



**Convention on the Rights  
of Persons with Disabilities**

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**Committee on the Rights of Persons with Disabilities**

**Consideration of reports submitted by States  
parties under article 35 of the Convention**

**Initial reports of States parties due in 2009**

**Gabon\***

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## Contents

	<i>Paragraphs</i>	<i>Page</i>
Introduction.....	1–12	3
Articles 1 to 4 – General principles of the Convention.....	13–18	6
Article 5 – Equality and non-discrimination.....	19–30	8
Article 6 – Women with disabilities.....	31–41	10
Article 7 – Children with disabilities.....	42–52	12
Article 8 – Awareness-raising.....	53–57	14
Article 9 – Accessibility.....	58–60	15
Article 10 – Right to life.....	61–67	16
Article 11 – Situations of risk and humanitarian emergencies.....	68–70	17
Article 12 – Equal recognition before the law.....	71–73	18
Article 13 – Access to justice.....	74–78	19
Article 14 – Liberty and security of the person.....	79–85	21
Article 15 – Freedom from torture or cruel, inhuman or degrading treatment or punishment.....	86–92	22
Article 17 – Protecting the integrity of the person.....	93	23
Article 18 – Liberty of movement and nationality.....	94–96	23
Article 19 – Living independently and being included in the community.....	97–105	24
Article 20 – Personal mobility.....	106–109	26
Article 21 – Freedom of expression and opinion, and access to information.....	110–111	27
Article 22 – Respect for privacy.....	112–116	27
Article 23 – Respect for home and the family.....	117–122	28
Article 24 – Education.....	123–134	29
Article 25 – Health.....	135–142	30
Article 26 – Habilitation and rehabilitation.....	143–145	32
Article 27 – Work and employment.....	146–148	33
Article 28 – Adequate standard of living and social protection.....	149–158	33
Article 29 – Participation in political and public life.....	159–161	34
Article 30 – Participation in cultural life, recreation, leisure and sport.....	162–165	35
Article 31 – Statistics and data collection.....	166–167	36
Article 32 – International cooperation.....	168–169	38
Article 33 – National implementation and monitoring.....	170	39
Conclusion.....	171	39

## Introduction

1. Gabon<sup>1</sup> is a French-speaking, equatorial Central African country located on the Gulf of Guinea. It has a total surface area of 267,667 km<sup>2</sup> and is bordered by Cameroon to the north, Equatorial Guinea to the north-west, the Republic of the Congo to the east and south and the Atlantic Ocean to the west. It has a population of approximately 1,448,000, with a population density of 5 inhabitants per km<sup>2</sup>. Prior to gaining its independence on 17 August 1960, Gabon was a French colony<sup>2</sup> that was eventually granted self-governing status.<sup>3</sup> The political and administrative capital is Libreville. The first President of the Gabonese Republic, Léon Mba, died on 28 November 1967, and was succeeded, in accordance with the provisions of the Constitution, by the Vice-President of the Republic, Albert Bernard Bongo, later known as Omar Bongo Ondimba, who died on 8 June 2009. Again in accordance with the Constitution, Rose Francine Rogombé, President of the Senate, became acting president and organized early presidential elections in August 2009 (Constitution, art. 13),<sup>4</sup> which resulted in a victory for Ali Bongo Ondimba.

2. In line with the principle of the separation of powers, there are three branches of government in Gabon: the executive branch (the President of the Republic, assisted by the Vice-President of the Republic<sup>5</sup> and the Prime Minister<sup>6</sup>); the legislative branch, represented by a two-chamber parliament (the National Assembly and the Senate); and the judicial branch, which is independent of the legislative and executive branches.<sup>7</sup> The President of the Republic chairs the Supreme Council of Justice. However, in order to safeguard the rule of law, the powers of the judicial branch<sup>8</sup> are exercised by independent courts and tribunals.

3. In addition to the above, article 67 of the Constitution states that: “Justice is dispensed in the name of the Gabonese people by the Constitutional Court, the Court of Cassation, the Council of State, the Court of Auditors, the Courts of Appeal, the tribunals, the High Court of Justice and other courts of special jurisdiction.” During a meeting of the Council of Ministers held on 19 October 2010, a reform was tabled aimed at ensuring a balance of powers through the involvement of magistrates in the operation of the Supreme

<sup>1</sup> The country is divided into 9 provinces, 49 departments, 27 districts and 52 communes and there are two wet seasons (October to December and March to May) and two dry seasons (May to September and December to February).

<sup>2</sup> From 1839 to 1959.

<sup>3</sup> In 1959.

<sup>4</sup> “Should the Presidency of the Republic fall vacant for any reason whatsoever, or should the President of the Republic become permanently incapacitated, as ruled by the Constitutional Court, on a referral from the Government, acting by an absolute majority of its members, or failing that, by the bureaux of the two chambers of parliament acting together by an absolute majority of their members, the duties of the President of the Republic shall be temporarily exercised by the President of the Senate or if, on a referral issued under the same conditions, the Constitutional Court duly rules that he/she is in turn incapacitated, by the First Vice-President of the Senate ... elections for the new President shall, except in the event of a finding by the Constitutional Court of force majeure, be held no less than 30 days and no more than 60 days after the opening of the vacancy or the declaration of permanent incapacity.”

<sup>5</sup> The post of Vice-President was created by Law No. 01/97 of 22 April 1997 amending the Constitution (art. 14 (a) of Title II of the Constitution). The powers and duties of the Vice-President are set forth in articles 14 (b), (c), (d) and (e).

<sup>6</sup> Under article 15 of the Constitution, the President is the head of government.

<sup>7</sup> Title V of the Constitution.

<sup>8</sup> The judicial branch is made up of a constitutional, a judicial and a financial arm.

Council of Justice. To that end, each president of the High Courts now holds the post of vice-president within the Supreme Council of Justice on a rotational basis determined by law. Article 68 of Title V of the Constitution specifies that “the judiciary is independent of the legislative and executive branches and that, in the exercise of their duties, judges are subject solely to the authority of the law”.

4. In line with the policy of openness, in order to offer as many individuals as possible the opportunity to take part in the building of the nation and the preservation of social harmony, a number of official bodies have been created; these include the National Media Council, the National Council for Democracy and the Office of the Ombudsman. The Ministry of Human Rights was set up to implement the Government’s policy on the promotion and protection of human rights, as well as any relevant initiatives. The National Human Rights Commission was created pursuant to Act No. 19/2005 of 3 January 2006 and has been operating since 12 September 2011.

5. Gabon adopted its first Constitution<sup>9</sup> on 21 February 1961. Based on the French text of 1964, the preamble contains a list of fundamental rights. The distinction is made between the principles and rights enshrined in the Constitution (fundamental rights) and those referred to in other legal texts. The order in which these principles and rights are listed reflects Gabon’s concern for the promotion and protection of human rights. Article 1 guarantees, *inter alia*, rights regarding: freedom; equality; the inviolability of the secrecy of correspondence; work; health and social security; State assistance; property; the inviolability of the home; the family; education; culture; solidarity; the motherland and the nation; police custody, etc. Twenty-three paragraphs of the Introductory Title (“Fundamental Principles and Rights”) are devoted to the implementation of fundamental principles and rights, recognizing, from the very beginning, a large number of basic civil, political, economic, social and cultural rights.

6. The Preamble to the Constitution quite rightly focuses on the country’s commitment to human rights and fundamental freedoms, as defined in the Declaration of the Rights of Man and the Citizen of 26 August 1789 and the Universal Declaration of Human Rights of 1948, and as enshrined in the African Charter on Human and Peoples’ Rights of 1981 and the National Charter of Freedoms of 1990. The people of Gabon have always been very attached to their strong traditional social values, their cultural, material and spiritual heritage, and respect for the freedoms, rights and duties of citizens. The national legal order is supplemented by the Convention on the Rights of Persons with Disabilities, ratified by Gabon on 17 September 2007.

7. Pursuant to articles 35 and 36 of that Convention, in this initial report, Gabon sets out the measures taken to apply the Convention at the national level since ratification. When preparing the report, under the supervision of the Directorate-General of Human Rights, the National Committee for the Drafting of Human Rights Reports<sup>10</sup> carried out research involving governmental and non-governmental organizations working in the field of human rights. Furthermore, in addition to the relevant preparatory technical meetings, a national session was held to give feedback and to approve the report prior to its adoption by the Government. The report was thus prepared by means of a participatory process that involved the various Committee members, whose opinions, ideas and positions were taken into account. Moreover, basing its work on the methodology set out by the United Nations

<sup>9</sup> The Constitution was amended by: Act No. 3/91 of 26 March 1991; Act No. 1/94 of 18 March 1994; Act No. 18/95 of 29 September 1995; Act No. 1/97 of 22 April 1997; Act No. 14/2000 of 11 October 2000; Act No. 13/2003 of 19 August 2003 and Act No. 047/2010 of 12 January 2011.

<sup>10</sup> Established pursuant to Decree No. 000102/PR/MDHLCCLCI of 15 January 2007.

for such reports, the National Committee made every effort to proceed in line with the relevant guidelines and the Convention.

8. Gabon ratified the Convention on the Rights of Persons with Disabilities on 17 September 2007 and signed the Optional Protocol thereto in 2007. It is consequently committed to protecting the rights and well-being of persons with disabilities.

9. Gabon has always attached the greatest importance to the protection of the rights of persons with disabilities. Prior to ratifying the Convention, it adopted a series of measures designed to assist persons with disabilities. National legislation includes a number of relevant laws, such as Act No. 19/95 of 13 February 1996 on Social Protection for Persons with Disabilities. Under the Act, persons with disabilities benefit from reduced charges for: treatment in public health facilities; public transport; access to sports and cultural centres; and tuition fees in public and State-approved schools.

10. Other laws relating to persons with disabilities include: Ordinance No. 0023/PR/2007 of 21 August 2007, establishing a family allowance scheme for Gabonese citizens of limited means; Decree No. 00269/PR/SEAS/UNFG/CAB of 31 May 1971 on social assistance in Gabon; Decree No. 01389/PR/MASPF of 2 November 1982, proclaiming a National Day for Persons with Disabilities; Decree No. 000152/PR/MNASBE of 4 February 2002 on the responsibilities, structure and operation of the National Committee for the Integration of Persons with Disabilities; and Order No. 0012/MASBE/DGAS of 5 November 1985, on the establishment of a school for hearing-impaired children. A bill has also been adopted on the accessibility of public buildings for persons with disabilities.

11. In accordance with Act No. 19/95 on Social Protection for Persons with Disabilities and working with organizations of persons with disabilities, particularly the National Federation of Associations of Persons with Disabilities and the Gabonese Association of Persons with Disabilities, Gabon is gradually taking disability into consideration as an issue of national importance. Evidence of this development can be seen in the holding of awareness-raising and discussion seminars on appropriate policies and strategies designed to make persons with disabilities more independent. A number of measures involving allowances and educational and care services, inter alia, are now in place. This approach is based on the principle of equal opportunities, and is intended to encourage persons with disabilities to take part in life in towns and cities and to claim their place in Gabonese society. In that regard, the Government has taken a number of steps, including the following:

- The adoption of Decree No. 00269/PR/SEAS of 3 May 1971 on social protection in Gabon, under which persons with disabilities receive an annual payment of 75,000 CFA francs;
- The introduction of a budget line of 150 million CFA francs for the procurement of orthopaedic equipment, renewable once every two years;
- The opening, in 1985, of the National School for Hearing-Impaired Children, an institution requiring a number of different forms of operational support;
- The establishment of an official National Day for Persons with Disabilities, created through Decree No. 1389/PR/MASPF of 12 November 1982;
- The celebration of the International Day of Persons with Disabilities.

12. In line with its United Nations commitments, Gabon strives continuously to take into account, comply with and apply the basic principles of the relevant legal instruments.

