

# APREFORT

TRANSPARÊNCIA E INTEGRIDADE (TI-PT)



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the European Union

## **SECOND MONITORING REPORT OF THE “GOOD GOVERNANCE AND ANTI-CORRUPTION PLAN” OF EQUATORIAL GUINEA AND THE IMF: JANUARY – SEPTEMBER 2020**

**Human Rights and Good Governance Observatory**

November 2020

***DISCLAIMER: This publication was produced with the financial support of the European Union. Its contents are the sole responsibility of TI-PT and do not necessarily reflect the views of the European Union.***

## Introduction

The Government of Equatorial Guinea signed an [economic reform program](#)<sup>1</sup> with the International Monetary Fund (IMF) in December 2019. The proposed reforms (included in the agreement) are aimed at improving the country's governance and fighting corruption.

The program has a total duration of 3 years and the commitments are reviewed every quarter starting from January 2020.

The Observatory on Human Rights and Good Governance as part of the APROFORT Project, led by the Portugal-based Transparency and Integrity Civic Association (TI-PT) and co-funded by the European Union, has been monitoring the implementation of the Equatorial Guinea-IMF agreement, in partnership with EG Justice, a human rights and good governance advocacy organisation focused on Equatorial Guinea.

In addition to reassessing the measures from the first quarter, this second monitoring report includes the second and third quarters, comprising a complete analysis from January to September 2020.

The study has concluded that the Government of Equatorial Guinea failed to fulfil 56% of the measures, only 20% were fulfilled and other 24% of the measures could not be confirmed due to lack of information from the parties.

## Methodology

The monitoring is based on transparency from both sides, the IMF and Ministry of Finance of Equatorial Guinea, to publicly provide the information related to the agreed measures. The methodology includes the following steps: checking the official websites for information; requesting relevant information from the parties; verifying the feedback received; and drafting of the report. In this second report, the Ministry of Finance and the IMF failed to reply to the information request. TI-PT also shared a draft report on 5 of November with both parties for comments or reactions ahead of the publication.

The report tracks each measure and indicates its status by tagging it as “fulfilled” if the sources confirm it; “unfulfilled” if the measure is not accomplished or it was only partially achieved; and “Non verifiable” when the information would not necessarily be for publication, therefore the status will otherwise depend on the response from the parties to the information requests submitted.

For this report the methodology was reviewed to include the page number in which each measure is located in the agreement, an annex is attached to with each measure to visualize the status. All sources hyperlinked in the text were consulted between 13 and 14 of October.

## About the agreement

The IMF agreed to [disburse US\\$40.4 million](#) upon signature of the agreement, the remaining amounts, \$240 million approximately, will be disbursed in similar tranches according to the successful implementation of the programme.

The agreement includes 82 measures distributed in quarterly milestones. For the first year of the programme, a total of 46 measures were identified, making it the highest rate of measures of the programme in a single year.

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<sup>1</sup>Consulted on 14 Oct. 20

Major commitments include measures on fiscal transparency, rule of law or social policies. Landmark measures include an asset declaration for all public officials and stronger controls of state-owned companies such as conducting and publishing independent audits or the publication of all oil contracts. It also includes the publication of an anticorruption law in the country. It is important to indicate that the agreement included several “prior measures” that should have been accomplished before the starting of the program or as an early measure, these are not necessarily addressed by this report.

## Status: Jan-Sept 2020

This second report includes all the measures from the beginning of the agreement. This means that researchers have reviewed the measures for the first quarter, from January to March. The first report, [published in July 2020](#), indicated that 66% of the measures for that period were unfulfilled. 22% were considered fulfilled, and the remaining 14% could not be verified.

Between January and September, a total of 25 measures were identified. It should be noted that the review is comprehensive (including the first quarter) because the delayed measures could have been fulfilled in the subsequent quarters.

