⁴⁰ National Health Development Plan 2018-2022, August 2018.

practising outside the country, mainly in France, a number that represents some 25% of all the country's doctors.¹⁴¹ On 28 May 2020, the Minister of Health noted in a circular that "many physicians do not fulfil their public service obligations optimally, preferring to work privately".¹⁴² She ordered "the directors of general hospitals, referral hospitals and chief medical officers of health districts to ensure that each doctor is able to provide at least two days of outpatient consultations and one on-call shift per week". According to the Minister, the health sector has lost more than 40% of its active staff in the last three years.¹⁴³ Several cases of thefts of medicines or hospital equipment by staff have also been reported in recent years, such as in Brazzaville¹⁴⁴ and Dolisie¹⁴⁵ in 2019.

4.4.2 COVID-19: CARE WORKERS IN NEED OF PROTECTION

Care workers have raised concerns on several occasions about a lack of personal protective equipment available to them to protect them from COVID-19. During the social movement of September 2020, staff at the Albert Leyono Clinic drew attention to the situation of "infected workers, sitting down with their children, parents and others at home."¹⁴⁶ On 31 July 2020, during an extraordinary general assembly, the staff at the Adolphe Sicé Hospital denounced the "repeated stock-outs of personal protective equipment for COVID-19". They noted with alarm the number of infected staff members, with "more than a dozen positive cases receiving no treatment" being "released back to their respective families". At Oyo Hospital, one of the points in the April 2020 list of demands¹⁴⁷ was to "make personal protective equipment permanently available to all hospital workers in order to control the spread of COVID-19."

A health worker at a basic hospital in Cuvette department told Amnesty International:

"With COVID-19, there are additional needs to be met. Because while we are taking care of the sick, each of us also has to protect ourselves."¹⁴⁸

4.5 LAST IN LINE, PATIENTS DEPRIVED OF THEIR RIGHT TO HEALTH

4.5.1 PATIENTS IN DANGER

In the absence of official studies and statistics on the subject, and given a lack of accountability, monitoring and evaluation mechanisms, the impact of dysfunctional health services on patients is difficult to measure. Press articles, public and private testimonies, and statements by non-governmental authorities do nevertheless provide a glimpse into the tragedies that have occurred in recent years. On 15 October 2017, the bishops of the Republic of Congo spoke out to bear witness to a "significant increase in the number of funeral services, no doubt resulting from a higher number of deaths in Brazzaville."¹⁴⁹ At the time, the CHUB was being severely disrupted by a cycle of strikes that began on 3 August 2017. Several media outlets had also reported the deaths of patients due to a lack of care and available staff.¹⁵⁰ The bishops called on the authorities to pay salary arrears and ensure that hospitals were able to function, while stressing that "the hospital strikes cannot mean the sick are simply abandoned". Amnesty International has gathered recent

¹⁴¹ National Health Development Plan 2018-2022, August 2018.

¹⁴² Circular No.00199/MSPPFIFD/CAB.20

¹⁴³ Les Dépêches de Brazzaville, "Questions orales avec débats: le secteur de la santé accuse un déficit de 40% en personnel", 25 July 2020.

¹⁴⁴ Les Échos du Congo Brazzaville, "CHU de Brazzaville: Trois agents au gnouf pour vol de médicaments", 21 December 2019,

<https://lesechos-congobrazza.com/faits-divers/6540-chu-de-brazzaville-trois-agents-au-gnouf-pour-vol-de-medicaments>

¹⁴⁵ Les Échos du Congo Brazzaville, "Congo: Six médecins anesthésistes interpellés pour un vol des médicaments à Dolisie", 26 February 2019, <https://lesechos-congobrazza.com/faits-divers/5756-congo-six-medecins-anesthesistes-interpelles-pour-un-vol-des-medicaments-a-dolisie>

¹⁴⁶ www.facebook.com/watch/?v=343043823676992

¹⁴⁷ Union branch, Ref. No.010/HGELBO/SST.20

¹⁴⁸ The anonymity of the witness was preserved at their request.

¹⁴⁹ Appeal to the authorities and health care workers, 15 October 2017.

¹⁵⁰ Deutsche Welle, "À Brazzaville, la grève mortelle des urgences du CHU", 4 August 2017, www.dw.com/fr/a-brazzaville-la-gr%C3%A8ve-mortelle-des-urgences-du-chu/a-39973488

testimonies from patients in different health facilities up and down the country that testify to the persistent danger patients are being placed in:

The relative of a patient hospitalized at the Adolphe Sicé of Pointe-Noire General Hospital:

“Three months ago I went to visit a relative who was suffering from severe malaria. The operating room was located right next door. There was a power outage, as there often is. But when this happens, there is no automatic switch to the generator. Someone has to walk to the generator to start it, and this can take several minutes. On that occasion, three people on ventilators died. This is common, and the hospital never takes responsibility.”¹⁵¹

A patient at Gamboma District Hospital told Amnesty International that he had previously heard of situations where the hospital had refused to treat those who were unable to pay:

“Last year, I saw a young man from a nearby village, visibly unwell, abandoned in the emergency room for lack of money. Even if the hospital has no supplies, when faced with a serious case, health workers should at least try to do something to relieve the patient.”¹⁵²

The impoverishment caused by the COVID-19 pandemic has also further limited the amount of money that Congolese households are able to devote to health expenditure, as the following testimonies show:

“The company I was working for in Brazzaville went bust and I lost my job. Since then, I have been living in Gamboma, transporting goods via my motorcycle to survive. But there are so many motorcyclists that this doesn’t bring in much money. So whenever I suffer some health problem, I panic, because nothing is free. You need money for the consultation and to buy medication.”¹⁵³

“It’s difficult for those of us who left Brazzaville and came here to Oyo to be treated for kidney failure. I rented a house with my family so that I could receive care on the spot. I have to pay 10,000 CFA francs¹⁵⁴ per dialysis session, not including transport and medications. I’ve been working simply to pay for my care for a few months now. I can’t help my family anymore. The charges at the Edith Lucie Bongo Hospital are not affordable for everyone. This is why deaths are often recorded here.”¹⁵⁵

Frequent shortages of essential generic drugs, along with the quality of these, have also compromised the Congolese people’s right to health. Their availability has been stated as 48.4% in district hospitals and 45.7% in Integrated Health Centres.¹⁵⁶ This low rate is attributed to the poor functioning of the national purchasing centres.¹⁵⁷ On 23 July 2020, the Centre for Public Health Emergency Operations (*Centre des opérations d’urgences de santé publique / COUSP*) announced a suspension of COVID-19 testing due to a shortage of “test supplies”.¹⁵⁸ The absence of a laboratory for quality control of medicines has continued to be a serious danger to patients since, in 2010, 40% of drug samples sent abroad for monitoring were found to be non-compliant.¹⁵⁹

¹⁵¹ Testimony collected by telephone on 8 February 2021.

