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the Elimination  
of all Forms of  
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION  
OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES UNDER  
ARTICLE 9 OF THE CONVENTION**

**Sixth to seventeenth reports of States parties due in 2005**

**Addendum**

**TOGO\* \*\***

[5 July 2007]

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\* This document contains the sixth to seventeenth periodic reports of Togo, due on 1 October 1983-2005, submitted in one document. For the first to fifth periodic reports and the summary records of the meetings at which the Committee considered the report, see documents CERD/C/75/Add.12 and CERD/C/SR.640 and 641, CERD/C/SR.924, 1165 and 1442.

\*\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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## **Part I**

### **DEVELOPMENT OF TOGO'S POLITICAL AND INSTITUTIONAL SYSTEM**

#### **I. BACKGROUND**

1. Since Togo gained its independence in 1960, the political situation has evolved unevenly; it can be divided into four periods, each corresponding to a new constitution:

- (a) The first period lasted from 27 April 1960 to 13 January 1963;
- (b) The second began in 1963 and ended on 13 January 1967;
- (c) The third lasted from 1979 to 1991;
- (d) Finally, the fourth, from 1992 to the present.

2. The Constitution of 30 December 1979, which entered into force in January 1980, filled the legal void that existed in Togo between 1967 and 1979, during which time the head of State governed by means of ordinances. This Constitution established single-party rule, through the Rassemblement du peuple togolais (RPT), and provided for executive, legislative and judicial branches of government.

3. Among the main features of the 1980 Constitution was the establishment of the single party, which would later come to take precedence over the other State institutions.

#### **A. Executive branch**

4. The 1980 Constitution provided for the election of the head of State by direct universal suffrage for a renewable term of seven years (art. 12).

5. The President of the Republic is responsible for appointing and dismissing ministers (art. 17).

#### **B. Legislative branch**

6. The Constitution provided for the election of deputies nominated by RPT by direct suffrage for a term of five years.

7. However, after the first term of office, which lasted from 1980 to 1985, candidates could stand in parliamentary elections without the backing of the party, and parliamentary candidates were free to stand for election on their own initiative, provided they were members of the single party.

#### **C. Judicial branch**

8. The judicial branch was established in title I.17 of the 1980 Constitution, but it was Order No. 78-35 of 7 September 1978 that provided for the organization of Togo's judicial system. The order organized the Togolese justice system into three levels, namely:

- (a) The courts of first instance;
- (b) The Court of Appeal;
- (c) The Supreme Court.

9. These three levels are the ordinary courts.

10. The Constitution provided for the establishment of specialized courts (labour courts and children's courts) and courts of special jurisdiction (the State Security Court and the special tribunal for the suppression of the misappropriation of public funds).

11. In addition to the courts responsible for defending and protecting human rights, the establishment of the National Human Rights Commission represented a major innovation.

#### **D. National Human Rights Commission**

12. Established on 9 June 1987 by Act No. 87-09, at a time when the political arena was dominated by the single party, the National Human Rights Commission very soon became involved in the defence of political and trade union rights and the right of association. The National Human Rights Commission had legal personality. The objectives of this institution were to redress the wrongs resulting from government abuses, and to induce the Government to repair and rectify identified shortcomings. Apparently, the intention was for the State to accept the need to correct its own mistakes. The objectives of the Commission were, essentially, to:

- (a) Guarantee the protection of citizens' civil and political rights;
- (b) Examine all proposed texts relating to human rights and make recommendations on them to the authorities with a view to their adoption;
- (c) Organize seminars and conferences on human rights;
- (d) Issue opinions in the field of human rights.

13. In terms of remedies, anyone who considered himself or herself to be a victim of a human rights violation, in particular the violation of a civil or political right, or a victim of an action or failure to act on the part of the State, could submit a complaint to the Commission. Complaints could be submitted by a third party or a non-governmental organization (NGO).

14. The Commission operated on a regular basis from 1987 to 1991.

15. In its first year of operation (1987-1988), the Commission received 208 complaints, and 183 in its second year (1988-1989).

16. It should be noted that none of the cases referred to the National Human Rights Commission were related to racial discrimination, xenophobia or even ethnic intolerance. The complaints dealt with such problems as wrongful termination, expropriation of land, refusal to provide compensation for arbitrary detention, and complaints.

## **II. TRANSITION TO DEMOCRACY**

17. The early 1990s were marked by social and political unrest and demands for political change based on the introduction of democracy and a multiparty system.

18. These demands resulted in the holding of a national conference in July and August 1991.

19. The National Conference established the transitional bodies responsible for conducting democratic elections and drafted the Constitution of the Fourth Republic, which was adopted by referendum in October 1992.

20. The National Conference adopted a basic law that set out the powers of the bodies during the transition. This was Act No. 7 of the National Conference, adopted on 23 August 1991. These bodies would, in principle, have to coordinate their activities in order to ensure the success of their various tasks.

### **1. High Council of the Republic**

21. Title III of Act No. 7 provided for the transitional legislative authority, the High Council of the Republic. The Council was composed of 79 members elected by the National Conference. The members came from political parties, associations, and various social and professional strata, etc. (article 17 of the basic law of 23 August 1991).

22. The main functions of the High Council were to exercise legislative authority, oversee the implementation of decisions of the National Conference and protect and promote human rights.

### **2. Executive**

23. The executive is the subject of titles IV and V of Act No. 7 on transition, adopted by the National Conference, and consists of the President of the Republic and the Prime Minister.

24. The President of the Republic lost most of his prerogatives for the duration of the transition.

25. The President of the Republic guarantees the continuity of the State. He is the guarantor of national unity and independence, the supreme commander of the army and represents the State abroad. He submits the draft Constitution to a referendum and is kept informed of the Government's activities.

26. The Prime Minister presides over the Council of Ministers, makes appointments to civilian and military posts, directs the activities of the Government responsible for conducting the country's policy and prepares the constitutional referendum and elections.

### **3. Judiciary**

27. The judiciary is the subject of title VII of Act No. 7. This text proclaims the independence of the judiciary and the separation of powers. The judiciary is the guardian of citizens' fundamental rights and freedoms.

28. During the period of transition to democracy, inter-ethnic strife led to several deaths in Barkoissi, Sotouboua, Bassar, Bodjé and Médjé and to the expulsion of groups in certain areas where they had been living in perfect harmony for decades. In this political violence, houses and public buildings - that is, public and private property - were destroyed.

29. While such behaviour was easily attributed to ethnic intolerance, this was in fact, not often the case, since much of the destruction of property was the result of political intolerance rather than tribal hatred.

30. The settling of scores that took place during the period of social and political unrest in towns, villages and neighbourhoods across the country was sometimes the work of citizens from the same or similar ethnic groups.

### **III. THE FOURTH REPUBLIC**

#### **A. Institutions of the Fourth Republic**

31. Following the chaotic transition to democracy between 1991 and 1992, Togo is currently in the era of the Fourth Republic, which began following the adoption of the Constitution by referendum on 27 September 1992. The Constitution entered into force on 14 October 1992.

32. The Constitution establishes a republican form of Government and provides for the separation of the executive, legislative and judicial branches. It also guarantees the independence of the republican and human rights institutions.

#### **1. Legislative branch**

33. Under the Constitution, legislative authority is exercised by a unicameral national assembly. The deputies of the National Assembly are elected by direct and secret universal suffrage. The National Assembly is the country's legislative body and monitors the activities of the Government. The legislative branch is governed by title III of the Constitution.

#### **2. Executive**

34. This body implements Togo's domestic and foreign policy.

35. The 1992 Constitution of Togo established a semi-parliamentary democracy with a bicephalous executive. The Executive comprises the President of the Republic, elected by direct universal suffrage, and the Prime Minister, appointed by the parliamentary majority. Title IV of the Constitution deals with executive power and title V with relations between the executive and the legislative branches.

#### **3. Judiciary**

36. The judiciary is independent of the legislative and executive branches (Constitution, art. 113). It is governed by title VIII of the Constitution. It is the body that implements laws and regulations. In the performance of their duties, judges are subject only to the authority of the law.



37. A ministry of human rights was established in 1992 in order to broaden the institutional framework for protecting and promoting human rights.

38. The Ministry of Human Rights, currently the Ministry of Justice, is responsible for promoting democracy and the rule of law. Its tasks are to:

- (a) Implement government policy in the area of human rights;
- (b) “Coordinate initiatives in this area within the framework of provisions currently in force” (Decree No. 92-002/PMRT on the responsibilities and organization of the Ministry of Human Rights).

### **B. Democratization**

39. After a period of social and political unrest related to the transition to democracy, Togo embarked on a path of stability and social peace.

40. Formed in May 1994, the first Government of the Fourth Republic was committed to building a democratic Togo, in which all population groups would be reconciled and united in their desire to safeguard national unity, peace and public tranquillity.

41. The work carried out to this effect is an attempt to implement the political programme announced by the Prime Minister of the first Government of the Fourth Republic when he took office in June 1994. The objectives of the programme are to:

- (a) Initiate a policy of national reconciliation;
- (b) Restore national unity;
- (c) Guarantee the security of persons and property;
- (d) Build a State based on the rule of law and respect for human rights;
- (e) Promote justice, which is the guarantor of individual liberties.

42. Since that time, the Government has worked to restore confidence and combat the insecurity created by three years of social and political unrest. The security forces (army, gendarmerie, police, fire brigade and customs service) are under strict instructions to improve security measures. Prosecutors and criminal investigation officers have also been requested to pay scrupulous attention to criminal procedure.

43. In order to promote national unity, the Togolese authorities continue to adopt all measures that are likely to foster a climate of peace, fraternity and harmony. At the initiative of the Government, the National Assembly adopted an amnesty act, pardoning those responsible for the attacks of 25 March 1993 and 5 and 6 January 1994.

44. Considerable efforts are also being made to promote national reconciliation. A number of measures have been taken to implement the policy of national reconciliation and “general forgiveness” advocated by the head of the first Government in his political programme of 24 June 1994.