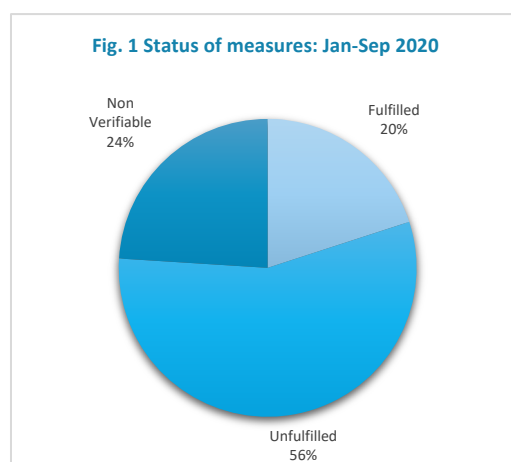
From January to September, the research results confirm that only 5 measures were fulfilled and therefore verified. Other 6 measures could not be verified because they required responses from the IMF or the Ministry of Finance that declined to make any comment or did not respond to information requests. The remaining 14 measures were not fulfilled (Figure 1).

It is worth noting that the researchers sent an information request to the Ministry of Finance and the IMF on 2 September, which they failed to respond to. Subsequently, a draft report for comments was shared with both parties on the 5 November for comments. Nor the Ministry of Finance or the IMF reacted to these requests.

## Fulfilled measures

The research confirms that the following 5 measures were fulfilled:

1. As agreed, regarding Customs Administration, the Government approved a [system to secure the collection or declaration of information](#) and combined it with a direct payment to the Treasury (p.79). However, further attempts to access the [website](#)<sup>2</sup> of ASYCUDA, the tool putting in place that system, showed that the server was unstable or down for long periods.
2. A measure considered to be fulfilled was related to the promotion of a “tax-paying culture” (p. 82). The Government initiated a communication campaign during this period. In October 2020 it established a hotline for taxpayers and it [developed a taxpayer guide](#)<sup>3</sup>.
3. The Ministry of Finance published the list of [state-owned companies](#), including their [management](#), as agreed in the programme (p.82). It was also required to publish their statutes which can be found in the [decrees](#)<sup>4</sup> establishing those companies.



<sup>2</sup> Consulted on 8 October 2020

<sup>3</sup> Consulted on 13 October 2020

<sup>4</sup> Consulted on 12 October 2020

4. By June 2020, the Government had to *reduce ad hoc tax exemptions and publish the list of all those granted during the year* (p.78). According to the [information found](#)<sup>5</sup> on the ministry's website all ad-hoc tax exemptions were published indicating the type of exemptions from 2015 to 2019 as specified by the agreement. The programme also requires the government to publish in the next budget all the tax exemptions granted in the previous years.
5. The Government committed to requesting a fiscal transparency assessment from the IMF (p. 81). The Ministry of Finance's feedback on the first report indicated that this request was made. Although the researchers could not find any additional information, this would be considered fulfilled pending the confirmation from the IMF or the publication or statement on such fiscal transparency assessment.

## Unfulfilled measures

The researchers deemed the following fourteen measures unfulfilled:

1. The Government committed to auditing the arrears and establishing a settlement plan (p.80). While the audit was conducted, the settlement plan was not available or, according to this [communiqué](#)<sup>6</sup> by the Ministry of Finance, it was still pending as of April 2020. In this press release, the Ministry of Finance indicated that it was in the process of hiring a specialised firm. No further information could be found updating this status.
2. Government published information about the [production and export](#) of extractive industries (p.83). However, it should be noted that it was also required to provide "exports, prices, production and government revenues" and as of the date of publication of this report, no information could be found on the government websites about prices or revenues.
3. One of the key measures was related to adopting an anticorruption law in line with the United Nations Convention Against Corruption requirements (p.80). A Decree-Law was enacted by the [government in May](#), then approved by the Lower House of the Parliament, and signed by the President of the Republic in July 2020, leading finally to its publication by the Ministry of Finance. However, this Decree-Law is not yet in force and must still be converted into a Law, if there were amendments in the Senate, an institution that started its [review in August 2020](#)<sup>7</sup>.
4. The government committed to conducting a "household income and expenditure surveys to collect better data on the poverty rate and other social indicators" (p.81). While [plans were underway](#)<sup>8</sup> for this purpose, this measure seems to have been the one most impacted by the restrictions adopted to curb the COVID-19 pandemic, and therefore it was not achieved<sup>9</sup>.
5. To improve the fiscal policy framework, the Government agreed to strengthen the management of special funds (accounts) created with hydrocarbon revenues (p.81). As of the drafting of this report, no information could be found on official websites regarding this measure.
6. The Ministry of Finance did not publish a table with all public investment projects administered by GE-Proyectos (the national bureau for planning and monitoring of projects) through 2019, as required by the programme (p.82). The only related information available corresponds to the [2020 public investment programme](#)<sup>10</sup>.