¹⁵² Testimony collected in Gamboma in February 2021.

¹⁵³ Testimony collected in Gamboma in February 2021.

¹⁵⁴ Around 15 euros. According to the PNDS 2018-2022, an average dialysis session costs 25,000 FCFA in public facilities.

¹⁵⁵ Testimony collected in Oyo in February 2021.

¹⁵⁶ National Health Development Plan 2018-2022, August 2018.

¹⁵⁷ National Health Development Plan 2018-2022, August 2018.

¹⁵⁸ COUSP, “Information Note”, 23 July 2020, Reference No.172/MSPPFIFD/COUSP/RES

¹⁵⁹ National Health Development Plan 2018-2022, August 2018.

4.5.2 FREE CARE AND THE SITUATION OF PEOPLE LIVING WITH HIV

The president said on 17 December 2019 that: “All free health care has been maintained, namely Caesarean sections, malaria treatment for children aged 0-15 years and treatment for HIV/AIDS.”¹⁶⁰ Despite this statement and the existing legislation, some care is not free for some patients.

A health care worker in Oyo told Amnesty International:

“Free health care is only partially provided at present due to the non-availability of certain drugs, particularly anti-malarials. There is certainly a desire on the part of the authorities but there is a gap between what they say and what they do (...). For example, because of a scarcity of kits, free Caesarean sections are only sometimes provided.”¹⁶¹

Article 26 of the Law of 4 June 2010 on child protection guarantees the “right to the preservation of their health and to quality care in all circumstances”. It further states that: “It is forbidden for a subsidized hospital to deprive a child of health care due to financial considerations” and that “No one has the right to deprive a child of medical care due to religious or cultural considerations.”¹⁶² There are, however, shortcomings in the application of this law. In their 2018 report to the UN Human Rights Council during Congo’s Universal Periodic Review, stakeholders stated that: “No health facility was providing free childcare.” The failure of the public health service is increasingly leading the population to turn to the private sector, where costs are increasing year on year, or to the informal sector.”¹⁶³

The lack of free health care also applies to HIV/AIDS treatment, despite the existence of a legal framework, given that ARVs are on the WHO List of Essential Medicines. According to Article 26 of the Law of 3 June 2011, “People living with HIV shall have free access to health services, including ARVs and treatment of opportunistic diseases. These health services shall include palliative treatment and care for pain and other AIDS-related symptoms.”¹⁶⁴ “The law provides for free anti-retroviral drugs and regular laboratory tests (every three months),” Jean-Pierre Mahoungou, Executive Director of the National Network of PLHIV Associations of Congo (RENAPC), told Amnesty International.¹⁶⁵ “In practice, however, it is a minimal assessment, and only in a few centres.”

Amnesty International has collected testimonies from RENAPC members on this subject:

“As members of RENAPC, we have easier access to ARVs. But, for others, it's difficult. You have to have check-ups every three months and, out of 15 tests to be conducted, maybe only seven are free. Someone who does not have the money may wait a month or two just to be able to fund even two of the tests. When you go to the national laboratory, if you are HIV-positive, they give preference to those who have come with money and you initially get overlooked. It's only later that they pick you up and, if there are no more reagents, they tell you to come back in a few days, even if you've travelled a long distance.”¹⁶⁶

“We've been managing pregnant women for two weeks, but we can't screen them because there are no reagents. It's supposed to be free at the national laboratory, but it isn't. It's not been possible to make it completely free. When patients come in, they are asked for money because there are no reagents, even though the prescription says it's free.”¹⁶⁷

¹⁶⁰ State of the Nation Address, 17 December 2019, www.ambacongofr.org/index.php/l-ambassade/actualites/483-discours-sur-l-etat-de-la-nation-pour-denis-sassou-nguesso-rassure-les-congolais-sur-la-marche-du-pays?start=1

¹⁶¹ Testimony collected in Gamboma, in February 2021.

¹⁶² Law No. 4-2010 on child protection in the Republic of Congo, www.unesco.org/education/edurights/media/docs/8827c7298af156a49466bc30f61b03fa980b92dc.pdf

¹⁶³ Human Rights Council, Working Group on the Universal Periodic Review, Thirty-first Session 5-16 November 2018, Summary of Stakeholders' Submissions on the Republic of Congo, <https://daccess-ods.un.org/TMP/8837240.93437195.html>

¹⁶⁴ Law No. 30-2011 of 3 June 2011 on combatting HIV/AIDS and protecting the rights of people living with HIV.

¹⁶⁵ Email from Jean-Pierre Mahoungou, Executive Director of the National Network of PLHIV Associations of Congo (RENAPC), 12 December 2020.

¹⁶⁶ Testimony collected by phone in February 2021.

¹⁶⁷ Testimony collected by phone in February 2021.