45. The most important of these measures were the training seminars on democracy and national reconciliation held in Lomé, Kpalimé and Kara in 1995. Three seminars on democracy and tolerance were held in Dapaong, Sokodé and Aného in 1996. The aim of these awareness-raising seminars was to banish the hatred that had divided the Togolese people and to encourage them to cherish dialogue, tolerance and consensus.

46. With a view to ensuring calm throughout the country, the first Government of the Fourth Republic, under the authority of the head of the State, adopted a series of additional measures aimed at restoring social peace and creating a climate of confidence and national reconciliation.

47. A decisive step was taken in that direction with the signing of an agreement between the Government of Togo and the Office of the United Nations High Commissioner for Refugees (UNHCR) on 12 August 1995. The aim of this agreement is to promote, facilitate and organize the voluntary repatriation of Togolese refugees who were obliged to leave the country as a result of the social and political unrest that prevailed during the period of transition to democracy.

48. In order to speed up their return, the Government of Togo undertook to create favourable conditions for the repatriation of those still in exile, in particular by guaranteeing their return in safety and dignity.

49. The Inter-Ministerial Committee for Voluntary Repatriation, composed of representatives of the Ministries of the Interior, Foreign Affairs and Cooperation, Human Rights and Rehabilitation, Justice, Health, Social Affairs and the Promotion of Women, and Education, and of members of UNHCR, was established to consider ways of implementing the agreement, including assistance for, and reintegration of, groups returning to Togo.

50. The process of voluntary repatriation of refugees has ended.

51. In her 1997 report (E/1997/17), the United Nations High Commissioner for Refugees, Ms. Sadako Ogata, expressed satisfaction with the process and results of the voluntary repatriation and reintegration operations carried out in Togo. In particular, she noted that the repatriation of refugees had officially ended on 17 September 1997 and that almost all of the 300,000 Togolese who had fled to Ghana and Benin in 1993 had returned to their country, where the political situation had normalized in the course of 1995.

52. In its resolution 1995/52, adopted on 3 March 1995, the United Nations Commission on Human Rights welcomed the progress made in the field of human rights in Togo. The President of the African Commission on Human and Peoples’ Rights said that he was pleased to see that not only had Togo made a commitment for the future but also that there had been clear signs of a great improvement in the field of the human rights situation since the Government had taken office. He was more explicit at the meeting of the Heads of State of the Organization of African Unity (OAU) in June 1995, when he stated in his eighth annual report:

“The President and Vice-President of the Commission visited Togo in January 1995. During their visit they assessed the human rights situation in Togo, the programmes implemented and the measures already taken by the authorities to restore peace and security, as well as the amount of work still to be done to enable the process of democratization already under way to continue.

“The conclusion reached at the end of this visit is that the Togolese Government should be supported and encouraged by the international community and African organizations, including particularly OAU, on the basis of the undertakings given by the President and Prime Minister of Togo with regard to the restoration of peace and security.”

53. As part of the Government’s unstinting efforts to restore the rule of law in Togo, measures continue to be taken to incorporate into domestic law all the international standards contained in the various international human rights instruments.

54. Thus, according to the preamble to the Constitution of 14 October 1992, “the Togolese people are determined to build a State based on the rule of law, in which fundamental human rights, civil liberties and the dignity of the individual shall be guaranteed and protected”.

55. Togo has ratified or acceded to most international instruments on the protection and promotion of human rights and has formally incorporated them into its Constitution in pursuance of article 50 thereof. Consequently, Togo has an obligation to submit periodic reports.

56. While it is true that Togo has fallen behind in the preparation and presentation of reports, this does not reflect a lack of political will. An inter-ministerial committee, presided over by the Minister of Justice responsible for the promotion of democracy and the rule of law, is currently involved in preparing several reports.

57. In order to reinforce its policy of promoting and protecting human rights, the Togolese Government applied to the United Nations Centre for Human Rights for technical assistance. In response, the Centre sent a human rights needs assessment mission, which visited Togo between 6 and 10 March 1995.

58. The mission found that the atmosphere in Togo was peaceful and that it was therefore possible to set up a programme of technical assistance with the Government of Togo to support it in its efforts and to help to consolidate the democratic process.

59. The programme covers the following areas: education, training, strengthening of national institutions for the promotion and protection of human rights, and creation of a documentation and information centre. The target groups include the police, gendarmerie, the armed forces, youth, judges and judicial aides, members of parliament, officials of the Ministries of Human Rights, Justice and Foreign Affairs, teachers, journalists, and representatives of human rights organizations and the National Human Rights Commission.

60. At its fifty-second session, the United Nations Commission on Human Rights, taking account of the progress achieved in the area of human rights, decided to end the consideration of the situation of human rights in Togo, under its resolution 1996/67 of 23 April 1996.

61. The Commission urged the Togolese Government to continue its efforts to strengthen human rights and consolidate democracy and recommended that it should continue to implement the technical assistance programme that it had undertaken with the Centre for Human Rights within the framework of the agreement signed between the two parties on 22 March 1996. This involved the organization of the following seminars:

- Training seminar in the drafting of initial and periodic reports, held in Lomé from 22 to 26 April 1996 for members of the committee responsible for drafting and submitting initial and periodic reports;
- Training seminar on international human rights standards, held from 24 to 28 June 1996 for officials of the Ministry of Human Rights and Rehabilitation and for staff of the National Human Rights Commission;
- Seminar on the role of the armed forces in the protection and promotion of human rights, held from 7 to 11 October 1996 for the Togolese armed forces;
- Training seminar on human rights in building peace, held from 2 to 6 December 1996 for trade unions, political parties, administration officials and members of Parliament;
- Training seminar on the role of NGOs in strengthening democracy and promoting human rights, held from 12 to 16 May 1997 for representatives of youth and women's associations and NGOs involved in the protection of human rights;
- Training seminar on human rights and the media, held from 16 to 20 June 1997 for members of the public and private press;
- Training course on human rights and law enforcement, held from 17 to 21 November 1997 for the judicial police and gendarmerie;
- Training seminar on the duties and independence of the judiciary, held from 23 to 27 March 1998 for judges and lawyers;
- Training course on international standards and criteria in the field of human rights, held from 31 August to 4 September 1998 for the members of the commission responsible for the harmonization of laws;
- Training course on human rights education, held in Lomé from 26 to 30 October 1998 for primary and secondary school teachers;
- Establishment of a human rights documentation and information centre.

62. To date, all scheduled activities have taken place. The final assessment of the project is contained in the report prepared from 1 to 18 June 1999. The report points out that "the project has achieved results in many areas, the series of training courses have been useful and the training has had a real impact".

63. The technical assistance provided by the Centre for Human Rights has therefore reinforced the work begun by the Togolese Government, resulting in an improvement of the human rights situation in Togo.

64. In order to strengthen respect for human rights, the Prime Minister of the second Government of the Fourth Republic, in his policy speech of September 1996, outlined the action being taken by his Government in the following areas:

- (a) Consolidation of democracy and security for all;
- (b) Building a more united country and reinforcing solidarity;
- (c) Adopting the relevant economic rehabilitation measures for continued and sustainable growth;
- (d) Meeting educational and cultural challenges;
- (e) Pursuit of active diplomacy based on effective cooperation.

The Government also worked hard to ensure the rapid establishment of mechanisms for the protection and defence of human rights.

65. For example, between August 1996 and February 1998 the National Assembly enacted organic acts facilitating the creation of certain institutions as provided under the Constitution of the Fourth Republic:

- (a) Constitutional Court;
- (b) Supreme Council of the Judiciary;
- (c) Supreme Court;
- (d) National Human Rights Commission;
- (e) High Audio-visual and Communications Authority.

### **1. Constitutional Court**

66. The Constitutional Court was established by the Constitutional Court (Organization) Act, No. 97-01, of 8 January 1997. It is the highest judicial authority in the State in constitutional matters. It regulates institutions and public authorities. It rules on the constitutionality of legislation and on electoral disputes.

### **2. Strengthening of judicial bodies**

67. The rights of citizens or individuals in general cannot be adequately protected and defended without an independent justice system and responsible magistrates whose judgements are guided only by the law and their conscience, and who perform their duties in a political, legal and social environment that inspires confidence.

68. Today, the establishment of the Supreme Council of the Judiciary and the act on the status of judges have created an independent judiciary.

69. The Government is aware that the poor functioning of administrative courts has diminished the chance of creating an environment in which human rights are truly respected, and it has adopted measures to speed up training of judges to address that problem.

70. A number of legal provisions have been adopted to ensure the independence of the judiciary, including:

(a) Organic Act on the status of judges (No. 96-11 of 21 August 1996);

(b) Organic Act on the organization and functioning of the Supreme Council of the Judiciary (No. 97-04 of 6 March 1997);

(c) Organic Act on the organization and functioning of the Supreme Court (No. 97-05 of 6 March 1997).

71. The Organic Act on the status of judges requires the latter to hand down decisions in accordance with the law and their conscience. Judges may not receive instructions from a superior in the course of their duties and may not be prosecuted, investigated, arrested, detained or tried for any opinions or interpretations they may express in their decisions or orders.

### **3. Supreme Council of the Judiciary**

72. The Supreme Council of the Judiciary is the disciplinary body for judges. In this regard, it assists the President of the Republic in his task of guaranteeing the independence of the judiciary (article 115 of the Constitution).

73. The Supreme Council of the Judiciary is responsible for handing down opinions on:

(a) The recruitment of all judges;

(b) The appointment of public prosecutors;

(c) Requests for clemency and draft amnesty laws;

(d) Petitions of clemency.

74. The Supreme Council of the Judiciary is also responsible for recommending the appointment of judges, by decree, in the Council of Ministers. Every year, the Supreme Council reviews and decides on the promotion register for judges and tries to find solutions to claims lodged by judges.

### **4. National Human Rights Commission**

75. In accordance with the spirit of the Constitution of 14 October 1992 and with articles 156 ff., the Government adopted new legislation (Organic Act No. 96-12) on the

composition and functioning of the National Human Rights Commission. The Act defines the Commission as an independent institution, subject only to the Constitution and the law. It has legal personality and the following functions:

- (a) To ensure the protection and defence of human rights in the Togolese Republic;
- (b) To promote human rights by all means possible, in particular by:
  - (i) Reviewing and recommending to the Government all draft legislation relating to human rights, with a view to its adoption;
  - (ii) Handing down opinions on human rights issues;
  - (iii) Organizing human rights seminars and symposia;
- (c) To investigate cases of human rights violations.