## Articles 1 to 4

### General principles of the Convention

13. Gabon does not have its own definition of disability. Gabonese legislation is based on the definition contained in the Convention, which states that persons with disabilities "... include those who have long-term physical, mental, intellectual or sensory impairments which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others". While working to gradually adapt and improve its relevant national legislation, Gabon views disability as being an issue of interdependence between a person and his or her surroundings, rather than a component linked to a person resulting from impairment. In order to address that issue, article 1, paragraph 8, of the Constitution states that the State shall, to the extent possible, guarantee health protection, social security, the preservation of the natural environment, rest and leisure for all, including children, mothers, persons with disabilities, older workers and the elderly. Gabon therefore considers that persons with disabilities should enjoy the right to: respect for their dignity; respect for their civil and political rights; health; economic and social security, etc. In order to apply these constitutional provisions, which are in line with the Convention, Gabon has introduced the following legislation:

- Article 3 of Act No. 19/95 of 13 February 1996 on Social Protection for Persons with Disabilities, under which persons with disabilities benefit from reduced charges for: public transport; access to sports and cultural centres; and tuition fees in public and State-approved schools. The Act defines and protects persons with disabilities, while taking into account the relevant universally applicable minimum standards. It does in fact lead to the authorities protecting and guaranteeing social protection for persons with disabilities;
- Decree No. 152/PR/MSNASBE of 4 February 2002 establishes the responsibilities, structure and operation of the National Committee for the Integration of Persons with Disabilities. This Decree identifies a number of fields where adaptation work is needed at the national level to allow persons with disabilities to exercise their rights. Article 15 of the Decree provides for a technical commission on infrastructure, responsible, inter alia, for:
  - Defining criteria for the accessibility of public facilities;
  - Encouraging the use of transportation adapted to the needs of persons with disabilities;
  - Making proposals regarding and monitoring the allocation of equipment to persons with disabilities;
  - Advising on modifications to make public facilities accessible for persons with disabilities;
  - Advising on transportation issues affecting persons with disabilities.

14. The technical commission is proof of Gabon's willingness to consult with persons with disabilities through a body in which they play an active part, and to listen to their opinions when implementing relevant legislation and policies. However, the authorities must do more in this regard. This commitment clearly responds to subparagraphs (n) and (o) of the Preamble to the Convention. Consequently, efforts have been made to involve persons with disabilities and the organizations that represent them, although they still do not have enough of a voice at the policymaking level.

15. As to access to employment, the State guarantees equal treatment for all citizens throughout the national territory. According to paragraph 7 of the Introductory Title

(“Fundamental Principles and Rights”) of the Constitution, every citizen has the duty to work and the right to obtain employment. Thus, articles 2 and 8 of Act No. 3/94 of 21 November 1994, establishing the Labour Code, state that:

- All persons, including those with disabilities, have the right to work, it being a natural duty to carry out an activity. Both the State and employers have a duty to provide vocational training;
- All workers are equal before the law and enjoy the same protection and guarantees. Any discrimination in terms of employment and working conditions is prohibited.

16. This Act reflects both the Government’s desire to integrate persons with disabilities into the national development process and the need for an inclusive and open approach regarding such persons. By taking into account the issue of access for persons with disabilities, the Act contributes to efforts to combat poverty and inequality.

17. As a committed member of the International Labour Organization (ILO), Gabon subscribes to that body’s approach in terms of the right to work and employment. Gabonese legislation takes into account the points regarding persons with disabilities contained in the following ILO texts: the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159),<sup>11</sup> the Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99),<sup>12</sup> and the Vocational Rehabilitation and Employment (Disabled Persons) Recommendation, 1988 (No. 168).<sup>13</sup>

18. As mentioned above, the issue of the human rights of persons with disabilities is reflected in the following instruments:

- Article 1, paragraph 8, of the Constitution;
- Act No. 16/66 of 9 August 1996 on the Organization of Primary Education for 6- to 16-year-olds;
- Act No. 19/95 of 13 February 1996 on Social Protection for Persons with Disabilities;
- Ordinance No. 0022/PR/2007 of 21 August 2007 establishing a mandatory health insurance and social security scheme;
- Ordinance No. 0023/PR/2007 of 21 August 2007 on a family allowance scheme for Gabonese citizens of limited means;
- Decree No. 00269/PR/SFAS/UNFG/CAB of 31 May 1971 on social protection in Gabon;
- Decree No. 01389/PR/NASPF of 2 November 1982 proclaiming a National Day for Persons with Disabilities;
- Decree No. 152/PR/MSNASBE of 4 February 2002 on the responsibilities, structure and operation of the National Committee for the Integration of Persons with Disabilities.

<sup>11</sup> Year of adoption: 1983.

<sup>12</sup> Adopted by Gabon in 1995.

<sup>13</sup> Adopted by Gabon in 1983.

## **Article 5**

### **Equality and non-discrimination**

19. Equality for persons with disabilities and protection from discrimination are enshrined in national law. In this regard, Gabon has addressed the concerns expressed in this article by clearly setting forth in its Constitution its commitment to: provide citizens with a defence during legal proceedings;<sup>14</sup> ensure the right to employment without discrimination;<sup>15</sup> guarantee health services and social security for various population groups;<sup>16</sup> support the right to form civil, professional, religious and political associations;<sup>17</sup> guarantee protection of the family;<sup>18</sup> ensure the right to education<sup>19</sup> and affirm the equality of all persons in relation to public burdens.<sup>20</sup>

20. Like anyone else, persons with disabilities can demand enforcement of their rights under the law, although it should be noted that measures such as providing sign language interpreters in courtrooms are only sometimes implemented. Moreover, the State and civil society have not yet jointly established a dedicated mechanism to deal with cases of discrimination based on disability.

21. In the absence of an anti-discrimination law, Gabon currently relies on a number of international instruments (listed below) to which it is a party that prohibit discrimination and similar practices and on related legislation as the basis for making special arrangements for persons with disabilities.

#### **(a) At the international level**

- The ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111), ratified on 29 May 1961;
- The International Convention on the Elimination of All Forms of Racial Discrimination, ratified on 29 February 1980;
- The Convention on the Elimination of All Forms of Discrimination against Women, ratified on 21 January 1983;
- The International Convention against Apartheid in Sports, signed on 16 May 1986;
- The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, signed on 15 December 2004;
- The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, signed on 29 January 2010;
- The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, acceded to on 5 November 2004; and
- The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, signed on 15 December 2004.

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<sup>14</sup> Constitution, art. 1, para. 4.

<sup>15</sup> Ibid., art. 1, para. 7.

<sup>16</sup> Ibid., art. 1, para. 8.

<sup>17</sup> Ibid., art. 1, para. 13.

<sup>18</sup> Ibid., art. 1, para. 14.

<sup>19</sup> Ibid., art. 1, paras. 16–19.

<sup>20</sup> Ibid., art. 1, para. 20.



**(b) At the national level**

- Act No. 35/62 of 10 December 1962 on Associations;
- Act No. 05/86 of 18 June 1986 establishing Regulations for the Admission and Residence of Foreigners in Gabon;
- Act No. 07/96 of 12 March 1996 on Political Elections Free of Gender Discrimination;
- Act No. 24/96 of 6 June 1996 on Political Parties, which does not differentiate between men and women in terms of their participation in public life;
- Act No. 05/98 of 5 March 1998 on the Status of Refugees in Gabon;
- Decree No. 0128/PR/MTEPS/MBCFPRE of 23 April 2010 establishing a solidarity benefit for all employees whose gross salary is less than the minimum monthly wage; and
- Order No. 1145/PM/PAECF of 30 July 2000 establishing an identity card for refugees and regulating its issuance and renewal.

22. In addition to these laws, decrees and orders, Gabon also has other important legal instruments for combating inequality and discrimination, not least of which are the Constitution and the Civil Code. Article 1 of the Introductory Title of the Constitution begins by not only recognizing but also guaranteeing inviolable and imprescriptible human rights, and this is binding on public authorities. In addition, paragraphs 1, 2 and 13 of that article address many of the concerns expressed in article 5 of the Convention, such as the free development of an individual's personality and the prohibition of any act of racial, ethnic or religious discrimination and any regionalist propaganda. Book I of the Civil Code extensively addresses the rights of the individual. Article 78 of the Code also states that individuals may enjoy and exercise all private rights unless otherwise provided. In Gabon, the right to equal treatment extends to all spheres of life, such as consumer rights, hotels and restaurants, employment, housing, etc.

23. Gabon has taken note of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, particularly rules 17 and 21 (on disability and handicap), rule 22 (on prevention), rule 23 (on rehabilitation) and rules 24 to 27 (on equality of opportunities). The State's successive governments and civil society have worked and are continuing to work to implement these rules, despite the complexity of the situation and the enormous challenges faced in other aspects of human development. The facts presented in this report confirm the State's determination to continue to implement the rules in a favourable cultural context.

24. The right to work is intended to enable all persons to obtain employment and requires that the State implement policies on employment, vocational training and reintegration to give effect to that right. This article of the Convention also covers the freedom to choose a profession, whereby all impediments to the free choice and free exercise of employment are prohibited. As for the source and scope of this right, the Constitution, in its Introductory Title, article 1, paragraph 7, confirms that every citizen has the duty to work and the right to obtain employment. No one may be discriminated against in the workplace on the basis of their origin, sex, race or opinion. In support of this, the Labour Code, which is based on Act No. 3/94 of 21 November 1994, as amended by Act No. 12/2000 of 12 October 2000 and Act No. 021/2010 of 27 July 2010, defines a worker as any individual, regardless of his or her sex or nationality, who is engaged in a professional activity, subject to remuneration, under the management and authority of another person or entity, either public or private, known as the employer. Given that employment provides protection against poverty, the Government of Gabon pursues an

active employment policy, giving top priority to the fight against unemployment. Article 2 of the Labour Code is consistent with this article of the Convention, in that it stipulates that all persons, including persons with disabilities, have the right to work. It is a national duty to pursue an occupational activity. National norms on equality in work and employment include the provisions of the Labour Code. Since 1952 the Code has undergone changes stemming from the pressing need to adapt to the changing socioeconomic situation in Gabon. During the meeting of the Council of Ministers held in the city of Lambaréné<sup>21</sup> in 2010, the Head of State instructed the Government to reform the labour laws. The Government was urged to put an end to discrimination in the workplace — which is defined as treating members of a group differently on the basis of external criteria not related to job performance — and to thereby discourage the accumulation of symbols of recognition.

25. Gabonese law includes mechanisms by which persons with disabilities may be assisted or represented for their own protection when performing certain acts. In this regard, Title IX of Act No. 15/72 of 29 July 1972 adopting the first part of the Civil Code deals with mental disabilities.

26. Article 618 of the Act provides that persons with mental disabilities may, for their own protection and that of their property, be subject to a guardianship order at their own request or at the request of their spouse, one of their parents, their guardian or the public prosecutor.

27. Once the order has been issued, the person shall be considered a minor in respect of both person and property; the prohibitions contained in the provisions governing the guardianship of minors shall then apply.

28. Article 640 also states that profligate or other individuals whose mental state does not justify a guardianship order but who suffer from a physical or mental impairment that prevents them from exercising their rights in a normal manner may be provided with a curator at their own request or at the request of their spouse, one of their parents, any person concerned or the public prosecutor's office, through an order issued under the same procedures as a guardianship order, which shall be made public and shall take effect from the moment it is finalized.

29. Lastly, article 641 stipulates that the curator shall assist profligate or other adults with mental disabilities in managing their property. The order may also declare the curator responsible for the individual's welfare.

30. In addition, in January 2010 the Government adopted a decree on making public buildings accessible to persons with disabilities. This decree has made it possible for some private and public entities to improve access to their facilities, taking into account the needs of persons with disabilities and the 5 per cent quota set for all construction projects.<sup>22</sup> These efforts notwithstanding, the State's commitments in this regard are still insufficient to deal with the large number of buildings frequented by persons with disabilities.

## **Article 6**

### **Women with disabilities**

31. Aware of the fact that women with disabilities may be subject to double discrimination, *inter alia*, on the grounds of their sex and their disability, Gabon is committed to promoting gender equality and combating inequality in the implementation of

<sup>21</sup> Capital of Moyen-Ogooué Province.

<sup>22</sup> The Pellisson Building, the Senate Building and the Melen Military Hospital.

the Convention. Thus, equal rights and opportunities for men and women, and more specifically the promotion of gender equity and the empowerment of women with disabilities, is a major area of concern for the Government. The Constitution currently in force in the country is in line with this article of the Convention. In 2010, members of both chambers of parliament, in cooperation with the United Nations Population Fund (UNFPA), organized a march to promote and defend the rights of Gabonese women, including women with disabilities. In support of this effort, they also signed the Solemn Declaration of Commitment to the Observance and Promotion of Women's Rights. This initiative was aimed at encouraging the government authorities to make faster progress in the advancement of women and their rights without any discrimination.

32. With a view to eliminating the disadvantages faced by women in society, the Government established the Observatory for Women's Rights and Parity, whose purpose is to protect the rights of all women, families and children. In 2010, the Observatory conducted an awareness-raising campaign that involved holding a series of talks and debates in several locations selected for that purpose.