PLHIV also faced a shortage of ARVs in 2016, which was denounced by RENAPC members¹⁶⁸ and confirmed to Amnesty International by the Global Fund to Fight AIDS, Tuberculosis and Malaria, according to whom “one of the consequences of Congo’s failure to comply with co-financing requirements¹⁶⁹ has been an emergency situation in the procurement of adult ARVs, as well as TB drugs.”¹⁷⁰ The resources provided to associations have been reduced, with a consequent decrease in screening and awareness-raising. “Our absence from the field has resulted in new infections,” one RENAPC member told Amnesty International. In addition, following an audit¹⁷¹ conducted by the Global Fund in 2013, the Congolese authorities were required to reimburse unjustified expenditure. Management of Global Fund money has shifted from public structures to non-governmental organizations such as the French Red Cross (2018-2020 period). The availability of ARVs has improved significantly in recent years, according to several people spoken to, but the COVID-19 pandemic has limited patients’ access to care and disrupted the ARV supply chain, with serious long-term effects.¹⁷²

“Stock-outs were noted during the lockdown for those who were being treated in facilities other than the Outpatient Treatment Centre. Some were unable to get anti-retroviral drugs throughout the whole of lockdown.”¹⁷³

¹⁶⁸ Les Dépêches de Brazzaville, “VIH-sida: les ruptures d’antirétroviraux persistent”, 7 November 2016, www.adiac-congo.com/content/vih-sida-les-ruptures-dantiretroviraux-persistent-57649

¹⁶⁹ In order to access Global Fund support, countries must demonstrate a gradual increase in public health spending and a gradual assumption of major programme costs, including those supported by the Global Fund.

¹⁷⁰ Email from the Global Fund to Fight AIDS, Tuberculosis and Malaria, 25 February 2021.

¹⁷¹ Global Fund, Audit of Global Fund Grants to the Republic of Congo, 8 May 2013, Ref. GF-OIG-13-009.

¹⁷² UNAIDS, “Prevailing against pandemics by putting people at the centre”, 26 November 2020, <https://www.unaids.org/en/resources/documents/2020/prevailing-against-pandemics>

¹⁷³ Centre run by the French Red Cross.

5. REPRESSION AS A RESPONSE

“He was supposed to spend the night at the police station and be released the next day. Instead, his body ended up being taken to the hospital.”

Testimony of a relative of Wenceslas Samson Opfi, who died after being detained by the police during the hours of curfew.

5.1 COVID-19 FOUGHT WITH VIOLENCE

It is the Congolese people who have suffered the brunt of this dual crisis. In response, in addition to further harming people’s enjoyment of economic and social rights through their handling of the situation, the authorities have also repressed those who did not comply with the anti-COVID-19 restriction measures and those who denounced human rights violations in the context of this crisis.

5.1.1 LOCKDOWN AND CURFEW

The measures announced by the authorities on 31 March 2020 to combat the COVID-19 pandemic were particularly strict. The entire population was confined to their homes,¹⁷⁴ traffic was banned throughout the country,¹⁷⁵ a curfew was established from 8:00 pm to 5:00 am and there was a “general mobilization of the defence and security forces to enforce all these decisions unfailingly”. A phased easing of lockdown commenced on 18 May 2020, and again on 23 June, after 46 days of complete lockdown. This lockdown was all the more trying as the country suffered frequent power cuts, mitigating the effects of the free electricity granted during this period. Some authorities were notably indifferent to the fate of their fellow citizens.¹⁷⁶ On 22 September, a Congolese NGO platform stated that “maintaining the curfew for more than six months after the outbreak of the pandemic is a serious and a manifest infringement of several fundamental freedoms unless the government and the National Coordinating Body for Managing the

¹⁷⁴ “With the exception of those who are working to provide essential goods and services.”

¹⁷⁵ “With the exception of travel that is deemed essential.”

¹⁷⁶ www.facebook.com/CongoMorning/posts/885397588595091# =

Pandemic are able to demonstrate the effectiveness of such measures against COVID-19.”¹⁷⁷ Despite this appeal, on 25 November 2020, the National Coordinating Body for Managing the Pandemic recommended a resumption of the curfew from 8:00 pm to 5:00 am in Brazzaville and Pointe-Noire on Saturdays, Sundays and holidays, having noted a “general relaxation among the population”, with a curfew from 11:00 pm to 5:00 am remaining in place on weekdays.¹⁷⁸ These provisions were still in effect as of 3 March 2021, as were the five-day limit on the opening of publicly-run markets in Brazzaville and Pointe-Noire, health checks at the entrance and exit of all cities in the country, and a ban on walking in groups of more than three people in public.¹⁷⁹ On 16 July 2020, the prefecture of Brazzaville banned a peaceful march planned in the capital by several human rights organizations to demand the medical evacuation of Jean-Marie Michel Mokoko. The prefecture of Brazzaville justified its decision by evoking the “risk of spreading the virus during the march”.¹⁸⁰

5.1.2 UNLAWFUL KILLINGS AND EXCESSIVE USE OF FORCE

On 26 March 2020, Thierry Mougalla, Minister for Communication and Media, and government spokesperson, denounced on Twitter “the stupid application by some elements of the forces of law and order of instructions related to the prevention of COVID-19”,¹⁸¹ publishing photos of a female presenter from the national television station Télé Congo who was assaulted at the entrance to her workplace by members of the Republican Guard.



VENCESLAS SAMSON OPFI

On 18 April 2020 in Djambala (Plateaux department), police officers and gendarmes allegedly killed Venceslas Samson Opfi, according to a complaint made on 12 May 2020 to the investigating judge of the Djambala High Court by the deceased’s family, who were consulted by Amnesty International. A close relative of the victim told the organization:

“All I know is that he was out past curfew and, according to the rules set by the authorities, he was supposed to spend the night at the police station and be released the next day. Instead, his body ended up being taken to the hospital.”¹⁸²

According to the complaint, the victim fled from a mixed group of police officers and gendarmes who caught him out after curfew on a motorbike. After being caught, he was “beaten with belts, truncheons, rifle butts...” and then deposited lifeless at the local hospital, with one of those involved calling a relative of the victim to claim there had been a road traffic accident. According to the same complaint, the authorities attempted to intimidate and influence the medical report prepared by the director of Djambala basic hospital. The president of the Legal Assistance Programme for Equality in Law (*Programme d’assistance juridique pour l’égalité en droit* / Pajed), Venceslas Come Hemann Ngandounou, was threatened by police because of his determination to investigate the death of Venceslas Samson Opfi, according to written testimony he posted on social media¹⁸³ and confirmed to Amnesty International.