76. Members of the Commission benefit from immunity during the exercise of their duties and one year after the termination of their duties.

77. The Commission was created to protect citizens against arbitrary action and abuses on the part of the Government. In accordance with the texts governing its actions, the Commission is empowered to receive complaints of human rights violations, examine such complaints and seek amicable settlements.

78. In this regard, in its first year of operation, the Commission registered 208 complaints; it registered 183 complaints in 1989; 107 in 1998; and 60 in 1999.

79. The Commission endeavoured to find solutions to these cases, as indicated in various reports on its activities. The results obtained demonstrate the Commission's determination.

80. Of the 208 complaints registered in the first year, 38 were declared inadmissible, 78 resulted in compensation or the release of persons who had been wrongfully detained, and 30 were referred to the competent courts.

81. For the period 1997-1998, of the 107 complaints received, 47 were declared inadmissible, 39 had a successful conclusion, 15 are still being examined and 6 were declared unfounded.

82. Of the 61 complaints registered in 1999, 10 were declared unfounded, 11 were referred to the courts, 9 remained pending and 31 concluded in a solution favourable to the victims.<sup>1</sup>

83. In carrying out its protection mission, the Commission visited prisons and detention centres. On three occasions, in 1991, 1996 and in 1999, the Commission visited detention centres of the gendarmerie, the police and all the civilian prisons in the country.

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<sup>1</sup> Source: *Mieux connaitre la CNDH du Togo*, March 2001, pp. 38 ff.

84. Through these unannounced visits, the Commission was able to check on the living conditions of detainees, to talk to them and hear their grievances, and raise the awareness of judges, prison governors and wardens of the need to respect standards relating to the administration of justice and human rights.

85. In carrying out its duty to promote human rights, the Commission held many workshops, training seminars and radio and television broadcasts and awareness-raising and information campaigns throughout the country, targeting specific groups or the general population. Such activities included:

(a) National information and awareness-raising seminar on respect for civil liberties, held on 22 and 23 February 1988, for all social categories and occupational groups in the country;

(b) Seminar on freedom of expression and of the press in respect for human rights, held in Lomé on 20 and 21 October 1989 for delegates from different social strata representing law enforcement personnel, judges, lawyers, teachers, traditional chiefs, prefects and representatives of religious groups;

(c) A round table on citizens' rights with respect to the courts, held in Lomé on 1 August 1989 for civil servants and law practitioners;

(d) A forum on freedom of religion, held in Lomé, on 12 October 1989 for all social categories and occupational groups;

(e) A round table on human rights and tradition, held in Lomé, on 15 June 1989 for traditional chiefs and certain social categories and occupational groups;

(f) A workshop on how to teach human rights, held in Lomé from 26 to 31 March 1990 for teachers, members of the Commission and certain members of the International Centre on Human Rights and Peace Teaching;

(g) Meeting of African national human rights commissions on the subject "Instruments and Mechanisms for the Protection of Human Rights in Africa: Realities and Prospects", held in Lomé from 29 to 31 May 1995;

(h) Advocacy for freedom of association in Togo.

86. Lastly, information and awareness-raising campaigns were conducted throughout the country in 1988, 1991 and 1998, on the following subjects:

(a) Human rights and the role of the National Human Rights Commission (May and June 1988);

(b) Human rights and democracy (1991);

(c) Respect for human rights as a factor for achieving social peace (1998).



87. Other advocacy activities have included lectures and debates at the University of Lomé, training schools, lycees and colleges, and radio and television broadcasts.

88. Moreover, the Commission is endeavouring to improve its strategies with a view to achieving greater human rights protection.

### **5. High Audio-visual and Communications Authority**

89. The High Audio-visual and Communications Authority is an independent institution that guarantees and safeguards the freedom and protection of the press and other mass media.

90. It is the body that ensures equal access by political parties and associations to the official communications media (radio, television and the press) and draws up rules governing the production, scheduling and broadcasting of programmes on election campaigns in the public media (articles 2 and 7 of the Act on the organization and functioning of the High Audio-Visual and Communication Authority).

91. All members of the aforementioned institutions have now been elected and have started their work.

92. In order to ensure respect for freedom of expression and the press, legislation on the press and audio-visual communication (Press and Broadcasting Code Act, No. 98-004/PR, of 11 February 1998 and the Organic Act on the composition, organization and functioning of the High Audio-visual and Communications Authority, No. 96-10, of 21 August 1996) have been enacted; these Acts safeguard freedom of expression.

93. The Press and Broadcasting Code of February 1998 is both regulatory and punitive, insofar as it defines and penalizes infringements of freedom of the press; it also regulates the communications profession.

### **IV. THE LOMÉ FRAMEWORK AGREEMENT**

94. Following the presidential elections of 21 June 1998, the Head of State made a firm commitment to the consolidation of democracy and the rule of law by creating the Ministry for the Promotion of Democracy and the Rule of Law.

95. In order to implement this policy, he took two major decisions on the occasion of the fiftieth anniversary of the Universal Declaration of Human Rights.

96. First, the President decided to spread human rights education throughout Togo's secondary schools. Suiting the action to the word, he visited the Tokoin lycee in Lomé and personally presided over the ceremony that officially launched democracy and human rights education in Togo's schools. He invited Togolese youth to make democracy and human rights education one of the pillars of the economic development and fulfilment of the entire Togolese people.

97. During the ceremony, the head of State personally distributed 12,000 copies of a human rights and democracy manual.

98. Secondly, the President proclaimed 1999 the “Year of Human Rights and Dialogue” in Togo. The outcome of the implementation of this second decision was the Lomé Framework Agreement. As a result of preliminary meetings between the President’s supporters and all opposition parties, held in Paris and Lomé in May and June 1999, an inter-Togolese dialogue was initiated in Lomé on 19 July 1999. The chief aim of the participants in the inter-Togolese dialogue was to establish a climate of mutual trust conducive to national reconciliation. All parties affirmed their commitment to democracy, the rule of law, respect for human rights and development and security for all. The discussions were held on the following topics:

- (a) Respect for the Constitution and for the rules regarding changes of government;
- (b) Status of former heads of State and political leaders;
- (c) Status of the opposition and code of conduct;
- (d) Financing of political parties;
- (e) Media;
- (f) Democratic organization and transparency of elections;
- (g) Safety and return of refugees;
- (h) Restoring Togo’s international image;
- (i) Joint Follow-up Committee.

99. The Joint Follow-up Committee, which is made up of 12 representatives of the President’s supporters and 12 representatives of the opposition, assisted by facilitators, worked on the implementation of the Lomé Framework Agreement.

100. The Committee drafted a new electoral code (Electoral Code Act, No. 2000-007, of 5 April 2000), which provides for the establishment of an independent national electoral commission with responsibility for organizing and monitoring elections and referendums in cooperation with the Ministry of the Interior and Security and all other State services.

101. The members of the Independent National Electoral Commission (CENI) and its subsidiary bodies are appointed in equal numbers by the majority and the opposition and have very wide powers. Under article 9 of the Electoral Code, CENI has sole responsibility for:

- (a) Organizing and monitoring referendums and presidential, parliamentary and local elections;
- (b) Preparing regulations, acts and procedures to ensure the fairness, security and transparency of ballots, and to guarantee electors and candidates alike the free exercise of their rights;
- (c) Revising electoral rolls;

- (d) Appointing members of its subsidiary bodies; training election officials; training voters during election periods;
- (e) Managing the general register of electoral rolls;
- (f) Ordering, printing and personalizing voter cards;
- (g) Ordering ballot papers and all election equipment;
- (h) Supervising the distribution of election equipment to polling stations;
- (i) Registering the list of international observers to be invited by the Government (accreditation by the Government in cooperation with CENI);
- (j) Drawing up lists of international observers to be invited by the Government (accreditation by the Government in cooperation with CENI);
- (k) Appointing national observers in accordance with established criteria;
- (l) Providing observers with identification and coordinating their work;
- (m) Collecting and announcing the results of the ballots;
- (n) Amicable settlement of electoral disputes.

102. CENI also has sole responsibility for supervising:

- (a) Training of security officials by the Ministry of the Interior;
- (b) Training of public and private media officials by the High Audio-visual and Communications Authority (Electoral Code, art. 12).

103. After their appointment to CENI, members took an oath before the Constitutional Court, elected their officers and, in accordance with their mandate, began organizing the next parliamentary elections, the first and second rounds of which were scheduled for 14 and 28 October 2001.

104. The seventh Government of the Fourth Republic, established in October 2000, undertook to:

- (a) Lay the foundations for sustainable economic and financial recovery;
- (b) Strengthen the rule of law and consolidate democracy;
- (c) Promote a dynamic and open foreign policy that focuses on regional integration and the African Union.

105. In spite of the disruption of international cooperation with Togo, and the difficult economic situation, the Government is endeavouring to achieve these goals in order to restore hope in the Togolese population.

106. Togo remains convinced that its social and economic development must be based on respect for human rights. Current trends in the country reveal an improvement in the human rights situation. However, prospects for the effective enjoyment of economic, social and cultural rights seem rather limited given the devaluation of the CFA franc (CFAF), which has resulted in a substantial rise in the price of consumer goods. This places another strain on people's already meagre purchasing power and may impair their right to a decent and dignified life.

107. The Government faces a great many challenges in this area and will succeed only with a combination of bilateral and multilateral cooperation.

108. The Togolese Government is more than duty-bound to create the necessary and sufficient conditions for effective respect for human rights and the implementation of the International Covenant on Civil and Political Rights.

109. However, substantial efforts are still needed. The Togolese Government is fully aware that the establishment of a State fully based on the rule of law is a considerable challenge that must be met at all costs, but must be met progressively.