33. Considerable progress has been achieved, particularly with regard to women's access to health and education. Aware of the disabilities resulting from complications during pregnancy and childbirth and prenatal abnormalities, the Government and the Sylvia Bongo Ondimba Foundation are working intensively to improve maternal health.<sup>23</sup> By the same token, the efforts by the Gabonese authorities to combat HIV/AIDS, malaria and other diseases take into consideration the vulnerability of women and children with disabilities. In addition, the Coordination des ONG féminines du Gabon (Coordinating Group of Women's NGOs in Gabon) helps to ensure respect for the rights of women, families and children.

34. As part of the implementation of the Gabon-United Nations Children's Fund (UNICEF) cooperation programme,<sup>24</sup> a study was conducted analysing the situation of children and women, including women with disabilities, in order to encourage decision makers, donors, local authorities and communities to implement social policies and allocate substantial resources to benefit women and children, with a view to reaching the Millennium Development Goals by 2015.

35. A study of the social and legal status of Gabonese women in general, including women with disabilities, uncovered a number of provisions that discriminate against women. The Government has adopted and implemented several public policies aimed at combating poverty and promoting the empowerment of poor women from all walks of life, including a programme providing microcredit for women's groups that has financed a large number of income-generating activities at an interest rate of 4 per cent per year in amounts ranging from 500,000 to 5 million CFA francs.

36. The Government is firmly committed to reviewing all provisions that discriminate against women and to further disseminating the various conventions ratified by Gabon relating to the rights of women and children.

37. The First Lady, Sylvia Bongo Ondimba, has established the Fondation Sylvia Bongo Ondimba pour le soutien de la famille (Sylvia Bongo Ondimba Foundation for the Family) with a view to informing, educating and changing behaviour among women, enhancing the quality of care provided to women in health-care facilities and strengthening community-based care.

<sup>23</sup> Compare with the developments related to article 25 of the Convention.

<sup>24</sup> 2007–2011.

38. In Libreville in January 2011, the Ministry for the Family, in partnership with UNFPA, organized a capacity-building workshop for gender focal points from the public and private sectors, civil society and the network of female parliamentarians.

39. Participants were introduced to the importance of the gender-sensitive budgeting taken into account in national legislation, definitions of the concepts involved in gender-sensitive budget analysis, and guidelines and information on how to implement them.

40. The State has agreed to provide 75,000 CFA francs annually in aid to persons with disabilities, including women with disabilities, along with a donation of orthopaedic devices that is subject to renewal every five years. In addition, on 12 October 2010 the First Lady, Sylvia Bongo Ondimba, delivered a large number of mobility aids, comprising 250 wheelchairs, scooters and about 100 crutches, to persons with disabilities, including women with disabilities, in Libreville. This project, which is part of the funding programme for the empowerment of persons with disabilities, is gradually being expanded to cover the whole country.

41. To that end, in June 2012 the Sylvia Bongo Ondimba Foundation provided equipment and accessories to persons with disabilities who had not previously received such assistance. Recipients are taught how to operate and maintain the equipment and are informed about the traffic code.

## **Article 7**

### **Children with disabilities**

42. It is widely known that the Government and civil society are very attentive to the needs of Gabonese children in general and of children with disabilities in particular. This concern is clearly reflected when taking decisions that affect their rights. No distinction is made between children with disabilities and children without disabilities. Thanks to State funding for the development of children with disabilities, efforts are being made at the sectoral level to find suitable ways of meeting their needs and expectations. Care is provided for them on an ad hoc basis rather than through a comprehensive process that takes into account their family, health, nutrition, protection, education and recreational needs. The available data are sectoral in nature and are provided by the Centre d'accueil pour enfants en difficulté sociale (Centre for Children in Difficult Circumstances),<sup>25</sup> the National School for Hearing-impaired Children,<sup>26</sup> the Fondation Horizons Nouveaux, the Centre de réadaptation et d'appareillage pour handicaps (Rehabilitation and Prosthetic Fitting Centre for Persons with Disabilities – CRAPH),<sup>27</sup> paediatric services and the 123 social centres and services<sup>28</sup> located throughout the country's nine provinces.

43. With reference to the recent analysis of the situation of orphans and other vulnerable children conducted in November 2011, the Ministry of Social Affairs had identified 9,000 persons living with disabilities in 1993. Unfortunately, this data was not disaggregated by sex, age, type of disability or geographic location.

44. According to the Directorate-General of Social Affairs, however, only 4,000 persons received treatment for disabilities in 2010. It would therefore be useful if the Ministry of

<sup>25</sup> CAPEDS.

<sup>26</sup> ENEDA.

<sup>27</sup> Of the 30 or so patients who received prosthetic and orthopaedic care in 2010, nearly half were children (Gabon-UNICEF). *Analyse de la situation des orphelins et autres enfants vulnérables au Gabon* (Study of the conditions of orphans and other vulnerable children in Gabon), 2011, p. 73.

<sup>28</sup> Gabon. *Document de politique nationale de protection sociale*, 2011, p. 17.

Social Affairs could set up and equip a unit that is more specialized in the identification, documentation and comprehensive care of persons with disabilities.

45. As regards the health of children with disabilities, the Directorate-General of Social Affairs is responsible for providing care to persons living with disabilities. In addition, the National Health Insurance and Social Protection Fund<sup>29</sup> provides benefit entitlements to children with disabilities and also supports medical evacuations to countries such as Tunisia or South Africa for the treatment of congenital disabilities.

46. As for access to education, the National School for Hearing-impaired Children<sup>30</sup> is the only specialized public school for children with such disabilities. The school is under the aegis of the Directorate-General of Social Affairs and still faces all kinds of operational difficulties. Although further measures may be taken to improve its functioning, the school is not fully satisfactory in terms of its capacity to meet demand. The budget allocated to the school is still insufficient to allow it to function properly. This has been the case ever since it was first established in 1983.

47. The School's second open day was held in April 2012. This event provided an opportunity to further raise awareness and spread a vital message shared by both students and teachers, namely that hearing-impaired children can also go to school. It made it possible to raise awareness among parents who still keep their children with disabilities at home for whatever reason, while at the same time informing the general public about the school's activities.

48. The Fondation Horizons Nouveaux,<sup>31</sup> for its part, cares for visually-impaired children with normal levels of intelligence, children with mental disabilities such as Down's syndrome, and those with developmental disorders such as autism.<sup>32</sup>

49. In Moyen-Ogooué Province, in the town of Lambarené, there is also a centre for hearing-impaired persons<sup>33</sup> that is currently engaged in dialogue with the Directorate-General of Social Affairs.<sup>34</sup> Persons with other types of disabilities depend on private and civil society organizations for care.

50. As for access to jobs that are suitable for children with disabilities, their integration into the labour market remains a real concern, as there is no secondary school for them. The government authorities are frequently urged to establish specific policies and programmes for children with disabilities, but so far with no results. Indeed, once they complete the fifth grade, children with disabilities are often sent back to their families. Moreover, some children living with disabilities who manage to attend school face constant difficulties when it comes to job prospects and possibilities for integration. Act No. 19/95, which encourages companies to recruit persons with disabilities, is still very rarely implemented. Indeed, the few companies that had agreed to take on interns from the Fondation Horizons Nouveaux have stopped doing so, according to that organization's management. No quota policy is being implemented, and all those young people who, through recourse to their

<sup>29</sup> CNAMGS.

<sup>30</sup> Each year the school enrolls some 157 girls and boys between 3 and 21 years of age who are cared for by 73 staff members, some of whom are also hearing-impaired. The children are divided by grade into 11 classes.

<sup>31</sup> The Fondation Horizons Nouveaux was established in 1996 by the late Ms. Édith Bongo Ondimba but is recognized by the State as an NGO registered as a charity.

<sup>32</sup> Gabon-UNICEF. *Analyse de la situation des orphelins et autres enfants vulnérables au Gabon* (Study of the conditions of orphans and other vulnerable children in Gabon), 2011, p. 72.

<sup>33</sup> The Centre Martin Luther King.

<sup>34</sup> Gabon-UNICEF. *Analyse de la situation des orphelins et autres enfants vulnérables au Gabon* (Study of the conditions of orphans and other vulnerable children in Gabon), 2011, p. 98.

own networks, do obtain training appropriate to the disability that they have nevertheless managed to overcome, feel neglected. It is the future of these children with disabilities as future professionals that appears to be in jeopardy, and this situation is demotivating for students like those who took part in the demonstration at the National School for Hearing-impaired Children.<sup>35</sup>

51. Resources to strengthen services for children with disabilities, to support their families and to train specialized staff are regularly allocated and included in the State budget. In 2010, for example, the Directorate-General of Social Affairs made a budgetary commitment of 10,315,000 CFA francs for surgical operations, thanks to which 13 children suffering from hydrocephalus were treated.

52. In addition, Gabon has sought to strengthen its policies and programmes to integrate children with disabilities into mainstream education, train teachers and gradually make schools more accessible to children with disabilities. In this regard, if a child living with a disability regularly misses school or lives with a parent whose monthly income amounts to some 50,000 CFA francs, and has never seen a psychologist, the child's level of vulnerability is classified as level 2 on a scale of 1 to 3, indicating that they suffer from problems related to their health, education, protection and psychological and economic situation. There is still a need in Gabon to train field practitioners to use the scale and to develop response procedures and minimum service packages for each level of vulnerability. Taking inspiration from article 7 of the Convention on the Rights of Persons with Disabilities and article 23 of the Convention on the Rights of the Child, the State of Gabon respects the principles of non-discrimination, the best interests of the child, the right to life, the right to survival and development and the right to participation. The Government pays particular attention to all these principles when developing its various public policies related to children.

## Article 8

### Awareness-raising

53. Gabon is committed to implementing a series of measures which, although they do not yet go far enough, are designed to raise public awareness and combat negative stereotypes of persons with disabilities. As a result, efforts to publicize the fundamental rights of persons with disabilities remain relevant. Sometimes working in partnership, the public authorities and civil society hold information and awareness-raising seminars to inform persons with disabilities of their legally-recognized rights. However, certain sections of society, such as employers, have not yet been targeted through awareness-raising campaigns and no literature has so far been produced on reasonable accommodation for persons with disabilities.

54. During the Day of the African Child, celebrated on 16 June 2012 at the National School for Hearing-Impaired Children, the Ministry for Human Rights ran activities on "The Rights of Children with Disabilities: The Duty to Protect, Respect, Promote and Fulfil". A number of children with disabilities spoke about their experiences before an audience made up of their families and journalists. Several NGOs took the opportunity to make a moving plea to the Government and the United Nations specialized agencies.

55. Civil society is heavily involved in raising awareness of the rights of persons with disabilities and there are a dozen registered associations working with children with

<sup>35</sup> Gabon-UNICEF. *Analyse de la situation des orphelins et autres enfants vulnérables au Gabon* (Study of the conditions of orphans and other vulnerable children in Gabon), 2011, p. 102.

disabilities.<sup>36</sup> The National Federation of Associations of Persons with Disabilities and the National Association of Persons with Disabilities of Gabon focus much more on advocacy and awareness-raising than on the issue of children with disabilities.<sup>37</sup>

56. The NGO Liebe Handicap<sup>38</sup> has campaigned ceaselessly for the provision of education for children with disabilities and disadvantaged persons. Liebe Handicap works in the field of disability prevention and the reintegration of children with disabilities and is currently monitoring the progress of 130 children with disabilities.

57. In 2010, the Organisation des Personnes Handicapées ran an awareness-raising campaign within educational institutions in Libreville on the integration of persons with disabilities, including schoolchildren and students. The campaign focused on the theme of disability and related difficulties at school.

## Article 9 Accessibility

58. Although more needs to be done at the national level regarding accessibility, the Gabonese authorities and civil society are aware of the need to ensure that persons with disabilities have access to all public spaces if they are to play a full part in daily life. For the most part, the principles contained in national legislation<sup>39</sup> are applicable in their strictest sense, particularly those contained in the four following highly significant articles:

- **Article 5** of Act No. 19/95, introducing a card for persons with disabilities, which gives them the right to reduced charges for treatment in public health facilities, public transport, access to sports and cultural centres and leisure activities throughout the country and school fees;
- **Article 7** of Act No. 19/95, which provides that “public and state-approved faith-based schools and vocational training institutes shall give priority to the enrolment of students with physical disabilities. The State shall increase the number of specialized schools for blind and deaf-mute persons and shall promote the use of Braille”;
- **Article 12** of Act No. 19/95, which states that “public transport companies shall also facilitate the use of the various means of transport by persons with disabilities”;
- **Article 13** of Act No. 19/95, which provides that “all new public buildings and highways shall be constructed in line with the standards governing accessibility and the mobility of persons with disabilities. Appropriate adaptations shall be made to existing buildings and highways”.