On 1 May 2020, a message was issued¹⁸⁴ on behalf of the Director-General of Police calling for “respect for the individual” and the need to “use discretion” when implementing measures to combat the coronavirus. There have, however, been reports of further violence by law enforcement officers in the country. On 19 May 2020, Les Échos du Congo Brazzaville reported the death of a man in Dolisie (Niari department) after a “crisis” following his arrest “on his own land” by the forces of law and order because he was not wearing a

¹⁷⁷ Civil Society Platform for Human Rights and Democracy, “Covid-19: Non à la banalisation du couvre-feu aux effets collatéraux terribles au Congo-Brazzaville”, 22 September 2020, www.ochd-congobrazza.org/wp-content/uploads/2020/09/Plaidoyer-des-ONG-pour-la-levee-du-couvre-feu.pdf

¹⁷⁸ <https://twitter.com/ThMougalla/status/1331623454232236034>

¹⁷⁹ “Coronavirus: Communiqué de la coordination nationale de gestion de la pandémie de coronavirus Covid-19 suite à sa réunion du Mercredi 03 Mars 2021”, <https://gouvernement.cg/coronavirus-communique-de-la-coordination-nationale-de-gestion-de-la-pandemie-de-coronavirus-covid-19-suite-a-sa-reunion-du-mercredi-03-mars-2021/>

¹⁸⁰ Letter from the Prefect of Brazzaville, Ref No.293 /MID/DBZV/P/SG/DDAT, 15 July 2020.

¹⁸¹ Did not respond to requests.

¹⁸² Testimony received via social media on 15 February 2021.

¹⁸³ Message posted in a private WhatsApp group on 7 May 2020.

¹⁸⁴ Ministry of Defence, Multidisciplinary Operational Planning Group, Message No. 000586 of 1 May 2020.

protective mask against COVID-19.¹⁸⁵ On 29 September 2020, Merveille Bazonzela, a 23-year-old woman, died after being arrested by gendarmes in the town of Nkayi (Bouenza department) for not wearing a mask. According to the testimony of her parents,¹⁸⁶ and according to a letter¹⁸⁷ sent by the Administrator-Mayor of District 1 Mouana-Nto in Nkayi commune to the Prefect of Bouenza department, Merveille Bazonzela died after having been beaten. Violent demonstrations broke out in the area after her parents took her body to the gendarmerie. The results of an autopsy dated 5 October 2020 and seen by Amnesty International concluded that her death was by “asphyxiation due to convulsions” but this was rejected by human rights defenders.¹⁸⁸ The authorities responded only to deny the false statement condemning police behaviour “while sympathizing with the grieving family”.¹⁸⁹

The above cases of alleged unlawful killings demonstrate an excessive use of force in the implementation of COVID-19 control measures. These cases constitute serious violations of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials,¹⁹⁰ for which no “exceptional circumstances such as internal political instability or any other public emergency” may be invoked to justify any departure from these basic principles, according to Article 8 of the same Principles. Moreover, as the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association recalled in April 2020, “It is imperative that the crisis is not used as a pretext to stifle rights generally or the rights to freedom of peaceful assembly and association in particular.”¹⁹¹

5.2 DENUNCIATIONS OF VIOLATIONS COUNTERED WITH ARBITRARINESS

Civil society actors have spoken out about the human rights situation in the country in recent years, particularly, given the context, about economic and social rights. Many of them have been subjected to intimidation or arbitrary detention as a result; this is contrary to international law, which calls for respect, protection, facilitation and promotion of the work of human rights defenders and other members of civil society, in order to assist vulnerable or marginalized groups realize their right to health.¹⁹²

5.2.1 HUMAN RIGHTS AND POLITICAL ACTIVISTS

Christ Dongui, deputy coordinator and spokesperson for the citizen movement *Ras-le-bol*, was arrested on Thursday 25 March at 5:00 a.m. at his home in the Mayanga district, in the capital Brazzaville. As of 1 April, he was still being held at the premises of the Central Intelligence and Documentation Center (CID). His lawyers have made a written request to meet with him without success. As Christ Dongui’s lawyers are unaware of the charges against their client, his arrest could be linked to his actions as an activist for democracy, in violation of the right to freedom of expression as guaranteed by international, regional and national standards, which the Congolese authorities have an obligation to uphold. As part of his activities, Christ Dongui had actively advocated for a free, credible and transparent presidential election.

Alexandre Ibacka Dzabana, coordinator of the Congolese platform of human rights and democracy NGOs, member of the M22 movement and of the Tournons-la-page Congo coalition and known for his criticism against power, was arrested on 11 March 2021 near his home and taken to the CID. The authorities accused him of “destabilizing the institutions during the electoral process”. He was also still in detention on 1 April without the possibility to meet with his lawyer.

On 19 May 2020, the deputy coordinator of the *Ras-le-Bol* (‘Fed up’) movement, Charlin Kinouani, was briefly detained at a police station in the Lémina district of Brazzaville. He told Amnesty International:

¹⁸⁵ <https://lesechos-congobrazza.com/faits-divers/7013-congo-non-port-de-masque-protecteur-65-interpellations-et-un-mort-a-dolisie>

¹⁸⁶ TV5 Monde, “Congo-Brazzaville: tensions à Nkayi après le décès d’une jeune fille”, 1 October 2020, <https://information.tv5monde.com/video/congo-brazzaville-tensions-nkayi-apres-le-deces-d-une-jeune-fille>

¹⁸⁷ Letter from Jean-Claude Bamenguida to the Prefect of Bouenza department, 8 October 2020.

¹⁸⁸ Voafrique.com, “Affaire Merveille Bazonzila: la société civile scandalisée par le rapport d’autopsie”, www.voafrique.com/a/une-expertise-m%C3%A9dicale-sur-merveille-bazonzila-boud%C3%A9-%C3%A0-brazzaville/5613718.html

¹⁸⁹ Ministry of Communication and Media, tweet posted 30 September 2020,

<https://twitter.com/MinistereComCG/status/1311409420128137216>

¹⁹⁰ www.ohchr.org/FR/ProfessionalInterest/Pages/UseOfForceAndFirearms.aspx

¹⁹¹ “Les réponses des États à la menace du Covid 19 ne doivent pas entraver les libertés de réunion et d’association” - UN Expert on the Rights to Freedom of Peaceful Assembly and of Association, Mr. Clement Voule, 14 April 2020,

www.ohchr.org/Documents/Issues/FOAAcovid19/DixPrincipesCle%CC%81s.Avril2020.pdf

¹⁹² General Comment 14.