## **Part II**

### **INFORMATION CONCERNING ARTICLES 2 TO 7 OF THE CONVENTION**

#### **Article 2**

110. Togo's commitment to the implementation of the Convention is demonstrated by the incorporation of the Convention into its national legislation. Indeed, article 50 of the Constitution establishes that "the rights and duties proclaimed in the Universal Declaration of Human Rights and in the international human rights instruments ratified by Togo shall be an integral part of this Constitution".

111. Togo's Constitution also explicitly condemns any act or practice that favours or hinders the enjoyment of human rights on the basis of ethnic, racial, family or regional origin. Article 11 of the Constitution states that "every human being shall enjoy equal dignity and equal rights. [...] No one shall be protected or prejudiced because of family, ethnic or regional origin, economic or social status, or political, religious, philosophic or other convictions".

112. According to articles 2 and 10 of the Constitution, the State must ensure equality before the law for all citizens without distinction as to origin, race, sex, social status or religion. Thus, all citizens without distinction have an equal right to the enjoyment of the rights recognized in national and international human rights instruments.

113. Both articles take up the principle of equality in different contexts.

#### **A. Education**

114. According to article 35 of the Constitution, the State "shall recognize the right of all children to education and shall create conditions favourable to this end. Education is mandatory for children of both sexes until the age of 15. [...]".

115. Ordinance No. 16 of 6 May 1975 on education reform sets the goal of making education compulsory for all children aged 2 to 15 without distinction as to sex, region or religion. According to the ordinance, all children have the right to receive an education under the same conditions.

116. The State thus ensures that all citizens have the same access to knowledge. Public, private, secular and denominational schools are open to all children, who are subject to the same registration process.

117. However, in order to promote the education of girls, the State has taken measures to reduce their tuition and facilitate conditions for obtaining grants at the school and university levels.

118. Every school at every level offers the same curricula and disciplines for all pupils in the same class and students in the same department. Pupils and students at the same level take the same examinations, without any preferential or discriminatory treatment motivated by ethnicity, religion, nationality or gender.

119. However, since women do not have the same physical aptitudes as men, their performance is evaluated on a different scale in sports competitions. This measure cannot be considered discriminatory, in accordance with article 1, paragraph 4, of the Convention, since it falls under the category of a special measure taken for a vulnerable group.

120. While there are public, private and denominational schools in Togo, none has been established specifically for a given racial or ethnic group.

121. In order to promote harmonious race relations, schools are open to students of all nationalities and include foreign teachers on their staff. For example, the table below gives a breakdown of the student body and teaching staff at the University of Lomé for the period from 1980 to 1990.

**Table 1**  
**Schools and student and teacher composition from 1980 to 1990**

Year	Number of schools	Students		Teachers	
		Togolese	Foreign	Togolese	Foreign
1980/81	13	3 231	1 114	202	70
1981/82	13	3 403	728	215	70
1982/83	14	3 178	655	301	71
1983/84	14	3 055	679	250	58
1984/85	13	3 554	679	250	58
1985/86	13	4 228	827	211	58
1986/87	15	5 382	653	210	58
1987/88	15	6 412	560	233	66
1988/89	12	7 036	554	211	65
1989/90	12	7 058	674	266	58

*Source:* Statistical directory for the University of Lomé, 1991.

122. At the University of Lomé, Togolese and foreign students are subject to the same registration process and benefit from the same social services, whether in terms of housing, university transport, catering services or medical care.

123. It should be noted that foreigners pay higher enrolment fees. On the other hand, they are given priority on student housing, when they so request. In reality, tuition is the same for both Togolese and foreign students, but the tuition of Togolese students is subsidized by the State.

## **B. Politics**

124. All citizens participate in the management of civic affairs under the same conditions.

125. In order to prevent discrimination on grounds of ethnic, regional or tribal origin or religious beliefs, article 7, paragraph 2, of the Constitution, and the Political Parties Charter (Act No. 91-4 of 12 April 1991) prohibit political parties from identifying themselves with a region, ethnic group, religion or corporation.

126. A political party is legally constituted only when its founding members are drawn from at least two thirds of the country's prefectures (Political Parties Charter, art. 11).

127. In order to safeguard national cohesion and social peace, article 3, paragraph 3, of the Political Parties Charter prohibits political parties from including in their action programmes or statements any expression of tribalism, ethnocentrism, regionalism, racism, xenophobia or religious intolerance.

128. Political parties must help to protect the republican form and secular nature of the State, and protect the fundamental freedoms and rights of persons and citizens (Political Parties Charter, art. 5, para. 2).

129. Political leaders whose public or written statements contain incitements to tribalism, regionalism, xenophobia or religious intolerance must contend with the rigours of the law (Political Parties Charter, art. 26). The same is true for anyone who, in writing or by other means of communication, spreads tribalist ideas or incitements to racial hatred (Press and Broadcasting Code, arts. 86 and 87).

130. The Constitution of Togo recognizes and guarantees freedom of thought, conscience, religion, worship, opinion and expression to all persons or groups of persons.

131. Moreover, every Togolese citizen has the right to vote and stand for election under the same conditions. These conditions relate to age, physical or mental ability and financial guarantees; they do not relate to ethnicity, religion or social status.

132. The same applies to recruitment to public service (Constitution, art. 37). Nevertheless, according to a recent study conducted by the International Labour Organization (ILO)<sup>2</sup>, there is a significant presence of two ethnic groups in certain branches of military, public and private administration.

133. In this study, the Adja-Ewé-Mina ethnic group accounted for 72.76 per cent of a sample of 1,645 public servants, as compared with 24.43 per cent for the Kabyè-Tem-Losso. Other ethnic groups accounted for only 2.81 per cent. This shows that some ethnic groups are very poorly represented in public service.

134. The same study indicated that the Adja-Ewé-Mina make up 80 per cent of private sectors, such as banking, insurance, judicial professions (lawyers, notaries, bailiffs) and United Nations agencies and organizations (World Bank, United Nations Development Programme (UNDP), United Nations Children's Fund (UNICEF), United Nations Population Fund (UNFPA), Food and Agriculture Organization of the United Nations (FAO), World Health Organization (WHO), etc.).

135. The Adja-Ewé-Mina group's strong showing is partly attributable to the fact that it is numerically the largest group,<sup>3</sup> but also because it was the first ethnic group to come in contact with the missionaries who founded Togo's first schools. While in the south the first schools were opened in 1886, in the centre the first school was not opened until 1897 (in Sokodé).

136. The study also found that the Kabyè-Tem-Losso are by far the largest group in the Togolese national army (about 75 per cent) and provide the majority of senior officers and NCOs.

137. This pattern suggests that the army has preferences based on ethnic or regional origin. It should be noted that some ethnic groups in Togo have little interest in the army, the military being a special kind of profession requiring physical strength, endurance, duty, discipline and the rules and regulations that apply to any army.

138. The army and gendarmerie recruit in every prefectural capital according to a quota system reflecting the population in the prefecture, and based on free and voluntary enlistment. However, in some prefectures, the number of recruits falls short of the quota, owing to a lack of applicants.

### **C. Economic, social and cultural rights**

139. All citizens are entitled to exercise these rights on an equal footing.

140. Hospitals, health centres and family planning services are open to all citizens and foreign nationals. The costs of consultations, medical tests and hospitalization are the same for all

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<sup>2</sup> Study on the implementation of the fundamental principles and rights at work, financed by ILO - Togo, March 2001.

<sup>3</sup> The Adja-Ewé-Mina make up 52 per cent of the total population, the Kabyè-Tem-Losso 41 per cent and other groups 7 per cent.

patients, regardless of ethnic or racial origin, subject to the rates applied in each medical speciality. Thus, fees often vary from speciality to speciality and from hospital to hospital.

141. All citizens have the right to bring legal proceedings under the same rules of qualification and procedure. Article 702, paragraph 1, of the Individuals and Family Code of 31 January 1980 clearly states that “foreigners shall enjoy the same rights under national law except in cases where laws conflict as described in articles 704 to 727 of the Code”.

142. Race, ethnicity and political or religious affiliation may not be grounds for aggravation or mitigation of a sentence. Offences and penalties are defined and determined by the Criminal Code (Ordinance No. 80-01 of 13 August 1980). Judicial procedure is regulated by Act No. 83-01 of 2 March 1983 on the Code of Criminal Procedure.

143. All citizens have the right to presumption of innocence, to be tried within a reasonable time, to be assisted by counsel and to be treated in a dignified manner.

144. In addition, every citizen has the right to conduct any business anywhere in the country. Foreigners living in Togo enjoy the same freedom. Thus, some sectors of domestic trade are dominated by foreigners. The second-hand clothing trade, for example, is mainly in the hands of the Ibo from Nigeria. Street vending is done mainly by the nationals of Niger and Mali. Similarly, the crafts sector is dominated by Senegalese and Malians and the household appliance trade by Lebanese, Syrians and Indians.

145. Running a business or plying a trade also entails freedom of residence and of movement, which are established in articles 22 and 23 of the Constitution:

“All Togolese citizens have the right to freedom of movement and the freedom to settle in the national territory anywhere they wish, subject to the conditions stipulated by law or local custom.

“No Togolese may be deprived of the right to enter or leave Togo.

“Any foreigner who is legally in Togolese territory and abides by the law is free to move around the country, to choose where to settle and to leave at will (art. 22).

“Foreigners may be deported or extradited from Togolese territory only following a decision taken in accordance with the law. They must be given an opportunity to mount a defence before the competent court” (art. 23).

146. Togo’s ethnic groups and foreign communities are identified by their cultures. All national and foreign communities are permitted to maintain the traditional festivals and dance groups through which they express their cultural identity.

147. Togo recognizes freedom of worship, as the expression of religious belief, in accordance with the principle of the secular State (Constitution, art. 25). Togo has animists, Muslims, Christians and other religious and philosophical communities. The proliferation of Christian churches, which represent dozens of denominations in the city of Lomé alone, testify to the freedom of religion. Everyone is free to practise the religion of their choice, whatever ethnic community they belong to.



#### **D. The international context**

148. Racial discrimination originated with African decolonization, and the random division of territories is still a source of racial, ethnic and religious tensions.