59. On 4 February 2002, the Government issued Decree No. 152/PR/MSNASBE, on the responsibilities, structure and operation of the National Committee for the Integration of Persons with Disabilities. Article 15 of the Decree provides for a technical commission on infrastructure, responsible, inter alia, for:

- Defining criteria for the accessibility of public facilities;

<sup>36</sup> There are three associations specializing in deaf and hearing-impaired persons, one for the visually-impaired and a small number focusing on sport and women with disabilities.

<sup>37</sup> Gabon-UNICEF. *Analyse de la situation des orphelins et autres enfants vulnérables au Gabon* (Study of the conditions of orphans and other vulnerable children in Gabon), 2011, p. 71.

<sup>38</sup> Liebe Handicap was set up 10 years ago, gaining official recognition in 2006.

<sup>39</sup> Act No. 19/95 of 13 February 1996 on Social Protection for Persons with Disabilities.

- Encouraging the use of transportation adapted to the needs of persons with disabilities;
- Making proposals regarding and monitoring the allocation of equipment to persons with disabilities;
- Advising on modifications to make public facilities accessible for persons with disabilities;
- Advising on transportation issues affecting persons with disabilities.

60. In January 2010, the Government adopted a decree on the accessibility of public buildings for persons with disabilities. Several private and public bodies subsequently adapted the entrances to their premises. These included: the Senate, the Armed Forces Hospital (also known as the Military Hospital), the Pellisson bakery and the University Hospital of Libreville. However, more must be done to raise public awareness and educate people regarding the need for specially-adapted lanes for persons with disabilities. Such efforts are necessary if persons with disabilities are to live independently and to play a full part in all aspects of life on an equal footing with others, both in terms of their physical surroundings and of transport, information and communication and public service facilities.

## **Article 10**

### **Right to life**

61. This article reminds the States parties of their obligation to take all necessary measures to ensure the effective enjoyment of the right to life by persons with disabilities on an equal basis with others. In general, Gabon considers the right to life to be a founding value of democratic society that is inviolable in nature, from conception to death. The Constitution clearly reflects the importance attached to the right to life of all persons, including those with disabilities, without discrimination. Furthermore, the death penalty has been abolished in Gabon. No one may be arbitrarily deprived of life. This rule applies without discrimination to persons with disabilities.

62. During a meeting of the Council of Ministers held on 1 June 2011, the President of the Republic ordered the Government to strengthen the Criminal Code in order to combat growing social problems, such as crimes and misdemeanours against individuals. On 10 April 2012, following a rise in crime, particularly fetishistic murders commonly referred to as “ritual crimes”, the President of the Republic called an emergency meeting, ordering the Government to tackle the issue and to ensure public safety. More recently, on 11 April 2013, the President called a further emergency meeting, instructing the Government and the security forces to step up efforts to implement effective strategies to combat crime and safeguard the right to life of the country’s citizens. Moreover, a demonstration to raise awareness of ritual crimes took place on 11 March 2013. Since 2010, on the order of the President, national mobile court hearings have been held in order to speed up trial procedures. For example, 50 hearings were scheduled in 2012.

63. Based on the inviolability of human life and the respect traditionally accorded to it in Gabon, the President called on various high-ranking justice and defence officials to apply the law in its strictest sense. Act No. 21/63 of 31 May 1963<sup>40</sup> on the Criminal Code devotes a whole chapter to crimes and misdemeanours, particularly intentional homicide, committed against individuals, regardless of their identity. Under article 223, for example, homicide is considered to be unlawful killing and article 224 rightly states that any

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<sup>40</sup> Updated in November 1994.



unlawful killing committed with premeditation or entrapment is classed as murder. Under articles 227, 228 and 229, which set out in detail the penalties for murder, all perpetrators are condemned to life imprisonment.

64. The main provisions of the Criminal Code covering crimes and misdemeanours against children, without discrimination, are articles 275, 276, 277, 278, 279, 280 and 281. Such acts are punishable by a prison term of 1 year to imprisonment for life and are sometimes accompanied by fines. These articles mainly deal with kidnapping, concealment of birth, substitution, abandonment, abduction and inducement of intoxication in children.

65. Criminal law reforms are under way and the Interministerial Council and the Council of State have adopted a bill on the punishment of sexual aggression. The bill focuses on the situation of child victims of sexual violence, introducing harsher penalties, particularly for rape.

66. Furthermore, on 26 November 2009, the Council of Ministers adopted a bill amending certain provisions of Act No. 021 on exposure to risks and a draft decree placing the Directorate of Civil Protection under the authority of the Ministry of the Interior, Public Security, Immigration and Decentralization. Consequently, a number of studies were carried out and implementation measures regarding the Civil Protection Plan were finalized.

67. With the support of the Directorate-General of Human Rights and the Sylvia Bongo Ondimba Foundation, the Association against Ritual Crimes carries out investigations, interviews and opinion polls to raise public awareness of “ritual crimes”. In 2010, through its president, the Association published an important document<sup>41</sup> with a preface by R. Barrie Walkley, the Ambassador of the United States of America to Gabon. The text was officially launched during a Directorate-General of Human Rights seminar on the rights and duties of human rights advocates.

## **Article 11**

### **Situations of risk and humanitarian emergencies**

68. Notwithstanding article 1, paragraph 8, of the Constitution, which states that “the State shall, to the extent possible, guarantee health protection, social security, the preservation of the natural environment, rest and leisure for all, including children, mothers, persons with disabilities, workers and the elderly”, Gabon has not taken any specific steps to raise awareness in this regard concerning persons with disabilities. However, a ministry has been set up to deal with natural disasters and to assist all Gabonese nationals in need, without discrimination.

69. When an emergency situation arises, the national authorities alert the population through various channels of communication: television, radio and written press communiqués.

In addition to the national authorities, the International Committee of the Red Cross and a number of other associations intervene in emergency situations, without discrimination. The Ministry of Foreign Affairs is currently considering an agreement that would allow the International Committee of the Red Cross, operating through the Gabonese Red Cross Society, to intervene wherever necessary.

<sup>41</sup> Ebang Ondo, J.E., 2010, *Manifeste contre les crimes rituels au Gabon* (Manifesto against ritual crimes in Gabon), Ed. L'Harmattan.

70. The national authorities provide assistance to all Gabonese nationals in need on an equal basis and the requirements of persons with disabilities are dealt with respectfully and in line with the relevant legislation.

## **Article 12**

### **Equal recognition before the law**

71. Gabon fully endorses the contents of this article. Article 1, paragraph 1, of the Constitution states that: “Each citizen has the right to freely develop his or her personality, while respecting the rights of others and public order. No one may be humiliated or tortured, even while under arrest or in prison.” Article 80 of the Civil Code states that: “All natural persons shall enjoy the individual rights and the freedoms asserted or re-asserted in the Constitution.” Lastly, Gabon is party to several international instruments<sup>42</sup> that prohibit the types of conduct condemned in article 12. In the light of the above, the principle of dignity requires that all individuals, without discrimination, be protected against all forms of subjugation and alienation.

72. Given that dignity is a human right and an inviolable principle that can be held up against anyone seeking to undermine it, even in the exercise of other rights or freedoms, the State has adopted legislative, administrative and judicial measures, in addition to the Criminal Code and the Labour Code, to safeguard the recognition of legal personality on an equal basis.

#### **(a) Acts**

- Act No. 19/95 of 13 February 1996 on Social Protection for Persons with Disabilities;
- Act No. 3/2010 Abolishing the Death Penalty in Gabon;
- Act No. 36/10 of 25 November 2010 establishing the Code of Criminal Procedure, enacted by Decree No. 0805/PR of 25 November 2010 and published in the Official Journal on 30 December 2010;<sup>43</sup>
- The General Regulations for Civil Servants Act.

#### **(b) Ordinances**

- Ordinance No. 0022/PR/2007 of 21 August 2007 introducing a mandatory health insurance and social security scheme;
- Ordinance No. 0023/PR/2007 of 21 August 2007 establishing a family allowance scheme for Gabonese citizens of limited means;
- Ordinance No. 18/PR/2010 of 25 February 2010 amending certain articles of the Labour Code.

#### **(c) Decrees and Orders**

- Decree No. 000152/PR/MNASBE of 4 February 2002, on the responsibilities, structure and operation of the National Committee for the Integration of Persons with Disabilities;

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<sup>42</sup> Roughly 75 instruments, including: conventions, charters and protocols.

<sup>43</sup> This Act repeals Act No. 35/61 of 5 June 1961.

- Decree No. 000604/PR/MSNDSBE of 22 August 2002 adjusting the level of family allowances under the social security scheme for employees;
- Decree No. 000741/MTE/MEFBP of 22 September 2005 on the procedures for punishing violations in the fields of labour, employment, occupational safety and health and social security;
- Decree No. 104/PR/MSP of 15 January 2007 on the care of patients at public health facilities;
- Order No. 001/PM/MDCPRPE/AS of 12 December 1972 establishing a court welfare office in Libreville;
- Order No. 0012/MASSBE/DGAS of 5 November 1985 establishing a school for hearing-impaired children.

73. Gabonese legislation provides for diminished responsibility. In such cases, the investigating or trial court can, if the perpetrator's state of health is such that he/she constitutes a threat to public order or the safety of others, order that he/she be placed in a specialized institution. The same court shall, on referral and following an investigation by the Office of the Prosecutor, order that the perpetrator be discharged. Article 50<sup>44</sup> perfectly illustrates this point: "Persons who commit offences shall not be liable to punishment if, at the time of the offence, they were suffering from such mental health problems as completely impaired their judgement or control of their acts."

### **Article 13** **Access to justice**

74. All persons with disabilities enjoy access to justice. The various civil, criminal and administrative tribunals and the Constitutional Court ensure access to justice for all, without discrimination. Article 1, paragraph 4, of the Constitution states that the rights of the defence are guaranteed for all as a part of the trial procedure and that the duration of pretrial detention must not exceed that established in law. Article 80 of the Code of Criminal Procedure states that anyone claiming to have been injured as the result of a crime or a misdemeanour may lodge a complaint with the investigating judge. Equal treatment is ensured at all stages of the procedure, in line with Gabonese law and the international instruments to which Gabon is party.

75. The right to a fair, independent, impartial, transparent and adversarial trial, conducted free of charge, is essential in terms of addressing the concerns contained in article 13 of the Convention. The Constitution lists a number of protected rights and establishes checks and balances regarding the constitutionality of legislation. In that regard, paragraph 4 of the Introductory Title of the Constitution recognizes that the rights of defence are guaranteed for all as a part of the trial procedure and that the duration of pretrial detention must not exceed that established in law. Paragraph 21 of the Constitution states that every citizen has a duty to defend the motherland and respect the Constitution, laws and regulations of the Republic. Lastly, under article 2 of the Constitution, all citizens are guaranteed equal treatment before the law, regardless of their origin, sex, opinion or religion.

76. Books I, II and III of the Code of Criminal Procedure also insist on the principle of the equality of all citizens before the law, particularly regarding questioning and

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<sup>44</sup> Amended by Act No. 19/93 of 27 August 1993.

confrontations;<sup>45</sup> expert opinions;<sup>46</sup> warrants;<sup>47</sup> pretrial release;<sup>48</sup> terminating orders;<sup>49</sup> appeals against orders of examining judges;<sup>50</sup> arbitration orders;<sup>51</sup> the trying of offences and misdemeanours;<sup>52</sup> mobile court hearings;<sup>53</sup> trial in absentia and application to set aside;<sup>54</sup> the exercise of the right of appeal;<sup>55</sup> the quashing of decisions;<sup>56</sup> criminal procedure;<sup>57</sup> subpoenas and notifications;<sup>58</sup> exceptions;<sup>59</sup> rulings on the invalidity of information;<sup>60</sup> falsification of evidence;<sup>61</sup> the trying of offences before courts and tribunals;<sup>62</sup> the way in which statements made by members of the Government and representatives of foreign powers are collected;<sup>63</sup> and enforcement procedures.<sup>64</sup>

77. Guarantees have been introduced to ensure that all detainees under administrative or judicial arrest, without discrimination, fully enjoy the right to a hearing. The Code of Criminal Procedure<sup>65</sup> rightly provides for a legal mechanism in that regard. Firstly, the investigating judge has a duty to ascertain the identity of the accused, and to notify him or her of the charges and of the right to make a statement or to remain silent. Secondly, the judge must inform the accused of his or her right to choose a lawyer from the list of lawyers registered with the jurisdiction. Thirdly, the defendant's or the claimant's lawyer may be present during questioning, hearings and confrontations of his or her client, provided that the judge notifies the lawyer of when they take place. Anyone who has been arrested may request that a person of their choice be informed. Lastly, article 140, subparagraph (d), of the Code of Criminal Procedure stipulates that the presiding judge must inform the defendant of his or her right to request a delay to prepare his or her defence, and article 140, subparagraph (e), specifies that, if the defendant makes use of that right, the court must grant a delay of at least three days.