“I was mistreated by a police officer and finally released at 8:00 pm, curfew time, against a payment of 20,000 FCFA. They threatened to transfer me to the central police station. I was investigating police brutality in neighbourhoods as curfew approached and with regard to citizens who are not wearing their mandatory protective mask.”¹⁹³

Franck Donald Saboukoulou, Parfait Hojeij Mabiála, Miangué Ossebi and Meldry Dissouvoulou were arbitrarily detained for almost a year. Franck Donald Saboukoulou, Guil Ossebi Miangué and Rolf Meldry Dissouvoulou were arrested in Brazzaville between 13 and 17 December 2019 and Parfait Mabiála Hojeij in Pointe-Noire on 23 November 2019. Supporters of the opposition movement *Incarner l'Espoir* ('Hope Personified'), they were charged with undermining internal security. The time limits for provisional detention under Congolese law were exceeded and, in June 2020, the Public Prosecutor's Office appealed against a provisional release decision, taken on 30 March 2020 by the investigating judge of the Brazzaville High Court. On 26 November 2020, the Brazzaville Court of Appeal declared this appeal inadmissible. The four men were provisionally released on 4 December 2020.

A member of the *Ras-le-Bol* movement,¹⁹⁴ Céleste Makela Nlemvlo, spent nearly four months in arbitrary detention after being charged with “inciting public disorder” under the Political Parties Act,¹⁹⁵ even though he is neither a leader nor a member of a political party. He was arrested on 22 December 2019 in Pointe-Noire, imprisoned on 26 December 2019 in Brazzaville and provisionally released on 13 April 2020. Hallel Bouesse, another member of *Ras-le-Bol*, was prevented from leaving Congo on 3 March 2020, and briefly arbitrarily detained. He told Amnesty International:

“My flight to Senegal was scheduled for 7:00 pm. I went through the usual formalities and, as I was about to fill in my boarding form, a plainclothes police officer asked to see my passport. Then he asked me to follow him. I refused, asking for an explanation; he threatened me saying that if I did not go with him, I would be taken by force (...). Finally, I followed him and a commander into an office. They asked me questions about the purpose of my trip, who was financing it, where I was staying. Then they asked me if I was the secretary of the *Ras-le-Bol* civic movement. When I answered 'yes', the questioning stopped dead in its tracks. They got up and left me alone for 30 minutes, locked up, not knowing what was going on. I was then taken by car to an unknown destination. Once there, I recognized the premises of the General-Directorate for Territorial Surveillance (DGST). They took me in and started asking the same questions as at the airport, then questions about *Ras-le-Bol*, in a threatening tone; they were shouting at me. Then there were questions about Andrea Ngombet¹⁹⁶ and the Congolese Human Rights Observatory,¹⁹⁷ with regard to a discussion conference organized in February and for which I had done some street publicity. I was released around 10:30 pm after long discussions, but my passport was confiscated. Three days later, the colonel who had intervened for my release brought me back my passport. He insisted that I should step down for a while, to ride out the storm, because these people would be ready to come after me again and block me permanently.”¹⁹⁸

On 7 and 9 May 2018, around 20 young members of the *Ras-le-Bol* movement, including the national coordinator, Franck Nzila Malembe, were arrested in Brazzaville and Pointe-Noire. Charged with “disturbing public order and criminal association” for peacefully demanding the release of detainees, they were released on 5 June 2018. Among other things, *Ras-le-Bol* activists had peacefully demonstrated outside the CHUB on 26 June 2017. They were demanding publication of an audit report into the institution's operations and sanctions for those responsible for its management.

¹⁹³ Letter from Charlin Kinouani, 21 May 2020.

¹⁹⁴ *Ras-le-Bol* defines itself as “a peaceful and non-violent civic movement working for social progress by awakening the civic consciousness of young people”.

¹⁹⁵ Law No.21-2006 of 21 August 2006, Article 38: “Notwithstanding other provisions in force, any leader or member of a political party who, through his or her writings, public statements or actions, incites or disturbs public order and seeks to seize state power illegally, shall be punished with two to five years' imprisonment and a fine of 2,000,000 to 5,000,000 CFA francs without prejudice to the dissolution of the party concerned.”

¹⁹⁶ He is one of the leaders of the #Sassoufit collective and president of the *Incarner l'Espoir* movement.

¹⁹⁷ Congolese Observatory for Human Rights.

¹⁹⁸ Testimony received via social media on 17 March 2020.

5.2.2 JOURNALISTS



ROCIL CLAVER OTOUNA

Rocil Claver Otouna was the victim of a violation of his freedom of expression, which is guaranteed by the 2015 Congolese Constitution (Article 25). A presenter of the 8:00 pm news programme on State television, Télé Congo, he was suspended by the government after a special programme devoted to the pandemic - following Denis Sassou Nguesso's speech on 30 April 2020 - during which the journalist asked questions of the Minister of Justice. He told Amnesty International:

“I hosted a special piece on the President's message following the COVID-19 pandemic. Obviously, not everyone was happy with the questions I asked. I received a verbal warning, without any note or explanation. All I was told was that the instructions had come from above. There are so many “aboves” here. That's what the Executive Director told the News Director in order to get me removed from the week's scheduling ending Sunday.”¹⁹⁹

On 3 May 2020, the Ministry of Communication denied that there had been any sanction or dismissal, calling information claiming otherwise “fake news”.²⁰⁰ These words were contradicted by the Higher Council of Communication, however, which called for the journalist's rehabilitation, considering that he had already been punished enough. A memo from the Ministry of Communication dated 9 May 2020 also terminated his duties as an “external collaborator, member of the communication unit” of said ministry.

Raymond Malonga, editor of the satirical newspaper *Sel-Piment* (Salt-Pepper) has been in detention since 2 February 2021. He was arrested while hospitalized after failing to turn up for several summonses for alleged defamation. On 18 January 2020, *Sel-Piment* published an article from the site *Sacer Infos Congo* reporting accusations of embezzlement by Georgette Okemba, wife of Jean-Dominique Okemba, known as “JDO”, nephew of President Denis Sassou Nguesso.²⁰¹

5.2.3 TRADE UNIONISTS AND STUDENTS

Trade union freedoms and the right to strike, guaranteed by the 1948 International Labour Organization (ILO) Convention and by Article 32 of the 2015 Congolese Constitution, have been compromised on several occasions in recent years in relation to the situation in the health system.