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<sup>5</sup> Consulted on 13 October 2020

<sup>6</sup> Consulted on 12 Oct. 20

<sup>7</sup> Consulted on 14 Oct. 20

<sup>8</sup> Consulted on 13 oct. 20

<sup>9</sup> In September, the National Institute of Statistics responded to a request of information via Facebook indicating that the survey is still ongoing, and it will soon be available.

<sup>10</sup> Consulted on 13 oct. 20

7. By June 2020, the government should have put in place a computerized system for tax information (p. 78), however, as of the date of drafting of this report, no information could be found related to this item. An email request for information to the National Centre for the Computerization of the Public Administration was ignored. No information was found on the [website](#)<sup>11</sup> of this institution or the Ministry of Finance.
8. By June 2020, the government was supposed to have created a website for the Official Gazette including “*all laws, orders and decrees issued since 2000*” (p.77). This was one long awaited measure by legal practitioners, yet its implementation was rather poor. While a [website for the National Gazette](#)<sup>12</sup> was created, the information seemed incomplete. In a random search, laws such as the Law on Naturalisation (nationality), the Law Against Torture or the National Budget Laws were not available.
9. At the date of the review, no auditing of oil and gas companies has been published on the [website](#)<sup>13</sup> of Ministry of Mines, Energy and Hydrocarbon, as required by the agreement (p. 82).
10. The Government was expected to present before the Council of Ministers—by June 2020—a list of assets to be privatized (p.80). A committee for restructuring the State-Owned Enterprises was established in October 2019; yet, at the [last meeting](#)<sup>14</sup> of this committee, held in August 2020 the list was not published.
11. The Government was required to create by June 2020 “*an investment agency to support policies designed to attract foreign investment in sectors other than hydrocarbons*” (p. 81). By the date of the drafting of this report, no information could be found on the establishment of such agency.
12. The government also committed to publishing, by June 2020, all active oil and gas contracts (p.83). The [National Committee](#) involved in preparations for the Extractives Industries Transparency Initiative published some contracts, and recommended consulting the “[Resource contracts](#)” website for more contracts. However, most of the contracts on the site date back to more than 15 years ago except for the contract signed by [Kosmos Energy](#) in 2017. For example, the [contract](#)<sup>15</sup> announced in April 2019 between Marathon Oil and the Republic of Equatorial Guinea was not available.
13. By the end of September, the government had to fully implemented ASYCUDA, a customs management tool, in the city of Bata, in the mainland area of the country. While the implementation [on Bioko](#)<sup>16</sup> island, expected to be completed in the first quarter of 2020, appeared to be accomplished, no information could be found on the implementation of this tool in Bata. In September 2020 a [corruption scandal](#) in the port of Bata featured prominently in the news. Furthermore, the server for the website for this tool seemed to be down during the research period.
14. Also, the government had committed to publishing—by September—an annual report corresponding to 2019, with comprehensive information on the hydrocarbons sector which would include *production, exports, government revenues or new contracts signed* (p.83). By the date of publication of this study, no report could be found on the websites of the Ministry of Finance or the Ministry of Mines, Energy and Hydrocarbons. The only information made available on the website of the Ministry of Finance is an [annual exports table](#)<sup>17</sup> of oil and gas companies per month

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<sup>11</sup> Consulted on 13 oct. 20

<sup>12</sup> Consulted on 13 oct. 20

<sup>13</sup> Consulted on 14 Oct. 20

<sup>14</sup> Consulted on 14 oct. 20

<sup>15</sup> Consulted on 14 oct. 20

<sup>16</sup> Consulted on 14 oct. 20

<sup>17</sup> Consulted on 14 oct. 20

and per company. This was considered a key commitment or structural benchmark for the agreement.