149. A few years after Togolese independence, at the time of single-party rule, the Government advocated a political culture based on the prevention of racial discrimination by fostering peace, unity, solidarity and tolerance between all men and women throughout the country.

150. No differentiation is practised by the State in Togo and no special measures are applied to protect particular groups of people, races or ethnic groups.

151. Togo actively supports regional and subregional arrangements, which is why there are such large colonies of foreigners living in Togo.

152. The provisions of the Convention may be invoked in the national courts as a source of law under article 50 of the Constitution.

#### **Article 3**

153. The movement against racial discrimination has galvanized the Togolese authorities, which have taken concrete action to promote respect for human dignity and racial tolerance.

154. Togo took a firm stand by vigorously condemning propaganda, incitement to racial discrimination and the killings of blacks in South Africa. It complied with the resolutions on arms sales and military and nuclear embargoes, and joined in the pressure exerted on the apartheid regime.

155. The same commitment was demonstrated on other occasions when, on his own initiative, the President offered his good offices to put a stop to fratricidal and inter-ethnic wars in a number of African countries, such as Chad, Liberia, Sierra Leone, Guinea-Bissau and the former Zaire.

156. Togo is firmly committed to peace, which is the guarantee of security and development, and will not tolerate incitement to racial or ethnic discrimination or any act of violence against any racial or ethnic group.

157. The Government has also demonstrated its commitment to combating racism by a number of other actions including:

- Ratification of the International Convention on the Elimination of All Forms of Racial Discrimination;
- Ratification of the International Convention on the Suppression and Punishment of the Crime of Apartheid;
- Ratification of the International Convention against Apartheid in Sports;

- Ratification of ILO Convention No. 87 concerning Freedom of Association and the Right to Organize;
- Ratification of ILO Convention No. 98 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively;
- Ratification of ILO Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value;
- Ratification of ILO Convention No. 143 concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers;
- Observance of the resolutions and embargoes against the apartheid regime of South Africa;
- Support for anti-apartheid liberation movements.

#### **Article 4**

158. Under article 48, paragraph 4, of the Togolese Constitution, “any act or expression of racism, regionalism or xenophobia shall be punishable by law”. The Constitution thus establishes the principle that racial discrimination shall be punished. Having established the principle, the Constitution then leaves it to the legislation and regulations to establish the exact penalty.

159. Article 59, paragraph 2, of the Criminal Code of 13 August 1980 deals with insults that include a pejorative reference to the victim’s ethnicity, religion or nationality. In such cases the penalties are as follows:

(a) Double the fine incurred by a person deliberately making a gross insult in public or in writing (between CFAF 2,000 and CFAF 30,000, which, when doubled, comes to between CFAF 4,000 and CFAF 60,000);

(b) Ten to thirty days’ penal labour, i.e., community work under the supervision of the prison authorities.

160. Article 59, paragraph 2, of the Criminal Code of 13 August 1980 should be read in conjunction with articles 34 and 36 of the Code which, with respect to minor penalties, state that (a) penal labour may not exceed two months and (b) fines may not exceed CFAF 30,000.

161. Since the fine provided for in article 59, paragraph 2, is double the maximum, the offence may be deemed a crime rather than a petty offence. Moreover, if the fine is not paid on time, penal labour may be substituted at the rate of one day’s work for every CFAF 500 of the fine. It is therefore not clear whether this is a crime or a petty offence.

162. The Criminal Code of 13 August 1980 also deals with breaches of the peace. Expressions of racism, regionalism or xenophobia can seriously disrupt social order, peace and national unity.

163. Article 182, paragraph 2, of the Criminal Code provides that the organizers of unauthorized demonstrations on the public highway are liable to between one and six months' imprisonment and/or a fine of between CFAF 20,000 and CFAF 100,000, even if they do not themselves take part. These are criminal, not minor, penalties.

164. In addition, article 183 of the Criminal Code of 13 August 1980 deals with situations where an unauthorized demonstration on the public highway results in damage to public facilities, local residents' property or parked vehicles. In such cases, the demonstrators are liable to between one and six months' imprisonment. Again, this is a criminal, not a minor, penalty.

165. Articles 233 and 234 of the Criminal Code deal with attacks against internal State security. Article 233 provides for 5 to 10 years' imprisonment for anyone who, as part of an insurgency:

(a) Helps to erect barricades or other constructions to interfere with the action of law enforcement officials (para. 1);

(b) Invades, wrecks and loots public buildings (para. 2);

(c) Engages in looting that causes harm to others (para. 4).

166. Article 234 imposes the death penalty on the leaders and organizers of any insurgency that results in the death of a law enforcement officer or anyone not involved in the insurgency (art. 234, para. (a)). The punishment is life imprisonment if the insurgency results in injuries to a law enforcement officer or anyone not involved in the insurgency that incapacitate them for work for more than six weeks (art. 234, para. (b)).

167. In addition to the Criminal Code of 13 August 1980, there is also the Press and Broadcasting Code, which contains a number of provisions concerning racial or ethnic hatred expressed either by means of the written word, whether printed, for sale or distribution, sold or exhibited in public places or meetings; or in writing on placards or posters, drawings, prints, paintings or emblems on public display; or in any other form of written or audio-visual communication (Press and Broadcasting Code of 11 February 1998, arts. 86 and 87). In such cases the penalties are as follows:

(a) Three months' to one year's imprisonment;

(b) A fine of between CFAF 100,000 and CFAF 1 million (Press and Broadcasting Code of 11 February 1998, art. 87).

168. Under article 7, paragraph 2, of the Constitution of 14 October 1992, political parties and party coalitions may not identify with a region, an ethnic group or a religion.

169. The prohibition on discrimination on grounds of regional, ethnic or religious preference has been included in the Political Parties Charter of 18 April 1991. Thus, under article 31, paragraph 3, of the Charter, political parties are obliged to prohibit all forms of tribalism, ethnocentrism, regionalism, racism, xenophobia and religious intolerance in their programmes of action and statements.

170. The Political Parties Charter also provides that a party is legally constituted only when its founding members are drawn from at least two thirds of the country's prefectures (art. 11).

171. Article 26 of the Charter provides that political leaders who incite to tribalism, regionalism, xenophobia or religious intolerance in public or written statements will face the full vigour of the law. Such acts or expressions may be considered breaches of the peace under article 182, paragraph 2, and article 183 of the Criminal Code of 13 August 1980. The provisions of articles 46 and 79 of the Code, concerning deliberate acts of violence, and of article 50, which deals with threats, may also apply.

172. The Press Code of 11 February 1998 also contains provisions prohibiting incitement to racial or ethnic hatred by directors of State or private publishing houses and State or private radio or television stations, on pain of a fine and imprisonment.

173. As can be seen from the foregoing, the Criminal Code of 13 August 1980, the Press Code of 11 February 1998 and the Political Parties Charter of April 1991 all contain criminal penalties with the primary aim of discouraging discrimination based on regional, ethnic or religious preference.

174. In addition, while Togo has never noted any special demands from specific social groups identifying themselves as minorities, there are nevertheless two dominant ethnic groups, namely:

- The Adja-Ewé-Mina, who account for 52 per cent of Togo's total population and who are in the majority in the civil service; and
- The Kabyè-Tem-Losso, who account for 41 per cent of the total population and for 75 per cent of army personnel.

175. The aim is to enable all ethnic groups in Togo to enjoy the benefits of development. In this regard, the effective implementation of the Act of 11 February 1998, on decentralization, will make it possible to achieve the regional balance everyone desires.

176. Racial discrimination occurs very rarely in Togo. There are no movements or organizations inspired by racist ideas, with theories based on the superiority of a particular race, people or ethnic group. It should, however, be noted that, at the start of the democratic process in 1990, Togo very nearly found itself in a situation of ethnic intolerance, in part because some privately owned newspapers published tendentious articles inciting to ethnic hatred and tribalism.

177. With the backing of a number of politicians who wished to foment insecurity and disorder, certain ethnic groups launched attacks on other groups, which resulted in massacres, manhunts and population displacements.

178. In order to put a stop to this new problem, the Government emphasized that national unity and peace were policy priorities. In 1993, in an attempt to repair the fabric of society, the Government introduced reconciliation days, advocated a policy of "general forgiveness" and launched an extensive education and awareness programme, with seminars organized by the

Ministry of Human Rights and Rehabilitation in all five regions, on the subjects of democracy and national reconciliation and democracy and tolerance. These meetings brought together teachers, trade unions, traditional chiefs, law enforcement officers, judges, journalists, civil society and leaders of political parties.

179. With the support of civil society, in particular the Association togolaise pour la non-violence (Togolese Association for Non-Violence), which organized a national seminar in Lomé on the subject of freedom and non-violence in a democracy, the Government was quickly able to restore social order, ethnic tolerance and national unity.

180. Seminars on the following subjects were organized for media professionals: human rights and the media; the press, ethics and the law; the language of the media in times of conflict; and good governance and countering corruption.

181. In practice, however, during the period of social and political unrest in the 1990s, no criminal sanctions were imposed on political leaders for incitement to tribal or ethnic hatred.

## **Article 5**

### **A. Right to equal treatment before the tribunals and all other organs administering justice**

182. Protection for all Togolese men and women and the right to equal treatment before the law is recognized by the Constitution, which solemnly reaffirms, as stated in the Universal Declaration of Human Rights, that “all human beings are equal in dignity and in rights” (art. 11).

183. The right to equal treatment before the courts and other administrative bodies is recognized in Togo in many texts, including the Code of Criminal Procedure, which formally establishes this right in article 2: “A civil action to seek compensation for harm caused by a crime, a serious offence or a minor offence may be brought by anyone who has suffered personally from the harm directly caused by the offence.”

184. Access to the courts is open to all subjects at law who feel that their rights have been violated; anyone can have his or her case heard at all judicial levels in accordance with article 19 of the Constitution. Everyone has the right to have his or her case heard and settled fairly, in a reasonable time and by an independent and impartial court.

185. There are problems with the Togolese judiciary, which are attributable to the lack of material and human resources and of training for administrative judges. Because of these factors, judges are unable to perform their duties properly.