The Director-General of the Brazzaville Hospital and University Centre (*Centre hospitalier et universitaire de Brazzaville / CHUB*), Denis Bernard Raiche, fired Victor Bienvenu Kouama, Secretary-General of the Congolese Trade Union Confederation (*Confédération syndicale congolaise*) and president of the CHUB joint trade union committee, on 5 October 2020. According to the director's letter,²⁰² which has been seen by Amnesty International, the decision was based on “abusive language”, “forgery” and “false allegations against the political authorities”. Back in November 2019, Victor Bienvenu Kouama had accused the management of embezzlement.²⁰³ In response, in a press release on 6 October 2020, the CHUB's joint trade union committee denounced the “illegal, abusive and non-regulatory” dismissal and called on the director to reverse his decision. On 16 October 2020, having gathered information from CHUB's management and human resource department, the Disputes Board found the termination “inherently illegal, and therefore abusive and improper” and decided not to authorize the dismissal.²⁰⁴ When the administration refused to reinstate the trade unionist, the case was reportedly referred to the Employment Tribunal, according to information obtained by Amnesty International. In response to a letter sent by the organization, the Director of CHUM/USI stated that “the dismissal of the person in question was based on a thorough and documented

¹⁹⁹ Testimony received via social media on 2 May 2020.

²⁰⁰ Ministry of Communication, “Mise au point du cabinet du ministre de la Communication et des médias suite à la campagne de dénigrement menée contre M. le ministre de la Communication et des médias, porte-parole du gouvernement”, 3 May 2020, Ref. No. 0022/MCM-CAB-20 (illegible).

²⁰¹ Reporters sans frontières, “Détenon arbitraire de Raymond Malonga au Congo: le droit doit prévaloir sur la loi du plus fort”, 5 March 2021, <https://rsf.org/fr/actualites/detenon-arbitraire-de-raymond-malonga-au-congo-le-droit-doit-prevaloir-sur-la-loi-du-plus-fort-rsf>

²⁰² Ref No. 005 MSPPFIFD/CHUB-DG, 5 October 2020.

²⁰³ RFI, “Congo-B: les syndicats du CHU de Brazzaville dénoncent un détournement de fond”, 24 November 2019, www.rfi.fr/fr/afrique/20191124-congo-syndicats-chu-brazzaville-detournement-fond

²⁰⁴ Ref No.4176/DT-CL/BZV

analysis of his file and accumulated evidence”, and that “union freedoms and the right to strike were not threatened by this process”.²⁰⁵

In Oyo, in April 2020, the president of the union section at Edith Lucie Bongo Ondimba General Hospital, Kether Itoua Oniangue, was arrested and detained after calling for a demonstration following a list of complaints sent to the authorities setting out the problems in the hospital, according to local media.²⁰⁶ Back in April 2018, the joint trade union committee for health and social staff had denounced the CHUB’s mismanagement. Management had relieved departmental heads of their administrative duties. In addition, a defamation complaint had been filed against the union section’s Communications Officer.²⁰⁷



BRUCELON NELSON APANGA

In 2017, Brucelon Nelson Apanga, then president of the Congolese Pupils’ and Students’ Movement (*Mouvement des élèves et étudiants du Congo / MEEC*), was forced to flee Congo after calling for the resignation of Denis Sassou Nguesso and protesting at the non-payment of student scholarships. He was arrested in February 2018 upon his return to Brazzaville, along with three other student unionists. The Student Inter-union Grouping (*Collectif intersyndical des étudiants*) of the Marien Ngouabi University had recently circulated a document demanding, among other things, payment of four terms of scholarships for the academic year 2016-2017. In 2016, 2017 and 2018, students, teachers and administrative staff went on strike for several months to demand, among other things, payment of their salary arrears. After a period of detention at the DGST, during which Brucelon Nelson Apanga was tortured, the four men were transferred to Brazzaville Prison on 2 March 2018 for “complicity and attempted disturbance of public order”, before being provisionally released on 16 March 2018.²⁰⁸ Having gone into exile in Cameroon, he was, according to his testimony, abducted in Yaoundé on 18 October 2020 and brought back to Congo where he was again arbitrarily detained and tortured. He gave the following account to Amnesty International:

“It was about 8:00 am, I was out buying doughnuts in the Odza district of Yaoundé. I saw two agents of the Congolese DGST there in civilian clothes. They called me by my first name and then presented me with a note. They handcuffed me and put me in a car with tinted windows, blindfolding me. I was in shorts, they refused to let me get any clothes. We arrived in Ouessou around midnight and then went on to Brazzaville, arriving on 19 October at around 7:00 pm. They locked me in a house. They accused me of wanting to carry out a coup with Mokoko and the diaspora, of having received money to recruit Cameroonian mercenaries. They started to torture me. On 20 October, the head of the DGST, General Philippe Obara, came at night to say that I was not telling the truth, that I was going to be prosecuted. On 22 October, I was taken to a cell in the DGST, there was no daylight at all. After three days, I was taken for questioning, and they showed me photos. I denounced these as being photoshopped. I was threatened with 20 years in prison. The next day I was tortured again, punched, electrocuted. I was allowed only a small piece of bread and a glass of water a day, and if I didn’t take them quickly they’d be taken away. It went on like this until 14 November and that day I had a crisis, I didn’t speak any more. I was taken to the military hospital where it was found that I had a problem with urine retention, my stomach was bloated. The doctor said that if I was taken back into detention I would need a catheter, otherwise I would need to remain in hospital. I was taken back to prison with the catheter but I continued to have seizures. Finally, on 22 November, I was dropped off in the street, wrapped in a sheet, in front of the Elikia clinic in Poto-Poto district.”²⁰⁹

²⁰⁵ Email to Amnesty International from Karine Dubois-Nguyen, 18 March 2021.