### *Non-verifiable measures*

The following measures were deemed not be verifiable.

1. The Government committed to “create and adopt a spending tracking system”. While the feedback from the Ministry of Finance indicated that the system was in place, the research could not find a public source for verification purposes; and the counterparts failed to provide *records or other documents to prove “full control of all spending and documenting the expenditure”* as provided in the agreement (p.17 and p.79).
2. The Government committed to requesting the adherence of the National Agency for Financial Investigations (ANIF) to the Egmont Group to promote international exchange of information (p.81) to *“facilitate actions against criminals and their assets”*. However, no public information could be found indicating that this request was made. No membership status could be found either on the Egmont Group [membership list](#),<sup>18</sup> and membership requests are not published in that website.
3. The programme required the Government to *“improve tax compliance by strengthening enforcement of existing penalties for noncompliance with the tax rules”* (p. 78), by the end of June. It is worth noting that a [guide for taxpayers](#) was published in October, but no other information on “strengthening the enforcement” as stated by the agreement.
4. By June 2020, the Government had to *“rationalize the institutional structure of the DGIC (Directorate of taxes and collections) and strengthen the management of large taxpayers”* (p. 79). No information was found on this specific item which may not require a publication or statement from any of the parties, hence it is considered non verifiable.
5. The Government indicated that it would replace the bank accounts held abroad to guarantee the payments of loans (p.80) with the Bank of Central African States (BEAC in French). For the first report (Jan-March 2020), the Ministry of Finance indicated that this measure was in progress, but no additional information confirming fulfilment of this measure has been shared yet.
6. Among the measures on the fiscal and anti-corruption framework, the Government had to *“conduct a fiscal safeguards review with technical assistance from the IMF”* by end of September (p.81), however no information could be found or was published regarding this measure.

### *Conclusions*

Based on the information available on the websites of the relevant government ministries and agencies, the researchers could only confirm that the government has fulfilled 20% of the measures. In the best-case scenario, where the unverifiable measures were met, the implementation score could be assessed at 44%, which would still leave 56% of measures unfulfilled.

Ultimately, it is up to the International Monetary Fund (IMF) to decide if the Government of Equatorial Guinea has thus far sufficiently complied with or met the programme implementation requirements to justify the transfer of the next tranche. The IMF would be well-advised to publish its assessment of the government’s compliance, to allow the people of Equatorial Guinea and observers to obtain a full picture of the state of economic reform, governance and the rule of law in Equatorial Guinea.

It is worth noting that during the period covered by this review, the COVID-19 pandemic—an unforeseen circumstance—ravaged through Equatorial Guinea and the rest of the world with

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<sup>18</sup> Consulted on 14 Oct. 20

devastating consequences. A government reshuffle in August, followed by additional and continuous ministerial changes, also caused delays. However, despite these elements, the low level of implementation of key measures is troubling. Despite the global pandemic, the Equatoguinean government should be equipped—and expected be able—to enact an anticorruption law, publish oil companies audits and launch a website with all laws adopted since 2000.

According to a statement by the President, the August 2020 cabinet reshuffle was in response to a failure by the previous cabinet to fight corruption. However, the reappointment of the same individuals in over 95% of the same positions fails to convey how the government plans to address corruption going forward; particularly, because the level of implementation of the IMF benchmarks since then has not noticeably increased. At the time of preparing this report, the government dismissed the Minister of Finance, Mr. César Mba Abogo, the person most identified with this agreement in the country, under whose watch some improvements seem to have taken hold. This move certainly forecasts further delays.

## About APROFORT

The general objective is to provide support, protection and capacity building to civil society activists and organizations working in the promotion of human rights and good governance.

This will be measured by the achievement of three primary results:

- The abolition of the death penalty.
- The effective protection of activists, organisations, and vulnerable minority groups.
- Increased compliance with the millennium development commitments and human rights.