78. Furthermore, a legal advice centre was opened in July 2010 with the aim of providing community justice for all, without discrimination. The purpose of the centre is to improve access to the law for the most vulnerable members of society, without discrimination, by providing a space where they can meet with lawyers, clerks of court, legal advisers, notaries and experts in accounting and receive assistance regarding a range of legal matters. The centre meets the need for a permanent forum for dialogue and exchange between practitioners of the law, providing community-level access to justice. Moreover, legal advice is given free-of-charge and on an anonymous basis to members of

<sup>45</sup> Code of Criminal Procedure: arts. 98 to 105.

<sup>46</sup> *Ibid.*, arts. 134 to 137.

<sup>47</sup> *Ibid.*, arts. 106 to 114.

<sup>48</sup> *Ibid.*, arts. 121 to 127.

<sup>49</sup> *Ibid.*, arts. 150 to 151.

<sup>50</sup> *Ibid.*, arts. 152 to 154.

<sup>51</sup> *Ibid.*, arts. 279 to 282.

<sup>52</sup> *Ibid.*, arts. 45, 46, 57, 58 and 62.

<sup>53</sup> *Ibid.*, arts. 294 to 299.

<sup>54</sup> *Ibid.*, arts. 383 to 384; 385 to 389.

<sup>55</sup> *Ibid.*, arts. 392 to 404.

<sup>56</sup> *Ibid.*, arts. 139 to 143 and 145.

<sup>57</sup> *Ibid.*, arts. 60 to 72.

<sup>58</sup> *Ibid.*, arts. 420 to 426.

<sup>59</sup> *Ibid.*, arts. 198 to 199.

<sup>60</sup> *Ibid.*, arts. 138 to 142.

<sup>61</sup> *Ibid.*, arts. 485 to 490 (Tome IV).

<sup>62</sup> *Ibid.*, arts. 514 to 517 (Tome IV).

<sup>63</sup> *Ibid.*, arts. 495 to 499 (Tome IV).

<sup>64</sup> *Ibid.*, arts. 218 to 225.

<sup>65</sup> Arts. 63 to 70.

the most vulnerable segments of the population on the existence of, respect for and enforcement of their rights.

## **Article 14**

### **Liberty and security of the person**

79. Under Gabonese law, no one may be deprived of their liberty on account of a disability. Deprivation of liberty is considered only when a person has committed a serious, ordinary or minor offence. The Constitution is clear on this issue and guarantees the right to liberty, which is tied to the right to development<sup>66</sup> and the freedoms of conscience, thought, opinion, expression, communication, religion<sup>67</sup> and movement.<sup>68</sup> Article 1, paragraph 22, provides for the safety of the population, specifying that “National security and public order are guaranteed primarily by the national defence and security forces.”

80. To supplement these constitutional provisions, the Criminal Code contains four articles<sup>69</sup> on arbitrary arrest and confinement. The arbitrary arrest, detention or confinement or any curtailment of the liberty of any other person, without discrimination, is punishable by 5 to 10 years’ imprisonment and, where possible, a fine of 1 million CFA francs. For detention or confinement of at least 1 month, the penalty is rigorous imprisonment. If the arrest is carried out using forged documents or if the life of the detained or confined person is threatened, the penalty is rigorous imprisonment for life, without discrimination.

81. Furthermore, Act No. 36/10 of 25 November 2010 on the Code of Criminal Procedure, which was promulgated through decree No. 0805/PR of 25 November 2010, was published in the Official Gazette of 30 December 2010, thereby abrogating Act No. 35/61 of 5 June 1961. It modified a number of procedural phases, including police custody, which is covered primarily in articles 50 to 55 of the new Code of Criminal Procedure concerning the expedited investigation procedure. These rules also apply to preliminary investigations, where relevant. This reform has been highly beneficial, especially because it balances two constitutional requirements, namely security, as set forth in the Declaration of the Rights of Man and of the Citizen, and the freedoms enshrined in the Constitution.

82. Only persons suspected of having committed or attempted to commit an offence, without the suspicion stemming from discrimination, may be placed in police custody. Witnesses of any kind should be held only for the duration of questioning. Under the new Code, the length of police custody remains 48 hours, but it can no longer be extended orally. Pursuant to article 50, paragraph 2, written authorization from the public prosecutor is needed and custody cannot be extended by more than 48 hours. The Code also provides that all remanded persons have the right to sufficient food and adequate hygiene for the duration of their detention.<sup>70</sup>

83. Under the law, all persons held in police custody, without discrimination, have a number of rights, including the right to speak with a lawyer from the moment they are remanded<sup>71</sup> and the right to see a doctor.<sup>72</sup> Persons in police custody must be notified, preferably in writing, of all their rights promptly and in a language that they understand perfectly.

<sup>66</sup> Art. 1, para. 1.

<sup>67</sup> Art. 1, para. 2.

<sup>68</sup> Art. 1, para. 3.

<sup>69</sup> Arts. 250–254.

<sup>70</sup> Art. 50, para. 3.

<sup>71</sup> Code of Criminal Procedure, art. 54.

<sup>72</sup> Code of Criminal Procedure, art. 53.

84. Various specific measures have been taken with regard to the deprivation of liberty of minors, without discrimination. Article 32 of Act No. 39/2010 provides that minors being prosecuted may be placed in pretrial detention only in the absence of any other alternative. When minors are arrested, their parents or guardians are notified of the arrest and place of detention. As to the prosecution of children, articles 143 to 147 of the former Code of Criminal Procedure provide in broad terms for juvenile court judges to take all necessary measures regarding the custody of minors. It should be noted that children under 13 cannot be remanded in custody. Juvenile court judges may appoint a lawyer or, failing that, a public servant or officer to defend the child, during both the investigation and the trial.

85. The laws that apply to persons with disabilities are the same as those that apply to the rest of the population, including in terms of human rights and access to legal assistance.

## **Article 15**

### **Freedom from torture or cruel, inhuman or degrading treatment or punishment**

86. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is a supplementary instrument in the domestic legal order. Gabon acceded to the Convention on 8 September 2000 and signed the Optional Protocol thereto on 15 September 2004. Gabon appeared before the Committee against Torture in November 2012 in the context of the consideration of State party reports submitted under article 19 of the Convention.

87. Gabon has endorsed the provision contained in article 5 of the Universal Declaration of Human Rights, which was adopted by the General Assembly of the United Nations on 10 December 1948 and ratified by Gabon in 1960, whereby “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” Accordingly, article 1, paragraph 1, of the Constitution provides that “No one may be humiliated, abused or tortured, including when under arrest or imprisoned.” Furthermore, any act of torture is a serious offence under Gabonese law and must be treated as such by the competent authorities, the rules for demonstrating and proving the offence or deciding on its seriousness being independent of the capacity in which the State exercises its jurisdiction.

88. National legislation does not provide for any specific penalties for the torture or inhuman, cruel or degrading treatment of persons with disabilities. When there are reasons to believe that an act may constitute torture, article 31 of the Code of Criminal Procedure stipulates that an initial inquiry and criminal investigation may be opened if duly requested by the victim, without discrimination. The lead detective must immediately notify the district judge or public prosecutor and promptly gather all necessary evidence at the scene. The case is taken over from the detective by the district judge or public prosecutor on arrival. Indicted persons are then questioned, remanded in custody and brought before the next session of the court and witnesses are interviewed. Indicted persons are informed of their right to request time to prepare their defence, for which they are granted a minimum of three days. If the case cannot proceed to trial, the court temporarily releases the accused, with or without bond, while additional evidence is gathered.

89. Article 2 of the Code of Criminal Procedure provides that a civil action to seek compensation for harm caused by a serious, ordinary or minor offence may be brought by anyone who has suffered personally from the harm directly caused by the offence, including all acts of torture.

90. Regarding complaints on which no further action is taken, article 1, paragraph (b), of the Code of Criminal Procedure calls for special sensitivity in dealing with the injured party, who may institute criminal proceedings to obtain the imposition of penalties.

91. Gabon prohibits other acts of cruel, inhuman or degrading treatment or punishment which are not classified as torture under the definition in article 1 of the Convention against Torture. A chapter of the Code of Criminal Procedure containing a dozen articles deals specifically with assault and other forms of violence committed against persons, whoever they may be. Penalties range from a prison term of 2 months to rigorous imprisonment, together with fines.

92. There are also specific penalties for intentional violence against children under 15 years of age, including deprivation of food or care to the point of undermining their health and light physical injury.<sup>73</sup> In sum, the Criminal Code to a certain extent fulfils the obligation to prohibit the torture or cruel, inhuman or degrading treatment or punishment of persons, without discrimination, in keeping with article 16 of the Convention on the Rights of Persons with Disabilities.

## **Article 17**

### **Protecting the integrity of the person**

93. The preamble of the Constitution of the World Health Organization, which came into force on 7 April 1958, defines health as “a state of complete physical, mental and social well-being”. The Government has paid particular attention to the protection of mentally ill persons. A bill on the care and protection of mentally ill persons, which has been before parliament since April 2013, sets forth guidelines, procedures and methods for re-establishing mentally ill persons as rights holders. The bill focuses chiefly on:

- Developing an appropriate legal framework to protect the rights of persons suffering from mental disorders;
- Improving medical care;
- Recognizing the rights of mentally ill persons;
- Protecting the children and assets of mentally ill persons;
- Maintaining public order and protecting mentally ill persons;
- Preventing mental illness and promoting mental health.

## **Article 18**

### **Liberty of movement and nationality**

94. The crux of this article is the freedom of movement, a hallmark of liberal regimes such as Gabon. This fundamental freedom is reflected in article 1, paragraph 3, of the Constitution, which states that “All Gabonese citizens have the right to freedom of movement in Gabon and to leave and return to the country, subject to public order”, with emphasis on the fact that the provision applies to *all Gabonese citizens*, including persons with disabilities.

95. Paragraph 11 of the same article adds that: “All Gabonese have the right to freely elect their domicile or residence anywhere in the national territory and to conduct all

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<sup>73</sup> Criminal Code, art. 235.

activities there, subject to respect for public order and the law.” Thus, the issues raised in article 18 of the Convention are to a certain extent covered in these articles of the Constitution and, in conjunction with the law, are fully addressed in the domestic legal order.

96. Act No. 37/98 of 20 July 1999, on the Nationality Code, provides the basis for the legal framework on nationality and favours women and children. In keeping with article 18 of the Convention, the Nationality Code does not distinguish between people. Therefore, anyone may acquire Gabonese nationality as their nationality of origin if they were born in the country or by filiation or recognition. They may also acquire it after birth through marriage, adoption, reintegration or naturalization. Provisions regarding the loss or forfeiture of Gabonese nationality, the certificate or proof of nationality and disputes concerning nationality also apply to all, without distinction.

## **Article 19**

### **Living independently and being included in the community**

97. The Constitution does not distinguish between people regarding their place of residence. The three relevant paragraphs of article 1 apply to all Gabonese, without discrimination. Paragraph 10 stipulates that: “Everyone, whether singly or collectively, has the right to property. No one may be deprived of his or her property, except where necessary on grounds of duly established public necessity and provided that he or she receives fair and prior compensation. However, expropriations undertaken in the public interest that target registered properties, for complete or partial failure to put them to good use, are regulated by law.” Paragraph 11 further strengthens this commitment, stating that: “All Gabonese have the right to freely elect their domicile or residence anywhere in the national territory and to conduct all activities there, subject to respect for public order and the law.”

98. In addition to these two Constitutional provisions, a number of laws, ordinances and decrees demonstrate the Government’s determination to address property issues in order to ensure that all Gabonese enjoy this right. They include:

- Act No. 3/81 of 8 June 1981 on Urban Planning Regulations;
- Ordinance No. 4/76 of 14 January 1976 on the establishment of the National Real Estate Company;
- Ordinance No. 24/83 of 18 April 1983 on the Special Urban Planning and Construction Enforcement Department;
- Ordinance No. 005/92/PR of 18 February 1992 on administrative and tax incentives for social housing;
- Ordinance No. 1/97 of 17 July 1997 on the restructuring of the National Housing Fund;
- Decree No. 1560 of 30 October 1996 on the board membership of the National Housing Fund;
- Decree No. 1112/PR/MDCULOG of 9 August 1982 on the terms of government participation in social assistance programmes for self-built homes.