²⁰⁶ Les Échos du Congo Brazzaville, “Oyo: les populations dans la rue pour exiger la libération du président du syndicat de l’hôpital ELBO”, 18 April 2020, <https://lesechos-congobrazza.com>
<https://lesechos-congobrazza.com/faits-divers/6880-oyo-les-populations-dans-la-rue-pour-exiger-la-liberation-du-president-du-syndicat-de-l-hopital-elbo>

²⁰⁷ Congolese Human Rights Observatory, Annual Report 19, http://ocdh-brazza.org/wp-content/uploads/2019/05/OCDH-RAPPORT-A5-COMPLET-V10_.pdf

²⁰⁸ Rapport de la société civile sur la mise en œuvre du Pacte international relatif aux droits civils et politiques (PIDCP), 4 June 2020, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/COG/INT_CCPR_LIP_COG_42363_F.pdf

²⁰⁹ Testimony obtained on 12 February 2021 in Dakar.

Such cases represent serious violations of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by Congo in 2003.

In addition, Congolese students abroad who mobilized to demand payment of their scholarships have been targeted with reprisals and threats, according to testimonies collected by Amnesty International. These have been anonymized to protect the identity of the individuals:

“Since the Congolese authorities cannot reach us directly, they have gone to our relatives in the country, who are more vulnerable. Some were contacted by the military or political authorities, threatening them with prison or physical violence. My father received calls, my mother too. I received calls from people I didn't know, threatening me with violence, death or jail. I'm still afraid to this day. I don't even know if I will ever be able to return to Congo. They can't touch me but, in Congo, they can do what they want and nobody will lift a finger. The government does what it wants, says what it wants, pays scholarships when it wants. No one says anything. We've been here over 24 months without a scholarship, and we don't say anything anymore because we know what the consequences will be.”²¹⁰

“We know that if we make the slightest attempt we will suffer reprisals. Last time, after three weeks of mobilization, we were beaten by the local police. And when we try to make videos online calling for help, the authorities reject us, saying we are not students but migrants seeking to cross the Mediterranean to Europe.”²¹¹

²¹⁰ Testimony received via social media on 5 February 2021.

²¹¹ Testimony received via social media on 8 February 2021.

6. CONCLUSION AND RECOMMENDATIONS

The economic crisis caused by the fall in oil prices, on the one hand, and the COVID-19 pandemic, on the other, has exposed Congo's deep-rooted problems, in particular the very poor human rights situation in a country that has been led by a President in power for 37 of the last 42 years.

Despite an expected decline in production, oil will likely remain the country's main export production to 2025, accounting for 75% of total exports.²¹² Monoproduction is synonymous with vulnerability, but also with a lack of management transparency, as has been highlighted by several court cases and IMF reports. This makes the "austerity" in the name of which the pensions, salaries and grants of retirees, civil servants and students have not been paid for many months all the more unacceptable.

By not paying health workers, not using the maximum available resources to ensure the right to health, not putting an end to the serious dysfunctions noted in health structures, and not ensuring that certain areas of care are free of charge, as provided by law, the Congolese authorities have - among other findings noted by Amnesty International - failed to meet their obligations regarding the right to health.

On top of these violations of economic and social rights, there has been repression of those who have denounced them. The implementation of measures to combat the COVID-19 pandemic has resulted in serious human rights violations, including the unlawful killings and excessive use of force of which the country's defence and security forces are frequently accused. Violations of the rights to freedom of expression and peaceful assembly, and arbitrary arrests and detentions, have affected political opponents, human rights defenders, trade unionists and journalists who have dared to denounce the way in which the economic crisis has been managed and violations of the people's economic and social rights.

6.1 TO THE CONGOLESE AUTHORITIES

ON AUSTERITY MEASURES

- Ensure respect for the provisions of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by Congo, and ratify its Protocol, thus enabling individuals to approach the Committee responsible for ensuring application of the Covenant in the case of violation of their rights;
- Respect the right of all to enjoy just and favourable conditions of employment, as guaranteed by Article 7 of the ICESCR, ensuring that the salaries of civil servants are paid regularly, punctually and in full;

²¹² IMF Country Report No 20/26, January 2020

- Proceed as promptly as possible to the payment of student grants;
- Proceed as promptly as possible to the payment of pension arrears, in accordance with the commitment made by the President of the Republic in March 2021;
- Guarantee freedom of association in accordance with Article 8 of the ICESCR;
- Make use of appropriate financial and technical assistance and cooperation to urgently assess the human rights impact of the austerity measures discussed in this report and make the findings of this assessment public.

ON THE RIGHT TO HEALTH

- Respect, protect and fulfil the right to health, in accordance with Article 12 of the ICESCR, General Comment 14 of the Committee on Economic, Social and Cultural Rights (CESCR), Article 16 of the African Charter on Human and Peoples' Rights, and the Constitution of the Republic of Congo, in particular:
- Improve the *availability* of the health care system, including making the following available to patients:
 - Facilities, supplies and services, as well as functioning public health and health care programmes. These programmes must enjoy the basic determinants of health, such as safe and clean water and adequate sanitation facilities;
 - Qualified medical and professional staff receiving a decent salary compared to the national average and essential medicines, as defined by WHO.
- Improve the *quality* of the health system, including the provision of scientifically and medically appropriate health facilities, supplies and services of a good quality, including qualified medical personnel, scientifically approved and unexpired drugs and hospital equipment, a safe and potable water supply and adequate sanitation;
- Improve *accessibility* to the health system, both in economic and physical terms, including making facilities, supplies and services available to and affordable for all, and ensuring that poorer households are not disproportionately burdened by health care costs compared to more comfortable households;
- Ensure that health care workers are protected from the COVID-19 pandemic with adequate equipment;
- Guarantee free access to certain areas of care, particularly:
 - Fully implement Article 26 of the Law of 3 June 2011, which states that “people living with HIV shall have free access to health services, including access to antiretrovirals and treatment for opportunistic diseases. These health services shall include palliative treatment and pain relief and care for other AIDS-related symptoms.”
 - Enforce Law No. 4-2010 on child protection, in particular Article 26.
 - Enforce Decree 2011-493 of 29 July 2011 instituting a system of free care for the management of Caesarean sections, ectopic pregnancies, and emergency care for new-born babies resulting from Caesarean sections, as well as other major obstetric interventions.
- Take steps to address the shortage of essential medicines in medical facilities;
- Prioritize the health budget so that, as a minimum, basic medical services are accessible, affordable and of good quality;