An improvement in human rights and governance in the country will come through the protection of activists, women and LGBTQI+ members, as well as the strengthening of civil society in both areas. A stronger civil society can hold the government accountable and push for reforms.

APROFORT has created a legal clinic to assist activists, the observatory and aims at providing grants to local civil society organisations to achieve these goals.

## About the Human Rights and Good Governance Observatory

In recent years, Equatorial Guinea has been evaluated by the Human Rights Council and the Human Rights Committee. In addition, it has reactivated the request to participate in the Extractive Industries Transparency Initiative (EITI).

The economic form program signed with the International Monetary Fund in December 2019 aims at improving the country's governance and fight against corruption. As a result of this program, the government of Equatorial signed the United Nations Convention against Corruption (UNCAC).
















Finally, Equatorial Guinea has globally committed to achieving the Sustainable Development Goals.











The main objective of the APROFORT Observatory is to help monitor compliance with these international commitments for a positive social impact.








## ANNEX I: STATUS OF MEASURES

Area	Measure	Status
Governance and Anti-corruption framework	Request the IMF to perform a fiscal Transparency Assessment	
	ANIF to apply for Egmont membership	
	Adopt an anti-corruption law in line with international obligations under the UNCAC	
	Strengthen the management of resource-related funds by documenting their operating rules (including investment policies) as part of the general fiscal policy framework	
	Conduct a fiscal safeguards review with IMF technical assistance	
Fiscal and Hydrocarbon Sector Transparency	Publish on the Ministry of Finance website all monthly fiscal data as well as monthly data on the hydrocarbons sector (exports, prices, production and government revenues)	
	Publish a register of all SOEs including Statutes, and names of management on the government website	
	Publish on the Ministry of Finance and GE-Proyectos websites a table with all public investment projects administered by GE-Proyectos through 2019	
	Publish on the website of the Ministry of Mines and Hydrocarbons the audit reports for the state-owned oil and gas companies and the reconciliation of oil and gas related financial flows with the government accounts	
	Publish all active oil and gas contracts	
	Publish annual reports of data and information on the hydrocarbon sector, starting with a report for the year 2019	
Public Finance: Public Financial Management	Adopt mechanisms to track and control expenditure commitments	
Public Finance: Domestic arrears	Clear validated arrears through securitization, with terms agreed with IMF staff.	
Public Finance: Customs Administration	Combine the implementation of ASYCUDA with a secure process for information gathering or declaration combined with a method for direct payments to the treasury	
	Fully implement the ASYCUDA platform in Malabo (end of December 2019), the rest of the island of Bioko (end of March 2020), Bata (end of September	

Public Finance: Tax Policy and Administration	Launch a systematic program for fostering a tax-paying culture in Equatorial Guinea	
	Introduce a computerized system for tax information in the tax administration drawing on the resources of the National Center for the Computerization of the Public Administration	
	Improve tax compliance by strengthening enforcement of existing penalties for noncompliance with the tax rules	
	Fully implement the provisions of Decree 134 of 2015 that specify the elimination of ad hoc tax exemptions	
	Rationalize the institutional structure of the DGIC and strengthen the management of large taxpayers	
Public Finance: Privatization	Approval of Assets to be privatized before the council of ministers	
Social Policies	Improve data on social indicators by conducting periodic surveys of household income and expenditure to collect better data on poverty and other social indicators	
Data Dissemination, Transparency of Information and Rule of Law	Set up a website for the Official Gazette and publish all laws, orders and decrees applicable in EG, starting with those in effect since 2000	
Monetary and Financial Policies	For accounts held abroad to guarantee loan payments, we will work together with BEAC and creditors to replace them (by March 2020) for BEAC accounts with creditors. In return, BEAC will keep in its balance sheet a liability with Equatorial Guinea	
Business Climate/Economic Diversification Policies	Create an investment agency to support policies designed to attract foreign investment in sectors other than hydrocarbons	

Fulfilled 

Unfulfilled 

Non-verifiable 

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