186. Legal fees are the same for foreigners and nationals. There are no regulations establishing a scale of fees for lawyers and judicial officials, which sometimes leads to discriminatory billing.

187. Thus, litigants prefer to use non-judicial mechanisms, such as the National Human Rights Commission, or to turn to the forces of law and order to get speedy results.

188. The right to equal treatment before the courts derives from the principle of the equality of men and women before the law (Constitution, art. 2).

## **B. Right to security of person**

189. The sanctity and inviolability of the human person is guaranteed under article 21 of the Constitution.

190. The right to security of person is protected by the Criminal Code, which, in its articles 44 to 53, punishes arbitrary and unlawful violations of security of the person. Legal violations of security of the person are also covered by this Code. In the case of pretrial detention (arts. 112-124), custody is currently set at 48 hours. This period may be extended only by written order of the public prosecutor.

191. To counter any violations, the Constitution provides for preventive measures to protect victims and enforcement measures against any State official who commits acts of violence against another person (arts. 15 and 21).

192. The National Human Rights Commission is competent to promote the rights of individuals and protect them from administrative abuse (arrest and detention, ill-treatment, inhuman or degrading treatment). Much work has been done and continues to be done in this regard to change the behaviour of all Togolese people.

193. Everyone is entitled to have their security and liberty guaranteed. This encompasses the prohibition of arbitrary arrest (Constitution, art. 15).

194. The arrest, indictment and sentencing of defendants are regulated by the Code of Criminal Procedure. Similarly, articles 15 to 20 of the 1992 Constitution establish rules for arresting persons accused of breaking the law. Article 19 provides for compensation for harm resulting from a miscarriage or malfunctioning of justice.

195. The rules for questioning and arresting an individual are strictly laid down by the law. An individual may be arrested and charged only on good grounds, namely a breach of criminal law.

196. Under Togolese law, indictment is regulated by article 92 of Act No. 83-1 of 3 March 1983 establishing the Code of Criminal Procedure.

197. It is strictly forbidden to arrest anyone for a civil or commercial debt.

198. Police officers are not entitled to make an arrest without a warrant except in cases of flagrante delicto. While these provisions are sometimes violated in practice, the courts would take action in such cases.

199. The sharp rise in violent crime (murder, assault and battery, killings, armed robbery with homicide) has been attributed to the difficulties the country faced during the social and political unrest of the 1990s.

200. Violent crime, which is a serious offence against life, liberty and security of person, is still prevalent today.

201. Indeed, some complaints to the police describe persons being injured or killed in their homes, or armed carjackings being carried out by well-organized criminal gangs.

202. In order to ensure personal safety, the authorities have had to take preventive and punitive measures. To prevent crime, the authorities have established district police stations and one special community policing unit.

203. As a first step, district police stations were established by an order of 6 February 1995, replacing the arrondissement police stations. Their mission is to patrol day and night. Thanks to international cooperation, they have now acquired proper equipment, albeit still on a limited scale.

204. The idea behind the special community policing unit is that the police should be closer to the people they are supposed to protect. A special unit has therefore been created to patrol selected public areas. Joint patrols involving all the security forces are organized on a daily basis, particularly in what are thought to be neighbourhoods at risk, which are often targeted by criminal gangs.

205. As to punitive measures, action is taken as soon as an offence is committed, no matter how serious it may be. To this end, over and above their investigatory powers, which all police units have, except those with law and order responsibilities, the police now have two special units for general crime investigation and control.

206. There is now a gang squad whose task is to investigate cases of flagrante delicto. What is more, the squad operates citywide in response to victims' requests, including calls to the police emergency services.

207. The work of the gang squad is complemented by that of the investigation and intervention squad, which is based with the judicial police and comprises officers trained mainly in crime-scene investigation and intervention techniques. Its investigations make it possible to infiltrate criminal gangs and thus pre-empt their operations.

208. Article 49 of the 14 October 1992 Constitution stipulates that the mission of the security and police forces, under the authority of the Government, is to protect the free exercise of rights and freedoms and to guarantee the safety of citizens and their property. In addition, article 21, paragraph 4, of the Constitution stipulates that all agents of the State who are guilty of acts of violence, such as torture or ill-treatment, shall be punished in accordance with the law.

209. In this connection, reference should be made to the penalties provided for under articles 149 ff. of the Criminal Code of 13 August 1980, which specifically list penalties applicable in the event of criminal malfeasance in public office. This term covers "any crime or offence committed by a magistrate or a public servant holding public authority in or during the exercise of their functions" (Criminal Code, art. 149, para. 1). In the case of a violation of freedom of the person, the perpetrator is liable to twice the penalty applied to private individuals (Criminal Code, art. 150, para. 1). The death penalty may be handed down for malfeasance where the crime is punishable by a life sentence. In addition, persons holding public authority, in this case criminal investigation officers, incur civil liability.

210. Provisions on the treatment of defendants and detainees, including respect for their dignity and the segregation of accused persons from convicted persons and adult prisoners from juvenile prisoners, are contained in the Constitution (arts. 16 and 17), in Order No. 488 of 1 September 1993 on the prison system in Togo (arts. 9, 10, 16), and in the decree of 30 November 1928 on the regulations pertaining to minors.

211. In practice, owing to the lack of financial resources, living conditions in prison and prisoners' preparation for their return to society are less than adequate. The prison authorities often adduce financial problems as the reason for the difficulties in applying these various measures.

212. The conditions of detention for defendants in police and gendarmerie jails and in prisons may indeed appear troubling in light of the recommendations in article 10 of the International Covenant on Civil and Political Rights.

213. There are two reasons for the failure to apply these provisions:

- (a) The lack of basic human rights training for prison warders;
- (b) Material problems resulting from the lack of suitable physical arrangements or infrastructure for the effective application of the provisions of the International Covenant on Civil and Political Rights.

214. On the first point, there is no doubt that giving the staff guarding the various detainees and prisoners proper human rights education or basic training would reduce or even eliminate rights violations, which are commonplace.

215. Efforts are being made to acquaint those working in these areas with the essential concepts. To this end, in December 1998 the Ministry for Promotion of Democracy and the Rule of Law posted up and distributed the text of the Universal Declaration of Human Rights at the central police station and the court house in Lomé. During the same period, the text was also posted up and distributed in the main towns of the country's five regions. This campaign to popularize human rights instruments will continue nationwide, in all police stations, prisons and other places of detention.

216. As for the second point, prisons have not yet been equipped with structures necessary for the strict application of article 10 of the International Covenant on Civil and Political Rights. Unfortunately, accused persons and convicts, adults and juveniles all live together in overcrowded conditions that are harmful to those most vulnerable.

217. Here too, the problem is one of resources that will allow the country to build proper and adequate penitentiaries that meet international standards. The Ministry of Justice recognizes these problems and has taken a series of steps to raise awareness and train Togo's prison administrators.

218. In cooperation with the Embassy of the United States of America in Togo, the Ministry held training seminars on the subject of justice and prison life for senior prison personnel and administrators in Lomé on 12 and 13 October 1995 and in Kara on 18 and 19 October 1995.



219. The seminars, designed for prison governors and wardens, heads of the territorial security forces, judges, lawyers, chaplains, officials from the Department of Social Affairs and representatives of the Ministry of Human Rights and Rehabilitation, gave participants an opportunity to share experiences on various matters, including:

- The responsibilities of prison staff;
- The relationship between investigating magistrates and the prison administration;
- The rights and duties of detainees.

At the end of the seminars, recommendations were made to decision makers in the prison administration and in the Ministry of Justice.

220. The recommendations addressed such matters as the independence of prison administrations, the establishment of new infrastructures, prison reorganization and equipment and detainees' health and hygiene conditions.

221. The head of the French Cooperation and Cultural Action Mission agreed to finance a project to improve living conditions in detention centres in Lomé (the Lomé civil prison and the Juvenile Brigade) by setting up a CFAF 50 million fund for the Ministry of Justice and the Ministry of Human Rights and Rehabilitation. On 1 December 1997, this project was launched with a "first sod" ceremony at Lomé Civil Prison.

### **C. Right to participate in the conduct of public affairs**

222. The conduct of public affairs is a matter for all citizens, and they should be involved directly or indirectly. This right is affirmed in the Constitution (art. 2, para. 3, and art. 4, para. 1).

223. In everyday life, however, it is by no means certain that all citizens are actually involved in the conduct of public affairs.

224. Women and some ethnic groups, such as the Peuhl, are underrepresented in the Government, in the Assembly, in the judiciary and in institutions such as the Constitutional Court, the High Audio-visual and Communications Authority, the National Electoral Commission, the National Human Rights Commission and the Supreme Council of the Judiciary.

225. All citizens are entitled to participate in the conduct of public affairs, either directly or through their elected representatives.

226. Suffrage is universal, direct, equal and secret (Constitution, arts. 5 and 51).

227. Nevertheless, there is still a need to involve population groups and civil society in establishing all political, economic and social objectives. All Togolese citizens should at all times feel that they have a stake in the life of the nation.

228. In terms of legislation regulating the right to vote and stand for election, elections are governed by Act No. 2000-7 of 5 April 2000, which contains the Electoral Code. The practical organization, control and supervision of elections, and the announcement of results, is the task of the Independent National Electoral Commission (see paragraphs 100-103 above).

229. All Togolese citizens of either sex aged 18 and over, in full possession of their civil and political rights, registered on the electoral rolls and not disqualified by law in any way, have the right to vote (Constitution, art. 5; Electoral Code, arts. 2-12).

230. Under Act No. 2000-7 of 5 April 2000, any Togolese may apply to stand for election and may stand for election, subject to the rules governing age, disqualification and ineligibility set forth in article 74 of the Act. No military personnel on active service and no civil servants (who are ineligible by virtue of their special status), may stand for election (art. 75).

231. In order to build a secular, democratic, social State based on the rule of law, Togo adopted the Constitution of the Fourth Republic by a referendum held on 27 September 1992. Title II, section I, contains 15 articles dealing extensively with citizens' rights, freedoms and responsibilities.

#### **D. Right to freedom of movement**

232. Article 22 of the Constitution of 14 October 1992 establishes the right to freedom of movement: "All Togolese have the right to move freely and settle anywhere they choose in the national territory, subject to the conditions stipulated by law or local custom."