- Allocate at least 15% of the government budget to health, in accordance with the commitment made under the Abuja Declaration adopted by the African Union in 2001; implement the budget as planned;
- Establish universal health insurance, as established by Law No.37-2014 of 27 June 2014; set up a Health Insurance Fund, as established by Law No.12-2015 of 31 August 2015;
- Conduct inquiries or investigations into acts of corruption, misappropriation of funds and fraud, in accordance with the mission of the Higher Authority to Combat Corruption (*Haute autorité de lutte contre la corruption* / HALC) enshrined in the Law of 7 February 2019;
- Guarantee transfer of the necessary funding for the HALC's operations;
- Follow up on cases referred by the HALC, conducting investigations, prosecuting suspects and trying them in fair trials before competent, independent and impartial courts;
- Respect, protect, facilitate and promote the work of human rights defenders and other members of civil society in order to assist vulnerable or marginalized groups to realize their right to health, in line with General Comment 14.

ON FREEDOMS

- Guarantee the rights to freedom of expression and peaceful assembly, in accordance with the provisions of the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights, including:
 - Amend Article 38 of Law No. 21-2006 on political parties so that it no longer serves as legal justification for the arrest and detention of opponents;
 - Put a halt to the arbitrary arrests and detentions of people who have merely exercised their right to freedom of expression or peaceful assembly;
 - Refrain from total or partial Internet black-outs;
- Strictly enforce the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the African Commission on Human and Peoples' Rights (ACHPR) Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa;
- Guarantee the prohibition of torture in accordance with the ICCPR and the African Charter on Human and Peoples' Rights;
- Conduct effective, independent and impartial investigations into human rights violations - in particular unlawful killings and torture - committed by the defence and security forces;
- Upon completion of these investigations, prosecute suspects and try perpetrators in fair trials before competent, independent and impartial courts;
- Guarantee respect for the right of victims to participate in the above trials in order to obtain justice and reparation for the deaths of their relatives or other damages;
- Implement the ACHPR Resolution on Prisons and Conditions of Detention in Africa by releasing certain categories of persons, in particular prisoners of conscience and human rights defenders arbitrarily detained, including to reduce prison overcrowding and stem the spread of the coronavirus; and, more particularly, immediately and unconditionally release Jean-Marie Michel Mokoko²¹³ and André Okombi Salissa,²¹⁴ whose detentions have been judged to be arbitrary by the relevant UN Working Group;

²¹³ <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/WGAD/2018/56&Lang=E>

²¹⁴ <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/WGAD/2018/5&Lang=E>

- Guarantee freedom as a principle and pre-trial detention as an exception, especially in the context of the COVID-19 pandemic, which poses a significant health risk to detainees; consequently, review pre-trial detention measures in the light of this specific context.

6.2 TO THE UNITED NATIONS

- To the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association; to the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; to the Special Rapporteur on the right to physical and mental health; to the Independent Expert on foreign debt: request visits to Congo, and act in accordance with your respective mandates.

6.3 TO THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

- Examine the lack of respect for economic, social and cultural rights and, in particular, the right to health during the next review of Congo's human rights report and make specific recommendations in this regard;
- To the Special Rapporteur on Freedom of Expression and Access to Information, and the Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa: publicly denounce the intimidation, threats and arbitrary arrests of people who have merely exercised their rights;
- To the Committee on the Protection of the Rights of People Living with HIV, People at Risk, Vulnerable and Affected by HIV: remind Congo to provide free care for people living with HIV and request a visit;
- To the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa: publicly denounce the excessive use of force by law enforcement officers; call for prompt and independent investigations and proceedings to try those responsible for unlawful killings during demonstrations; denounce acts of torture; and request a visit to Congo;

6.4 TO CONGO'S PARTNER STATES

- Support the health sector effectively and sustainably;
- Strengthen the support for an independent and effective judicial system capable of ending impunity for human rights violations committed by the defence and security forces;
- Ensure that cooperation programmes benefiting the Congolese defence and/or security services do not contribute to the commission of human rights violations.

6.5 TO DONORS AND INTERNATIONAL FINANCIAL INSTITUTIONS

- Comply with the UN Guiding Principles on Foreign Debt and Human Rights, including:
 - Assess the human rights impact of economic reform programmes in Congo, during this crisis and in the future, and amend them on the basis of the conclusions of that assessment.

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CONTACT US



info@amnesty.org



+44 (0)20 7413 5500

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ON THE BACK OF THE CRISIS

VIOLATIONS OF THE RIGHT TO HEALTH AND REPRESSION OF ECONOMIC AND SOCIAL RIGHTS DEFENDERS IN THE REPUBLIC OF CONGO

The economic crisis caused by the fall in oil prices, on the one hand, and the COVID-19 pandemic, on the other, has revealed Congo's deep-rooted problems, in particular the very poor human rights situation in a country that has been led by a President in power for 37 of the last 42 years.

In the name of austerity, tens of thousands of workers have been laid off and retirees, civil servants and students deprived of their income. At the same time, privatizations have contributed to an increased cost of living, against a backdrop of cases of alleged embezzlement.

The health sector has been particularly affected by the crisis and its management. The health budget has also been poorly implemented, leaving the Congolese without several much-needed hospitals.

The dilapidated infrastructure, shortages of equipment and medicines and repeated strikes by unpaid health workers have seriously compromised the right to health. The stated goal of free care in certain areas, especially for PLHIV, has been only partially achieved.

Against this backdrop, the authorities have sought to silence critical voices by cracking down on political activists, human rights defenders, journalists, trade unionists and students who denounce violations of economic and social rights.

Based on testimonies and documents collected in Congo and remotely, this report continues the work that Amnesty International has been doing for several years on the human rights situation in the Republic of Congo.

The organization reminds the Congolese authorities of their obligations to respect economic and social rights, in particular the right to health, and calls on them to protect freedom of expression and peaceful assembly and to release those who have been arbitrarily detained.