99. The President himself announced a number of significant measures at the meeting of the Council of Ministers of 6 October 2011:

- The establishment of the National Urban Planning, Topographic Measurement and Land Registration Agency;



- The implementation of a recast national housing policy;<sup>74</sup>
- The introduction of a simplified access-to-property process involving 7 steps, rather than 134.

100. The Government has invested 300 billion CFA francs in housing and urban planning, with particular focus on site development. Construction began on 1 June 2012 and the first 1,000 units should be completed shortly.

101. In order to make homeownership possible for all Gabonese and to support the sustainable development of housing, the President urged the Government, at the meeting of the Council of Ministers of 28 June 2011, to devise a set of specific measures to substantially lower the cost of construction materials, such as cement, sand and gravel, and to bring the construction sector into Gabonese hands. The Government is currently focusing on the construction of basic infrastructure, the readying of land for housing developments and the review of real estate legislation to make ownership more feasible.

102. Assistance is available to persons with disabilities from a number of social institutions and NGOs, such as the National School for Hearing-Impaired Children, set up in 1985; the Foundation Sylvia Bongo Ondimba, which facilitates the roll-out of the First Lady's initiatives for women, children and vulnerable persons in general; and the National Federation of Deaf-Mute Persons.

103. Persons with disabilities benefit on an equal footing with the rest of the population from government measures to promote social development and a decent standard of living. In recent years, the Government has taken steps, such as those shown below, to improve the material situation of low-income households, including those of persons with disabilities:

- The introduction in 2004 of free textbooks for pupils nationwide with a view to meeting the target of one textbook per child in the main subjects;
- The establishment in 2003 of a fund to support all teenage mothers, which provides 50,000 CFA francs to each teenage mother not enrolled in school, 50,000 CFA francs per year to those in their final year of junior secondary school and 100,000 CFA francs per year to those officially enrolled in senior secondary school. They also receive baby clothes worth 65,000 CFA francs and medicines;
- Vocational training for all teenage mothers and disadvantaged girls in junior or senior secondary school;
- The setting of the minimum wage at 150,000 CFA francs;<sup>75</sup>
- The establishment of a vehicle accident victim guarantee fund to act as a safety net that will pay compensation to persons injured in traffic accidents, or their beneficiaries, when the party responsible for the accident is unknown;
- The introduction of subsidized tariffs as well as free electricity and water for households, without discrimination, whose electricity and water bills are below 50,000 CFA francs and 30,000 CFA francs, respectively;
- The provision of 75,000 CFA francs per year and orthopaedic equipment, renewable every two years, to persons with disabilities;
- The allocation of 200 million CFA francs annually to fund microprojects promoting the autonomy of persons with disabilities. In the 2011 fiscal year, 116 persons with disabilities living in Libreville, including 61 women, received grants from these funds.

<sup>74</sup> Called the Smart Code. Its objectives are effectiveness, transparency and pragmatism.

<sup>75</sup> The Government has honoured its commitments regarding salaries and payment deadlines.

104. The achievement of stated objectives and the Government's ability to act are being hindered by shortcomings related to funding, i.e. the lack of:

- A decree on the establishment of a monitoring and assessment commission that would involve organizations representing persons with disabilities;
- Eligibility criteria for the attribution of funding;
- Training for recipients.

105. Regarding the difficulty of accessing currently available homes, from both a physical and a financial standpoint, persons with disabilities do not receive tailored information, assistance or guidance on how to obtain social housing.

## **Article 20**

### **Personal mobility**

106. In addition to the various measures regarding accessibility described in the section on article 9, other measures facilitating the personal mobility of persons with disabilities have yet to be rolled out, despite the fact that this concern has been taken into account in plans to repair the Libreville road network.

107. In order to put this article into practice, the Government might consider discussing the introduction of mobility aids, reserved parking spaces and special parking cards for persons with disabilities, the inclusion of their mobility needs in transportation planning and the establishment of a department to study, assess and issue guidance and recommendations on mobility in general, the layout of public spaces and accessible public transport.

108. In an effort to enable persons with disabilities to lead an autonomous life, the First Lady donated a considerable amount of equipment, including many wheelchairs, scooters and crutches, to persons with disabilities in 2010 and 2012. Specifically, between 31 May and 25 July 2012, her foundation distributed 325 wheelchairs, including 110 electric wheelchairs, 100 scooters, 15 children's wheelchairs and 100 manual wheelchairs, nationwide.

- A workshop has also been set up for recipients to take their wheelchairs for repairs, thus ensuring that they remain in working order for longer;
- The 325 wheelchairs were provided only to persons with an occupation (workers, students and artists) whose disabilities limit their ability to perform certain daily tasks;
- The wheelchairs were distributed in the following towns: Lambaréné, Mouila, Tchibanga, Fougamou, Franceville, Koula-Moutou, Lastourville, Port-Gentil, Bitam, Oyem, Ovan and Makokou;
- Before receiving their wheelchairs, recipients were given training sessions on traffic regulations, to raise their awareness of and prevent dangers on public roads, and on equipment maintenance.

109. This project is ongoing throughout the country and includes training in driving, traffic regulations and maintenance.

## Article 21

### Freedom of expression and opinion, and access to information

110. Article 21 of the Convention protects the freedom of expression and opinion and access to information. Article 1, paragraph 1, of the Constitution guarantees the right to freedom of opinion and expression in Gabon. Pursuant to this provision, a number of laws have been adopted to give effect to these rights.

111. Persons with disabilities have access to the media on an equal footing with other Gabonese citizens. All important informational broadcasts on television are interpreted into sign language, although to date there is no decree or order officially recognizing sign language, as there is for other languages spoken and written in Gabon.

## Article 22

### Respect for privacy

112. Privacy as mentioned in this article does not refer only to the individual in isolation; rather, it also has relational and social aspects. Indeed, privacy is inseparable from the relationships and communication that persons with disabilities and other citizens engage in. The Gabonese legal framework ensures that citizens' legitimate expectation that their privacy will be protected is fulfilled for all without discrimination. Indeed, all citizens are protected under the law in areas such as sexual freedom, the disclosure of harmful information about an individual,<sup>76</sup> and the processing of personal data.

113. A bill punishing sexual assault was adopted by the Interministerial Council and the Council of State.

114. The bill provides for more severe penalties, particularly for the offence of rape, irrespective of the victim's physical or psychological state. In addition, Gabon has enacted Act No. 0038/2008 of 29 January 2009, which is designed to combat and prevent the practice of female genital mutilation. The Act specifically prohibits subjecting individuals to maiming, amputation or castration, depriving them of the use of a limb or inflicting them with another permanent disability. It establishes special penalties for intentional violence committed against children under 15 years of age, without discrimination, such as deprivation of food or health care to a degree that jeopardizes their health, as well as lesser acts of violence (Criminal Code, art. 235). Anyone who violates the provisions of the Criminal Code concerning acts of public indecency, the rape of an adult, child or vulnerable person, the organization of prostitution or the operation of snack bars doubling as prostitution dens is subject to the established penalties, which range from 3 months' imprisonment to long-term rigorous imprisonment.

115. In addition, the confidentiality of correspondence is a constitutional right in Gabon. Article 1, paragraph 5, of the Constitution stipulates that "The confidentiality of correspondence and postal, telegraphic and telephonic communications is inviolable. No restrictions can be imposed on this inviolability save in application of the law, for reasons of public order and State security."

116. So as to provide additional information on this subject, the Government, in cooperation with civil society, might design and publish a booklet on confidentiality intended for persons with disabilities and their families.

<sup>76</sup> Article 95 of the Constitution establishes the National Media Council, whose objectives include ensuring that the mass media respect human dignity and human rights (Act No. 047/201 of 12 January 2011).

## **Article 23**

### **Respect for home and the family**

117. With regard to the home, article 1, paragraph 11, of the Constitution stipulates without discrimination that “All Gabonese have the right to freely elect their domicile or residence anywhere in the national territory and to conduct all activities there subject to respect for public order and the law.” In addition, paragraph 12 of the same article adds that “The home is inviolable. Searches of the home may be ordered only by a judge or other authority designated by law and may be carried out only in the forms laid down in the law. Measures breaching or restricting the inviolability of the home may be taken only to avert collective dangers or to protect public order from an imminent threat, especially to combat the risk of an epidemic or to protect persons in danger.” In support of these provisions, and with regard to the search and entry of a home, article 73, paragraph 2, of the Code of Criminal Procedure establishes that, when carrying out a preliminary investigation, the criminal investigation officer must first obtain a search warrant from the office of the public prosecutor and must show it before proceeding with a search or a seizure. Conversely, if the officer does not have a search warrant signed by the public prosecutor or one of his or her deputies, the search and entry will be invalid.

118. Article 78 of the Civil Code establishes that all persons have legal personality from birth until death. Article 80 of the Code guarantees enjoyment of the rights of the individual and the freedoms set out or reaffirmed in the Constitution.

119. In order to fulfil its commitments to protect and assist the family, the State of Gabon has established in article 1, paragraph 14, of the Constitution that “The family is the natural basic unit of society, and marriage is the legitimate foundation of the family. The family and marriage shall receive special protection from the State.” Along with the Ministry of the Family and Social Affairs, there are several other bodies involved in social affairs that provide assistance to families without discrimination. These include the Coordination des ONG féminines du Gabon, which works to ensure respect for the rights of women, families and children, and the Observatoire des droits de la Femme et de la parité (Observatory for Women’s Rights and Parity), whose objectives include protecting the rights of women, families and children.

120. To supplement the Government’s actions to protect widows and orphans, on 16 April 2011 the First Lady, Sylvia Bongo Ondimba, established the Fondation Sylvia Bongo Ondimba pour la famille — which assists families that include members with disabilities as well as those that do not — so as to promote the activities she has launched to benefit women and children.

121. There are currently several bills before the Council of Ministers and some are under consideration by parliament. Some reforms have been initiated, while others are under way, namely:

- The abolition of the family council;
- The criminalization of attacks on widows with the establishment of the offence of dispossession and the offence of illegal appropriation of inheritance;
- The abrogation of family decision-making on inheritance and the setting up of a government body to replace the family council;
- The elaboration of a Family Code;
- The provision of legal aid to dispossessed widows and orphans by the Agondjo law firm and the Remanda bailiff firm.

122. If they live together, parents with disabilities jointly exercise parental authority. If one parent is unable to make his or her will known, the other parent exercises sole parental authority. Lastly, the right of persons with disabilities to marry and to found a family is guaranteed under the country's legal framework.

## **Article 24**

### **Education**

123. Article 1 of the Constitution addresses the concerns raised in this article of the Convention in its paragraphs 16 to 19. They read as follows:

- 16. The provision of support and education for their children constitutes a natural right and a duty for parents which they exercise under the supervision and with the assistance of the State and public authorities. Within the framework of compulsory schooling, parents have the right to decide on the moral and religious education of their children. Children have the same rights vis-à-vis the State with regard to both assistance and their physical, intellectual and moral development;
- 17. The State and public authorities are under an obligation to protect young people against exploitation and moral, intellectual and physical abandonment;
- 18. The State shall ensure equal access for children and adults to instruction, vocational training and culture;
- 19. The State has a duty to organize public education according to the principle of religious neutrality and, to the extent possible, on the basis that it shall be free of charge; conferring diplomas shall remain the prerogative of the State.

124. Freedom of education is guaranteed to all. Anyone may open a preschool, a primary or secondary school, a higher education establishment or a university, subject to the conditions established by law.

125. The law establishes the conditions under which the State and public authorities may contribute to the financial costs of private educational institutions that have been recognized as operating in the public interest.

126. Religious instruction may be offered to pupils in State educational institutions at their parents' request, subject to the conditions established by law.

127. The law establishes the conditions for the operation of private educational institutions, taking their specific characteristics into account.

128. Gabonese legislation fully recognizes the right to inclusive education for children with disabilities. The same curriculum is followed in all schools, with differences lying only in the technical approaches used. For example, the verbotonal method, which emphasizes the use of signs in conjunction with sound, enunciation and lip-reading, is commonly employed at the National School for Hearing-Impaired Children. Unfortunately, this method limits the possibilities for in-depth study of other general education subjects.

129. Children with disabilities are admitted to school, although a medical examination is required to determine, at the very least, the child's degree of disability, as well as their intelligence quotient in the case of children with mental disabilities, the degree of deafness in the case of hearing-impaired children, the degree of blindness in the case of visually-impaired children, and so on.