233. Articles 23 and 24 of the Constitution also apply. Article 23 prohibits the expulsion or extradition of a foreigner from Togolese territory, except following a decision taken in accordance with the law and subject to the foreigner's right to mount a defence before the competent court.

234. Freedom of movement involves the right of Togolese citizens residing in Togo to leave the country and return at any time, without any difficulty. Similarly, all Togolese are entitled to move around the country and freely choose their place of residence.

235. To begin with, the right of every Togolese to settle in Togo derives not only from the prohibition on extraditing any Togolese from the national territory, as stipulated in article 24 of the Constitution, but also from a number of statutory provisions establishing a residence requirement, for nowadays the notion of domicile is increasingly rivalled by the concept of residence. The annex to the Individuals and Family Code of 31 January 1980 identifies a person by name and domicile and, if the person has no domicile, then by residence, which is regarded as the place where a person actually lives.

236. In addition to the conjugal domicile, there is elected domicile, as provided for in the Code of Civil Procedure of 15 March 1982 and the Code of Criminal Procedure of 2 March 1983.

237. The right of any Togolese to leave and return to Togo is subject to restrictions, including the requirement to produce travel papers. Within the Economic Community of West African

States (ECOWAS), it is enough to produce a valid national identity card; however, that is not the case for travel to Europe, the Americas and elsewhere, when the requisite travel document is a passport.

238. The status of a foreigner wishing to reside in Togo is governed by Act No. 87-12 of 18 November 1987 on the control of aliens and Decree No. 96-113 of 16 October 1996 specifying the general conditions for the issue of visas and residence permits and establishing special regimes.

239. Outside Togo, an entry visa or residence permit is issued by diplomatic and consular missions, honorary consulates of the Togolese Republic and the diplomatic and consular missions of any other countries mandated by Togo.

240. For members of diplomatic and consular missions and international organizations, a diplomatic card serves as the residence permit and is issued by the Ministry of Foreign Affairs and Cooperation (Decree No. 96-113, art. 10).

#### **E. Right to a nationality, to marry and to inherit**

241. Article 32 of the Constitution provides that “children born to a Togolese father or mother shall be granted Togolese nationality. The award of nationality in other cases is regulated by law”. However, the basic statutory text in matters of nationality is the Togolese Nationality Code of 7 September 1978.

242. The Code deals separately with the award of Togolese nationality as a nationality of origin and the acquisition of Togolese nationality. The same approach has been adopted in the preliminary draft Code on the Rights and Duties of the Child (arts. 14 ff.).

243. With regard to the award of Togolese nationality as the nationality of origin, a further distinction must be made, between award on grounds of filiation and award on grounds of birth in Togo. Since the first category was dealt with in earlier sections, only the latter category will be considered here.

244. Togolese nationality is granted by virtue of birth in the territory of Togo in three situations.

245. First of all, a child born in Togo of foreign parents who were themselves born in Togo is Togolese. The basis of this rule is that the child is presumed to be integrated into the national community. The award of Togolese nationality under *jus solis* to a child born in Togo is greatly facilitated where both parents were not born outside the country. In either case, there is also a requirement of possession of the status of Togolese.

246. Secondly, Togolese nationality is awarded to any person who cannot claim any other nationality of origin solely by virtue of having been born in Togolese territory (Nationality Code, art. 2). Under this rule Togolese nationality can be granted to stateless children solely by virtue of having been born in Togo. It also means that Togolese nationality can be granted to the children of foreign parents who cannot pass their nationality on to them because their country's legislation does not provide for such transmission.

247. Lastly, a child born in Togolese territory who is found before reaching the age of 5 may claim Togolese nationality under *jus solis*. This appears to be implied by Act No. 89-16 of 24 October 1989, which provides that “a child of unknown descent and under the age of 5 discovered in Togolese territory shall be deemed to have been born in Togo and declared as such to the civil registrar”. This provision should also apply to children born of unknown parents, since every State must at all costs avoid cases of statelessness in which no country is willing to recognize the child as its national.

248. As regards the acquisition of Togolese nationality, a child whose father has become Togolese by naturalization automatically acquires Togolese nationality (Nationality Code, art. 20).

249. Togolese nationality may also be acquired through marriage. The preliminary draft of the Code on the Rights and Duties of the Child provides that a foreign girl under the age of 18 who marries a Togolese is entitled to acquire Togolese nationality, and she may do so without her parents' permission. She is also entitled to decline Togolese nationality by so declaring before the marriage takes place (art. 20).

250. In addition, a Togolese girl under the age of 18 who marries a foreigner retains Togolese nationality unless she expressly repudiates it before the marriage takes place. No authorization is required for her to make such a declaration, but it is only valid if she can acquire her husband's nationality under his country's law (art. 21).

251. In Togo, marriage is possible only between a man and a woman aged 20 and 17 respectively. However, the courts may grant age dispensations to persons who have not reached the requisite age. This applies to emancipated minors and minors who have obtained authorization from their parents or from persons with authority over them.

252. The consent of the spouses is a necessary condition for a valid marriage. Each spouse, even where he or she is a minor, must have personally consented to the marriage (Individuals and Family Code, art. 44).

253. Consequently, where the consent of one or other of the two spouses has not been given or has been given under duress, the marriage is declared null and void. Under article 81 of the Individuals and Family Code, the civil registrar is required, when the marriage takes place, to ascertain that both spouses consent by obtaining from each party a declaration that he and she wish to become husband and wife. In practice, it is rare that spouses fail to give their personal consent. The purpose of requiring the mutual consent of the spouses under Togolese law is to outlaw forced marriages.

254. To produce legal effects, a marriage must necessarily be conducted by a civil registrar.

255. The right of inheritance is governed by articles 391 ff. of the Individuals and Family Code of 31 January 1980. In this area, the law draws a distinction between, on the one hand, the customary rules of inheritance, which constitute ordinary law, and, on the other hand, the written statutes on inheritance, which are applicable only if the deceased has made a declaration during his or her lifetime waiving customary inheritance law.

256. One fundamental feature of the customary rules governing the rights of inheritance of children is discrimination based on sex and age. The basic customary rule, which derives from the principle of the inalienability and indivisibility of a family's land, is that girls may not inherit land. This rule implies that each child may claim a right of inheritance against the father or mother's movable property but not their immovable property, which is reserved for boys only.

257. The Nationality Act allows any foreign woman who marries a Togolese to acquire her husband's nationality except where she renounces it at the time of the marriage in order to keep her nationality of origin (Nationality Code, arts. 5 and 6).

**F. Right to freedom of thought, religion, opinion, expression,  
peaceful assembly and association**

258. Freedom of thought, conscience and religion is established in article 25 of the Constitution. Today all religions are practised freely. Article 25 of the Constitution guarantees freedom of religion:

“Everyone is entitled to freedom of thought, conscience, religion, worship, opinion and expression.

“These rights and freedoms shall be exercised in accordance with the rules established by law and regulation. Religious beliefs shall be organized and practised freely in accordance with the law. The same shall apply to philosophical communities. Worship and the expression of beliefs shall be conducted with due regard for the State and its secular nature. Religious denominations shall be entitled to organize and exercise their activities freely in accordance with the law.”

259. Accordingly, the Government considers freedom of religion to be a fundamental right that must be protected.

260. Article 1 of the Constitution, which specifies that Togo “is a secular, democratic, social State governed by the rule of law”, implies that there is no restriction on practising the religion of one's choice.

261. For this reason, in the educational field, any religious denomination can establish its own school. Citizens may attend Protestant, Islamic, Catholic or other schools, as they wish.

262. Furthermore, in terms of the family, members of one and the same household may freely practise different religions.

263. Nowadays, the various religious groups, which constitute a force of their own, contribute in their way to building up a State governed by the rule of law through enjoyment of freedom of conscience.

264. Freedom of expression and the press are guaranteed and protected by articles 25 and 26 of the Constitution, respectively. However, it is Act No. 98-004/PR of 11 February 1998, as amended and supplemented by Act No. 2000/006/PR of 23 February 2000, establishing the Press and Communication Code, which forms the statutory framework regulating the exercise of press freedom. An independent constitutional body (the High Audio-visual and Communications

Authority) monitors respect for professional ethics in the media and equitable access by the political parties to the public media. It is also the body for promoting and protecting freedom of the press in Togo.

265. An act on the organization of journalists and media technicians was adopted by the National Assembly in August 2000.

266. The Committee's remark concerning restriction of freedom of expression in Togo should be viewed in terms of the times and the subject matter concerned. Liberalization of the press has led to the appearance of an abundance of private newspapers, magazines and radio and television stations expressing diverse political opinions, and also to open debate in the State media.

267. At present, there are approximately 92 newspapers and magazines, a score of radio stations and three television channels.

268. Unfortunately, the private press immediately engaged in a campaign of spreading false information and insulting and defaming the army leadership as well as citizens. It was against this background of increasing disorder that the judicial authorities, responsible for enunciating the law, were seized with cases of press offences. In all cases, the proceedings were brought in accordance with the Press and Communication Code.

269. It should be noted that currently many newspapers and magazines have closed down, either for financial reasons or on account of bad management.

270. Under article 30 of the Constitution of 14 October 1992, the State recognizes and guarantees, under the conditions established by law, the right to assemble and to demonstrate peacefully, without any violence.

271. The right to assemble and demonstrate peacefully is set out in a number of instruments, namely the Criminal Code, the Political Parties Charter and the Electoral Code.

272. Freedom of association has taken on new life since the advent of democracy in Togo. It is guaranteed by article 30 of the Constitution.

273. Establishing an association is a matter governed by the French Act of 1 July 1901, which was made applicable in Togo under Order No. 265 Cab of 8 April 1946. At present, there are more than 1,800 associations throughout Togolese territory. They include associations for the protection of human rights, religious associations, associations for the promotion of democracy, associations for development, for the promotion of education, science, culture and so forth.

274. Associations can be created simply by declaring them to the Ministry of the Interior and Security after depositing their statutes, by-laws, a list of members of the executive board and a list of the founder members. They operate freely even before the acknowledgement is received from the Ministry.

