



Quito, October 28, 2022.

To the Honorable
Permanent Missions to the United Nations Office and other international organizations.
Geneva.-

Ref: Evaluation of Ecuador in its fourth Universal Periodic Review

Dear Ambassador:

In reference to the 41st session of the Universal Periodic Review Working Group of the United Nations Human Rights Council, which will be held in November 2022, where the Government of Ecuador will be reviewed; The human rights organizations that have signed this letter would like to make available to you a set of observations and recommendations on compliance with the obligations in terms of human rights by the Government of Ecuador, especially economic, social and cultural rights.

We hope that the following observations can help your Permanent Mission to have more elements and information on the compliance of the Government of Ecuador in this matter, and eventually be considered in the framework of the Universal Periodic Review where the country will be reviewed.

1. In the "Concluding observations on the fourth periodic report of Ecuador" regarding its obligations under the ICESCR, prepared by the UN Committee on Economic, Social and Cultural Rights, and published on November 14, 2019, it is stated observed as a positive aspect, the progressive increase in public spending on health and education in the last ten years until 2018.

However, at that time the Committee mainly recommended that Ecuador not reduce social spending in the areas of education and health from the levels reached in 2018. And even, regarding the right to education, it specifically recommended "increasing social spending to education in order to guarantee universal and equal access to quality early, primary and secondary education".

The principle of non-regressivity and progressivity of the ICESCR is prescribed in the Constitution of the Republic of Ecuador, establishing in its twentieth general provision that the budget allocated to financing the national health system will be increased each year by a percentage not less than 0.5% of the Gross Domestic Product (GDP), until reaching at least 4%; and, in its eighteenth general provision, it is ordered that the State

progressively allocate public resources for basic initial education and high school, with annual increases of at least 0.5% of GDP until reaching a minimum of 6% of GDP.

Notwithstanding that these provisions have been in force since 2008, the minimum standards of social spending have not yet been reached: in 2022 only 3.10% of GDP has been allocated for health and 3.12% for initial, basic and high school education, in this sense, the Government of Ecuador has failed to comply with its obligation of progressiveness in light of the ICESCR and the Constitution of the Republic. Even more, the principle of non-regressiveness has been violated: between 2017 and 2022, it is evident that health budgets have been reduced by \$761 million between 2018 and 2022, going from a nominal value of \$4,163 million to \$3,402 million. This reduction means a significant drop from 4.00% to 3.10% in terms relative to GDP¹. Something similar occurs with respect to public spending on initial, basic and high school education: pre-allocations have decreased by \$1,059 million annually between 2018 and 2022, going from a pre-allocation of \$4,478 million to \$3,402 million. Which means a decrease from 4.30% to 3.12% during this period in terms relative to GDP.

These concerns were reiterated by the ESCR Committee to the Ecuadorian State in the Letter sent on April 22, 2022 as a follow-up to the State Report on the final observations made by the Committee in 2019; In the letter, the ESCR Committee notes with grave concern that there has been a retrogressive trend in allocation of budget in the education and health sectors and thus assesses that there has been no progress in response to the recommendation made in 2019. The Committee regrets that the Ecuadorian State has not presented any progress and further indicates that the State does not provide specific information requested by the Committee.

2. The noted violations of the principles of progressiveness and non-regressiveness of the ICESCR occur as a result of the country's adoption of an economic austerity program linked to credit assistance from the IMF. In this dimension, there is also a non-compliance by the Ecuadorian State with respect to the observations made by the Committee in 2019. In particular, the Committee recommended:
 - (a) Conduct a prior assessment of the impact that any measures to address the economic downturn may have on economic, social and cultural rights so as to ensure that they do not disproportionately affect disadvantaged groups;
 - (d) The affected populations should be consulted with regard to such measures, which should be independently reviewed.

During the period under review (since 2020) there are no sustained efforts by the State to minimally guarantee an evaluation of the effects that the austerity program has on

¹ See Report for the Second Debate “Project for the Organic Law Reforming the Organic Code of Planning and Public Finance to Guarantee Incremental Budgets in Health and Education”, Quito, Metropolitan District, August 26, 2022, of the National Assembly of Ecuador. Available in: https://drive.google.com/file/d/1EDZQbLOK4-EHQKBBgkxJf_YRwHxBmhUI/view

the exercise of rights associated with health, education, work and the right to lead a dignified life; including mandatory consultation with affected populations. What has contributed to increasing social conflict in Ecuador: in a short period of time (between 2019 and 2022), there have been two national strikes that combined report the paralysis of the main economic activities of the country for a total period of time of 30 days, around 17 deaths, and hundreds of wounded and arrested. Also, as a consequence of the historical growth of poverty, the guarantees for non-exclusion and the right to a dignified life have been reduced. Thus, in the 2018-2021 period, national poverty went from 23.2 to 32.2%, extreme poverty went from 8.4 to 14.7%; being the indigenous population the most affected where its poor population went from 55.6 to 64.5% and its population in extreme poverty went from 30.8 to 45.2%.²

3. The Committee also expressed its great concern about the situation of contemporary forms of slavery in the case of Furukawa Plantaciones C.A. of Ecuador, which mostly affects people of African descent, and due to the lack of adequate measures to guarantee the protection and integral reparation of the victims. To date, the reparation measures contemplated in favor of 123 plaintiffs have not been executed through a second instance judgment in the aforementioned case and, in general, Ecuador still does not have effective legislative or administrative measures to prevent, investigate and punish the occurrence of new cases of forced labor or forms

Recommendations:

1. Urge the Government of Ecuador to institutionalize ex-ante and ex-post evaluations of the impact of austerity measures on the level of satisfaction of the economic, social and cultural rights of the population, with the mandatory participation of disadvantaged populations possibly affected for the measurements.
2. To call upon the Government of Ecuador to effectively comply with the commitments assumed in the dialogue tables that took place between the National Government and the main indigenous organizations with national representation as a way of evaluation and social control of the impacts of the adjustment process fiscal.
3. Request the Government of Ecuador to institutionalize measures that allow it to progressively comply with the minimum standards of social spending provided for in the Constitution of the Republic in matters of health and education.

² See information from the National Institute of Statistics and Censuses (INEC) in Monitoring of Poverty and Work, CDES, 2022. Available at: <https://cdes.org.ec/web/monitoreo-pobreza-y-condiciones-laborales/>



4. To call upon the Ecuadorian State to carry out the necessary reforms in its administrative institutions and in national legislation to prevent, sanction and repair cases of contemporary forms of slavery and forced labor that may occur in its territory. Urge the State to guarantee effective reparation measures in the Furukawa case in favor of 123 plaintiffs and as a timely and fair way to establish a national precedent in this matter.

Thank you for your kind attention. We anticipate our willingness to expand any type of information, will facilitate the evaluation of the UPR of Ecuador.

Sincerely,

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