130. Article 2 of Decree No. 152 of 4 February 2002, which set out the remit, structure and operations of the National Committee for the Integration of Persons with Disabilities, states as follows: "The National Committee for the Integration of Persons with Disabilities

shall assist the Government in implementing policies to protect persons with disabilities. Pursuant to this article, the Committee shall propose measures to promote the full participation of persons with disabilities in social and cultural development activities.” In addition, article 14 of the Decree provides for the establishment of a special technical committee responsible for:

- Referring children with disabilities to specialized bodies;
- Assisting students with disabilities, with a view to awarding them a study grant; and
- Awarding special education grants.

131. In 2010, in an effort to promote the integration of persons with disabilities, the NGO Organisation des Personnes Handicapées conducted an awareness-raising campaign in Libreville schools entitled “Persons with disabilities and the difficulties they face in school”.

132. Article 15 of Act No. 21/2011 of 4 February 2012 establishing general guidelines on education, training and research provides for the establishment of an infrastructure technical committee responsible for:

- Defining the accessibility requirements for public facilities;
- Encouraging the use of transport vehicles modified for persons with disabilities;
- Proposing and monitoring the allocation of equipment to persons with disabilities;
- Advising on the implementation of adjustments designed to make public facilities accessible to persons with disabilities; and
- Advising on transport problems faced by persons with disabilities.

133. Act No. 16/66 of 9 August 1996 on the Organization of Primary Education for Students 6 to 16 Years of Age does not exclude girls, much less those living with a disability.

134. Article 20 of Decree No. 152/PR/MSNASBE of 4 February 2002, which set out the remit, structure and operations of the National Committee for the Integration of Persons with Disabilities, provides for the establishment of the following six specialized bodies:

- The Multipurpose Training Centre for Persons with Disabilities;
- The Functional Movement Re-education and Rehabilitation Centre;
- The Employment Assistance Centre;
- The Medical-Educational Institute;
- The Medical Training Institute;
- The Medical-Professional Institute.

## **Article 25**

### **Health**

135. The right of persons with disabilities to health is enshrined through its recognition in basic norms of both international and national law. The introduction to the Constitution of the World Health Organization, which entered into force on 7 April 1995, defines health as “a state of complete physical, mental and social well-being”. This article of the Convention addresses and examines the actions taken under the national health policy with regard to persons with disabilities.

136. The Gabonese health-care system is strategy-based,<sup>77</sup> operates through a number of different institutions<sup>78</sup> and covers all regions of the country.<sup>79</sup> Life expectancy in Gabon is 55 years for men and 60 years for women. According to the 2012 demographic health survey of Gabon, maternal and infant mortality is estimated to be about 519 deaths per 100,000 live births.<sup>80</sup>

137. Article 1, paragraph 8, of the Constitution stipulates that “The State shall, to the extent possible, guarantee health protection, social security, the preservation of the natural environment, rest and leisure for all, including children, mothers, persons with disabilities, older workers and the elderly.” Pursuant to this constitutional provision, Gabon has established legal instruments such as Order No. 1/95 of 14 February 1995 on health policy, sections 30 and 31 of which specifically set out protection for persons with disabilities.

138. Indeed, the State has the duty to provide, to the best of its ability, medical and social facilities for persons with disabilities to allow them to cope with their disability and to enable their rehabilitation and social integration. Public health-care services have an obligation to provide the best possible physical access for persons with disabilities. Thus, the technical committee established under this order is responsible for:

- Working in cooperation with the National Coordinating Committee on Health to design and develop policies to benefit persons with disabilities;
- Ensuring that persons with disabilities and their families have access to information and education on health-related issues;
- Establishing the degree of permanent invalidity of adults with disabilities;
- Referring persons with physical, motor or sensory impairments to specialized medical facilities.

139. As for prevention efforts, the Government organized multiphase national immunization campaigns for children and adults in response to the poliomyelitis outbreak that occurred in parts of Central Africa in late 2010.

140. The Constitution guarantees that the State shall provide social security to all individuals, and thus even to persons with disabilities. The Government views social security as an essential mechanism for stabilizing and maintaining the standard of living of people affected by social risk, and for preventing and combating poverty.<sup>81</sup> Two laws have made possible the establishment of the general health insurance and social protection scheme.<sup>82</sup> The National Health Insurance and Social Protection Fund ensures better social

<sup>77</sup> The Gabonese health insurance scheme.

<sup>78</sup> It includes programmes and central departments, institutes and health-care facilities, as well as diagnostic centres.

<sup>79</sup> It includes regional health departments and regional hospitals.

<sup>80</sup> In order to further the campaign combating maternal and infant mortality and to supplement government efforts, in October 2010 the United Nations Population Fund (UNFPA) provided the Midwives' Association of Gabon with medical equipment consisting mainly of items for prenatal care.

<sup>81</sup> Gabon has moved up 10 places in the United Nations Human Development Report 2010, earning a score of 0.648 per cent and ranking ninety-third out of 169 countries. Gabon is ranked fourth highest among African countries. An analysis of the three main indicators shows significant improvements in the standard of living for Gabonese citizens; for example, life expectancy rose in one year from 60 to 61 years.

<sup>82</sup> Act No. 34/2007 of 23 January 2008 ratifying Ordinance No. 22/2007 of 21 August 2007, which established a compulsory health insurance and social protection scheme in Gabon, and Act No.

security coverage for the most disadvantaged, most vulnerable and other segments of Gabonese society, and for workers in both the public and the private sectors. At its meeting of 6 May 2010, the Council of Ministers established a mandatory health insurance scheme giving all sectors of society access to quality health care. Consisting of three funds, the universal health insurance scheme in Gabon is already operational for everyone who has registered with it since 2009. In cases of illness, all registered Gabonese citizens and their dependants can seek treatment from the partners of the National Health Insurance and Social Protection Fund, which include hospitals and health centres, pharmacies and pharmaceutical outlets throughout the country.

141. The attention the President has devoted to the Fund and the statements he has made demonstrate the importance he attaches to providing care for all Gabonese suffering from illness.

142. Several measures have been taken with respect to preventive health care, including the national response to and prevention of HIV/AIDS and regular, free testing for diabetes, high blood pressure, breast and uterine cancer and illnesses affecting the colon and prostate.

## **Article 26**

### **Habilitation and rehabilitation**

143. Act No. 19/95 of 13 February 1996 on Social Protection for Persons with Disabilities contains provisions to facilitate the integration of persons with disabilities, including in the areas of health, sport, recreation, education and housing, though the effective implementation of the Act is still hindered by the lack of implementing legislation. Indeed, persons with disabilities have pointed out some shortcomings, for example with the 75,000 CFA franc annual assistance payment for persons with disabilities, which is not paid regularly and not always in the same amount.

144. There are several bodies working in the area of habilitation and rehabilitation for persons with disabilities in Gabon. For example, there is a technical commission on functional movement re-education and rehabilitation that, despite facing significant obstacles on the ground, is responsible for: referring persons with physical, motor or sensory impairments to specialized medical facilities; facilitating their access to care and functional movement re-education and rehabilitation; and designing a strategy for the establishment of a national functional movement re-education and rehabilitation centre. In practice, due to problems with the commission's effective entry into service, its role is being played by various functional movement re-education and rehabilitation centres, such as the following public and private services:

- The Libreville Hospital Centre, now known as the University Teaching Hospital;
- The Paul Igamba Hospital in Port-Gentil, which is operating relatively well, particularly in the area of paediatric functional movement re-education.

145. There is still room for improvement on the current state of affairs, particularly with regard to harmonizing and coordinating measures taken by the authorities between those involved in habilitation and rehabilitation and those providing educational and vocational assistance. This matter merits further reflection at the national level.

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35/2007 of 21 August establishing a system of family allowances for economically disadvantaged citizens.



## **Article 27**

### **Work and employment**

146. On the basis of equal opportunity, the State affords the same rights to employment and vocational training to persons with disabilities as it does to other citizens. No person with a disability who has been certified fit may be excluded from a competitive examination or have their professional development hampered on account of their disability. At the legislative level, the right of persons with disabilities to work and employment is guaranteed, *inter alia*, by two Acts:

- Act No. 3/94 of 21 November 1994 establishing the Labour Code, as amended by Act No. 12/2000 of 12 October 2000: articles 179, 181 and 182 in chapter 5 address work for persons with disabilities and regulate the exercise of their right to employment within the professional sphere;
- Act No. 19/95 of 13 February 1996 on Social Protection for Persons with Disabilities, article 9 of which reinforces the provisions of the Labour Code.

147. Article 2 of the Labour Code states that: “All persons, including those with disabilities, have the right to work, it being a duty to pursue a professional activity. Both the State and employers are obliged to provide training.” Companies that employ persons with disabilities must apply the provisions of the Labour Code related to persons with disabilities.

148. Moreover, article 9 of Act No. 19/95 states that: “On the basis of equal opportunity, the State affords the same rights to employment and vocational training to persons with disabilities as it does to other citizens.” It also specifies that: “No person with a disability who has been certified fit may be excluded from a competitive examination or be restricted in their career development on account of their disability. Companies that employ persons with disabilities must apply the provisions of the Labour Code related to such persons.” Lastly, article 10 of the Act states that job centres must be created to offer paid employment to persons with disabilities.

## **Article 28**

### **Adequate standard of living and social protection**

149. With regard to the first part of this article of the Convention, the Government has, broadly speaking, taken several measures to guarantee social development and, by extension, an adequate standard of living for the population. Gabon considers the right to an adequate standard of living to be one of its basic priorities. Indeed, the Constitution guarantees everyone the right to development. With that in mind, improving the material conditions of low-income households without discrimination has led the Government to adopt specific provisions, notably: the setting of a minimum wage for Gabonese workers of 150,000 CFA francs (CFAF); the application of a value-added tax (VAT) rate of 5 per cent to the price of cement bags; a reduction in the price of butane gas from CFAF 6,000 to CFAF 5,450; the application of the 5 per cent VAT rate to utility bills for water and electricity meters; the application of the 10 per cent VAT rate to utility bills for standard water and electricity meters; a reduction of 15 per cent in the special tax on each cubic metre of water; and a reduction of 2.5 per cent in the special tax on each kilowatt hour of electricity, as well as in the standing charge for electricity meters. Moreover, in respect of the right to water and electricity, the Government is committed to finding sustainable solutions to the issue of providing an adequate supply of water and electricity throughout the country, with a view to improving the living conditions of Gabonese citizens. In addition, the Government has established a social tariff and made electricity and water free

for families whose bills are lower than CFAF 50,000 for electricity and CFAF 30,000 for water. Lastly, a framework, governed by Act No. 16/93 of 26 August 1993, has been put in place to regulate the monitoring and quality of water.

150. In the specific case of persons with disabilities, Decree No. 269/PR/SEAS of 3 May 1971 governs a system of regular social assistance. This is intended to guarantee a “minimum income” of CFAF 75,000 to persons whose disability makes it difficult for them to find work.

151. Article 4 of Act No. 19/95 of 13 February 1996 on Social Protection for Persons with Disabilities specifies that such social protection includes a range of measures and actions to enable persons with disabilities to integrate easily into society.

152. It covers, *inter alia*: health; education; vocational training; employment; transport; accommodation; the environment; rehabilitation; access to adaptive sports; recreation and social assistance.

153. The 2008 budget included funding for persons with disabilities exercising small trades. It was renewed in both 2009 and 2010 for 114 microprojects.

154. In order to prevent persons living with disabilities from being excluded from the general education system, article 5 of Act No. 19/95 of 13 February 1996 provides for the introduction of an identification card for persons with disabilities in Gabon, granting holders the right to reduced medical charges in public health facilities, reduced entry fees for cultural, sports and leisure centres in the country, and reduced school fees.

155. Depending on the availability of government funds, there are plans to grant subsidies to associations for persons with disabilities and any other body recognized as working in the public interest whose activities help promote the rights of persons with disabilities.

156. School attendance is compulsory for children and adolescents with disabilities. Rules governing the age at which they must sit competitive or other examinations are systematically relaxed and they are offered study grants. Schools and vocational institutions give priority in their admissions process to pupils with physical disabilities.

157. To facilitate access to property ownership for persons with disabilities, the Government should also base its social housing programmes on an equal opportunity plan aimed at ensuring that such persons have access to decent, affordable and sustainable accommodation. This approach would involve drawing up a list of simplified criteria to classify applications for social housing, and setting aside a quota of houses that meet the standards for persons with disabilities.

158. As to the second part of article 28, the explanation of social security in Gabon given in respect of article 25 of the Convention clearly demonstrates that persons with disabilities enjoy the same rights as other citizens in this respect.

## **Article 29**

### **Participation in political and public life**

159. The rights set out in this article of the Convention are incontestably guaranteed in the Constitution, the General Civil Service Regulations, the General Regulations for Civil Servants, the General Regulations for Contractual Employees and the Labour Code. Indeed, Title I, article 4, paragraph 3, of the Constitution stipulates that: “Under the conditions provided by the Constitution and the law, all Gabonese citizens of both sexes who enjoy their civil and political rights are eligible to be elected to public office.”

160. In the specific case of the President of the Republic, Title II, article 10, of the Constitution specifies that: “All Gabonese citizens of both sexes, who enjoy their civil and political rights, are at least 40 years of age and have resided in Gabon for the past 12 months are eligible for the Presidency of the Republic.” Gabon thus ensures that persons with disabilities can participate in political and public life effectively and fully, without discrimination. In that regard, citizens with disabilities who are of voting age do have the right to vote and, if they are candidates, to be elected. The Electoral Code contains no provisions that exclude persons with disabilities.

161. In every administration, public officials are recruited either by means of a competitive examination<sup>83</sup> or through the submission of an application.<sup>84</sup> Every year, a series of recruitment planning and programming conferences is held in the civil service. Government authorities at the highest level are committed to restoring an administration that is fair and equal for all and, by extension, to treating persons with the same qualifications and assets equally, making merit the key indicator.

## **Article 30**

### **Participation in cultural life, recreation, leisure and sport**

162. Article 1, paragraph 17, of the Constitution states that: “The State guarantees equal access to education, vocational training and culture to children and adults”. Regarding participation in, and access to, cultural life for persons with disabilities, the Government has taken measures, including the opening, in 1985, of a national school for hearing-impaired children.

163. In order to promote the participation of persons with disabilities in cultural life, recreation, leisure and sport, Act No. 19/95 of 13 February 1996 grants such persons the right, inter alia, to reduced entry fees for cultural and sports centres and reduced school fees in public and State-approved schools.

164. In 2010, an aware-raising campaign entitled “Persons with disabilities and the challenges they face at school” was organized to encourage the integration of persons with disabilities, particularly pupils and students with disabilities. As a suggestion, to complement the above, Gabon could, firstly, engage in a genuine process of cultural programming involving sign language and subtitling and, secondly, organize regular creative art workshops.

165. Every year, the Fédération Gabonaise Omnisport Paralympique (Gabonese Paralympic Federation), which works with persons with disabilities, organizes a national championship, the most recent having been held in Libreville on 29 June 2010. The aim is to attract the participation of athletes with disabilities. It would, however, be beneficial if the Government were to hold a consultation with the various stakeholders in order to further encourage exchanges of information on the actions taken and consider ways of developing the policy of support for sports associations for persons with disabilities. Specifically, it would be useful to consider subsidizing adaptive sports in the same way as sports clubs for non-disabled persons. To that end, Gabon could contemplate specific provisions for adaptive sports on the basis of laws and regulations.

<sup>83</sup> École Nationale d’Administration (National School of Administration), École Nationale d’Actions Sociales (National School of Social Action), École Nationale d’Instituteurs (National Teacher Training College), École Nationale des Eaux et Forêts (National School of Water Resources and Forestry), etc.

<sup>84</sup> For consideration by a committee, validation, appointment and transfer to the civil service.

## Article 31

### Statistics and data collection

166. One of the notable shortcomings in public policy regarding persons with disabilities concerns statistics and data collection. Indeed, it would be beneficial for both the Government and associations for the promotion and protection of the rights of persons with disabilities if effective strategies in that regard were introduced. It would be useful to create a coordination and monitoring mechanism to improve the areas mentioned in article 31 of the Convention. The mechanism could be tasked with continually updating the employment situation of persons with disabilities, data related to disabilities, etc.

167. In the specific context of this national report on the Convention on the Rights of Persons with Disabilities, the statistics that were available to the National Committee for the Drafting of Human Rights Reports in May 2013 are presented below.

Table 1  
Disabilities by province

	<i>Estuaire</i>	<i>Haut-Ogooué</i>	<i>Moyen-Ogooué</i>	<i>Nyanga</i>	<i>Ogooué-Ivindo</i>	<b>Total</b>	<b>%</b>
Physical disability	1 393	471	316	417	387	<b>2 984</b>	47.72
Intellectual disability	404	32	67	128	69	<b>700</b>	11.19
Visual impairment	392	80	82	147	144	<b>845</b>	13.51
Blindness	178	77	175	137	0	<b>567</b>	9.06
Multiple disabilities	314	19	99	0	76	<b>508</b>	8.12
Hearing impairment	300	69	50	93	100	<b>612</b>	9.78
Other disability	35	0	0	2	0	<b>37</b>	0.59
<b>Total</b>	<b>3 016</b>	<b>748</b>	<b>789</b>	<b>924</b>	<b>776</b>	<b>6 253</b>	<b>100</b>
Percentage	48.22	11.96	12.61	14.77	12.41	<b>100</b>	

Source: Report on social policy for persons with disabilities in Gabon (2003–2007).

Table 2  
Disabilities by province (continued)

	<i>Ogooué-Lolo</i>	<b>%</b>	<i>Ogooué-Maritime</i>	<b>%</b>	<i>Woleu Ntem</i>	<b>%</b>
Physical disability	367	45.42	358	66.54	470	40.13
Intellectual disability	72	8.91	35	6.50	120	10.24
Visual impairment	148	18.31	112	20.81	190	16.22
Blindness	128	15.84	5	0.92	161	13.74
Multiple disabilities	0	0	0	0	50	4.26
Hearing impairment	93	11.50	26	4.83	180	15.37
Other disability	0	0	2	0.37	0	0
<b>Total</b>	<b>808</b>	<b>100</b>	<b>538</b>	<b>100</b>	<b>1 171</b>	<b>100</b>

Source: Report on social policy for persons with disabilities in Gabon (2003–2007).

Table 3  
Summary of disabilities by province

<i>Type</i>	<i>Total</i>	<i>%</i>
Physical disability	<b>4 233</b>	48.26
Intellectual disability	<b>927</b>	10.57
Visual impairment	<b>1 295</b>	14.76
Blindness	<b>861</b>	9.81
Multiple disabilities	<b>556</b>	6.33
Hearing impairment	<b>911</b>	10.38
Other disability	<b>39</b>	0.44
<b>Total</b>	<b>8 770</b>	<b>100</b>

*Source:* Report on social policy for persons with disabilities in Gabon (2003–2007).

*Comments:*

(1) This table shows that the province of Estuaire is home to the greatest number of persons living with a disability. For the period 2003–2007, 3,016 persons were recorded, equating to 34.38 per cent of all persons with disabilities.

(2) The province of Woleu-Ntem is in second place with a total of 1,171, or 13.35 per cent of persons with disabilities.

(3) Some way behind are the provinces of Nyanga (924, or 10.87 per cent); Ogooué-Lolo (808, or 9.21 per cent); Moyen-Ogooué (789, or 8.99 per cent); Ogooué-Ivindo (776, or 8.84 per cent); Haut-Ogooué (748, or 8.52 per cent) and, lastly, Ogooué-Maritime (538, or 6.13 per cent).

(4) It is important to note that, at the time of drafting this report, statistics for the province of Ngounié were not available.

Table 4  
Intellectual disabilities

	<i>Mild</i>	<i>Moderate</i>	<i>Profound</i>	<i>Total</i>	<i>%</i>
Estuaire	68	60	181	<b>309</b>	46.88
Haut-Ogooué	3	6	12	<b>21</b>	3.18
Moyen-Ogooué	8	18	15	<b>41</b>	6.22
Ngounié <sup>28</sup>	-	-	-	-	-
Nyanga	10	11	53	<b>74</b>	11.22
Ogooué-Ivindo	20	18	17	<b>58</b>	8.80
Ogooué-Lolo	10	14	34	<b>2</b>	0
Ogooué-Maritime	19	4	3	<b>26</b>	3.94
Woleu-Ntem	20	30	25	<b>75</b>	11.38
<b>Total</b>	<b>158</b>	<b>161</b>	<b>340</b>	<b>659</b>	<b>100</b>
Percentage	23.97	24.43	51.59	<b>100</b>	-

*Source:* Report on social policy for persons with disabilities in Gabon (2003–2007).

*Comments:* The results in this table on different types of intellectual disability show that, in Gabon, disabilities of this nature are most commonly profound (340, or 51.59 per cent), followed at some distance by moderate (161, or 24.43 per cent) and mild (158, or 23.97 per cent) disabilities.

Table 5  
**School enrolment**

	<i>Physical disability</i>	<i>Multiple disabilities</i>	<i>Blindness</i>	<i>Visual impairment</i>	<i>Total</i>	<i>%</i>
Primary	263	49	1	143	<b>456</b>	8.34
Secondary	163	12	0	81	<b>256</b>	4.68
Tertiary	39	2	0	4	<b>45</b>	0.82
Illiterate	2 909	367	699	733	<b>4 708</b>	86.14
<b>Total</b>	<b>3 376</b>	<b>430</b>	<b>700</b>	<b>961</b>	<b>5 465</b>	<b>100</b>
Percentage	61.73	7.86	12.80	17.58		100

  

	<i>Hearing impairment</i>	<i>Intellectual disability</i>	<i>Other</i>	<i>Total</i>	<i>%</i>
Primary	62	37	8	<b>107</b>	7.71
Secondary	1	19	0	<b>20</b>	1.42
Tertiary	0	0	0	<b>0</b>	0
Illiterate	568	682	29	<b>1 279</b>	90.96
<b>Total</b>	<b>631</b>	<b>738</b>	<b>37</b>	<b>1 406</b>	<b>100</b>
Percentage	44.87	52.48	2.63		100

*Source:* Report on social policy for persons with disabilities in Gabon (2003–2007).

Table 6  
**Total school enrolment**

<i>Level</i>	<i>Number</i>	<i>Percentage</i>
Primary	565	8.22
Secondary	276	4.01
Tertiary	45	0.65
Illiterate	5 987	87.10
<b>Total</b>	<b>6 873</b>	<b>100</b>

## Article 32

### International cooperation

168. International cooperation plays an active role in the fields of health and education.

(a) **Health**

- The Integrated Management of Childhood Illness (IMCI), with the help of the World Health Organization (WHO) and the United Nations Children's Fund (UNICEF);

- The establishment of a national technical commission responsible for implementing the Expanded Programme on Immunization with WHO, UNICEF and the Chinese and Italian cooperation agencies;
- Prevention of mother-to-child transmission with the technical and financial support of the French cooperation agency as part of efforts to combat HIV/AIDS;
- Work to combat sexually transmitted diseases/AIDS with the assistance of WHO, the Joint United Nations Programme on HIV/AIDS (UNAIDS) and UNICEF.

**(b) Education**

169. In terms of education, Gabon is engaged in active partnerships with other member States of the International Organization of la Francophonie and UNICEF.

### **Article 33**

#### **National implementation and monitoring**

170. Article 5 of Act No. 19/95 states that: “A national committee for the integration of persons with disabilities shall be established, comprising the relevant ministerial departments, non-governmental organizations and associations of persons with disabilities.” Moreover, article 16 provides that: “Gabon shall adopt the international symbol of access to indicate the vehicles, spaces and places reserved for persons with disabilities.” It should be noted that this symbol can already be seen in certain facilities, including the Union Gabonaise de Banque (Gabonese Union Bank), the Centre Hospitalier Universitaire de Libreville (Libreville University Hospital), the Hôpital d’Instruction des armées (Military Hospital), the El Rapha clinic and the Boulangerie Pâtisserie Pellisson (Pellisson bakery-pâtisserie).

### **Conclusion**

171. To conclude, Gabon is dedicated to respecting its international commitments through the introduction and implementation of numerous reforms, including those related to respect for the rights of persons with disabilities. All the measures outlined in this report indicate the Government’s determination to protect persons with disabilities. The culture of the rule of law and human rights promoted by the public authorities and civil society in Gabon is gradually enhancing respect for human rights, and those of persons with disabilities in particular. This report shows that Gabon does not shirk from the commitments arising from its ratification of the Convention on 17 September 2007, especially as the provisions of the Convention are the subject of special attention from the Government. The focus of this report has been to respond to a quantitative challenge: share information on as many actions, initiatives and reforms undertaken by Gabon in relation to the rights of persons with disabilities as possible, but without cutting back on quality, by selecting from among the countless measures those that are guaranteed to respond positively and constructively to the expectations expressed in the various articles of the Convention.