275. Article 4 of the Order specifies that the establishment in Togo of any international or foreign association claiming to be an NGO must be duly authorized by the competent Togolese authorities. In addition, an application for establishment in Togo must be addressed to the Minister of the Interior and Security, who will issue his decision in an order in the event of

approval, or by mere notification in the event of refusal (Decree No. 92-130/PMRT, art. 5). And an application for recognition of NGO status, together with the approval of the Minister of the Interior and Security, must be addressed to the Ministry of Foreign Affairs (Decree No. 92-130/PMRT, art. 8).

276. Since the adoption of the Political Parties Charter, political parties can be freely established under Act No. 91-4 of 12 April 1991. To date, more than 62 political parties have been registered, according to information from the Ministry of the Interior, Security and Decentralization. All these political parties have obtained their acknowledgement of declaration without any hindrance. What is more, in their public demonstrations, political parties call on the Ministry of the Interior, Security and Decentralization for the support of the forces of law and order for the purposes of escort.

### **G. Right to work and to form trade unions**

277. Ordinance No. 16 of 8 May 1974 establishing the Labour Code, and Ordinance No. 1 of 4 January 1968 on the status of civil servants of the Togolese Republic, recognize the equality of the two sexes in relation to recruitment, remuneration and benefits:

- Article 4 of Ordinance No. 1 of 4 January 1968 provides that “for the purposes of the application of this instrument, no distinction shall be made between the two sexes, subject to conditions relating to physical fitness and the reservation of certain jobs owing to the particular nature of such jobs”;
- Article 2, paragraph 1, of the Labour Code provides that “anyone, regardless of sex or nationality, who has undertaken to pursue professional activity, against payment, under the direction of an individual or corporation, public or private, shall be considered to be a worker for the purposes of this Code”. Article 88 provides that all workers, regardless of nationality or sex, shall receive equal pay when their working conditions, professional qualifications and output are the same;
- Article 3, paragraphs 2 and 3, of the 1992 Constitution reaffirm that the State guarantees every citizen equal employment opportunities and guarantees every worker fair remuneration. It provides that no one may suffer adverse effects in his or her work on grounds of sex.

278. Twenty years ago, the employment problem took the form of underemployment, which mainly affected people in the countryside and the urban informal sector, rather than unemployment proper. The country’s economic and financial difficulties began in the early 1980s, forcing the State to introduce changes in the economy and put structural adjustment programmes into effect.

279. Currently, following four structural adjustment and stabilization programmes, following the devaluation of the CFA franc in 1994 and three years of social and political unrest that led to the suspension of almost all aid and cooperation programmes, unemployment has risen to such

an extent that it has become necessary to address the problem head-on and conduct a vigorous review of all the instruments and strategies initiated to eradicate poverty, which is assuming endemic proportions, and to institute a process of sustainable development.

280. In Togo, senior posts, such as those of managing directors of public services in State or parastatal corporations, are generally entrusted to men.

281. Workers have the right to strike, which is exercised in the context of the laws which regulate this right.

282. Workers may set up trade unions or join the trade unions of their choice. In the manner laid down by law, workers may also uphold their rights and interests, individually or collectively, or through trade union activity (Constitution, art. 39). However, while the level of women's representation is acceptable in individual unions and at the grass roots, women are definitely underrepresented in the central union organizations.

#### **H. Right to housing**

283. In Togo, all citizens are free to choose their place of residence. However, the residence of married women is the place chosen by their husbands. The right to housing may result either from a tenancy agreement or from a contract of sale. These two modes of obtaining housing are available both to Togolese and to foreigners, with the latter being subject to the authorization required under Act No. 60-20 of 5 August 1960.

284. A number of colonial-era instruments that are still in force in Togo regulate the property sector and guarantee the rights of indigenous peoples. These are:

- Decree of 23 December 1922 extending to Togo the applicability of the decree of 24 July 1906;
- Decree of 15 August 1934 instituting a procedure for the recognition of indigenous property law in Togo;
- Decree of 1 September 1945 (No. 45/2016) regulating expropriation in the public interest in Togo, specifically title III, article 12, and subsequent articles;
- Order of 26 February 1923 regulating the application of the decree of 23 December 1922.

285. Under Decree No. 45/2016 of 1 September 1945, expropriation in the public interest is carried out by order of the courts.

286. The courts may order expropriation as long as a public interest has been declared and recorded in the manner prescribed by titles I and II of this decree. However, land that forms collective indigenous property, or which is held by indigenous chiefs as representatives of indigenous communities, shall, in accordance with local customary law, remain subject to the



provisions of the relevant regulations concerning public land. Expropriation is governed in particular by title III of this decree. Article 12 provides that “only the court of first instance (or the magistrate’s court with extended jurisdiction) in the area in which the property to be expropriated is located is competent to order the expropriation of the property referred to in the table”.

287. Under article 13, compensation for expropriation is determined taking into account in each case the value of the property prior to the date of expropriation, on the understanding that this value may not exceed the value of the property on the date when the public interest was declared. Compensation must cover only the actual and certain loss resulting from expropriation, and may not extend to an uncertain, potential or indirect loss.

288. An expert appraisal shall be carried out at the request of one of the parties. It shall be conducted by three experts, unless the parties agree to a single expert. Once a report of amicable transfer or an expropriation order has been completed, the compensation that has been set shall be offered to the person concerned.

289. When there is an urgent need to take possession of undeveloped land or buildings made of wood or other non-permanent materials, which are subject to expropriation, and in particular in the case of defence works or environmental sanitation, a special declaration of urgency shall be issued. In such cases, a summons shall be served on the parties concerned to appear before the court of first instance or the magistrate’s court with extended jurisdiction.

290. The right of expropriation stems from the act authorizing planned operations, such as construction of roads, railways or ports, urban operations, defence works, construction of hydroelectric installations, distribution of energy, installation of public services, establishment of public ownership over property or maintenance of such property, environmental sanitation, irrigation and drainage operations, and so on. Otherwise, article 27 of the Constitution of 14 October 1992 sets out the principle of prior compensation in advance of any expropriation. The article provides that “the right of ownership is guaranteed by law. It may not be infringed except on the grounds of the public interest, as duly recorded, and following fair compensation in advance. No one may have his or her property seized except by virtue of a decision taken by a judicial authority”.

291. Human development presupposes that sustained attention is devoted to the welfare of the population. To this end, the establishment of an appropriate ministry in many respects reflects the firm resolve of the Government of Togo to take action in the key sector of human settlements, on the understanding that the right to adequate housing is a fundamental human right.

292. For this purpose, the Togolese authorities have decided:

- (a) To assist all citizens in gaining access to decent housing;
- (b) To ensure access to collective social amenities;
- (c) To combat urban poverty, which generates poor security and crime.

293. Necessary reforms will seek to ensure, by means of incentives, access to property ownership, a standing concern of Togolese people. These reforms will cover land, housing finance, funding of local authorities and the exercise of certain professions associated with lifestyle promotion and management.

294. In this context, the Government of Togo, with support from UNDP, is drawing up a housing policy that will be endorsed by a national workshop in October 2001.

### **I. Right to health and social security**

295. Access by citizens to the health protection system and health measures is free from discrimination. A thorough analysis of the various measures (general or specific) points to equality for all in the exercise of the right to health or to medical care.

296. The Constitution contains several provisions relating to health. They include:

- The third preambular paragraph, in which the State undertakes to guarantee and protect fundamental human rights, including the right to health;
- Article 13, which provides that the State must guarantee the physical and mental integrity, life and security of all persons living in Togo;
- Article 34, which explicitly recognizes the right of all citizens to health: “The State acknowledges the right of citizens to health. It shall strive to promote that right.”

### **J. National health policy**

297. The national health policy, which sets the general framework for the Government’s activities in the field of health, was adopted in October 1996. Its purpose is to ensure that the entire population enjoys a state of health that enables all citizens to lead a socially and economically productive life.

298. Its introductory clauses assign priority to the following six activities:

- (a) Ensuring the broadest possible health-care coverage, aiming to bring health services to the people;
- (b) Strengthening efforts to inform and educate and prevent the principal diseases;

- (c) Encouraging the private sector to contribute to improving health-care coverage, both in urban and in rural areas;
- (d) Providing all health facilities with essential medicines;
- (e) Encouraging applied research into traditional medicines;
- (f) Training sufficient numbers of staff capable of meeting the social and health needs of the people.

299. With particular reference to the right to health, the last part of paragraph 2.1 of the national policy explicitly stipulates that the State must act in the interests of each and every person in pursuance of the principle of equality and fairness.

300. Although child mortality fell from 121 to 85 per 1,000 live births between 1970 and 1995 as a result of the expansion of health services, the average life expectancy at birth remains low (55 years), showing that much remains to be accomplished in Togo.

301. The pattern of disease is still characterized by a predominance of infectious and parasitic diseases (53.5 per cent of the total in 1992). Foremost among them is malaria, the prevalence of which remained stable between 1992 and 1995, at around 38 per cent, despite the implementation of control and prevention programmes.

302. The other causes of disease include, in decreasing order of prevalence, wounds and trauma, diarrhoeal diseases and acute respiratory infections. Diagnosis of chronic disorders, such as sickle-cell anaemia, diabetes and high blood pressure has been improved. Unfortunately, treating these disorders places an increasing burden on the operation of health facilities and on patients.

303. AIDS is spreading in Togo at a disturbing rate. Between 1987 and 31 December 2000, the cumulative total of recorded AIDS cases was 12,512. In 1997, seroprevalence in the general population was estimated at 3.3 per cent, four times the worldwide level.

304. Between one region and another, this figure varies from 2 per cent to 8 per cent among pregnant women, from 2 per cent to 12 per cent among blood donors and, among carriers of sexually transmitted diseases, from 11.2 per cent (in the Savanes region) to 14.4 per cent (in the Maritime region). HIV transmission is essentially heterosexual. The worst-affected age group is between 15 and 40, mainly between 15 and 39 for women, and over 40 for men.

305. The fact that drinking water supply facilities are unavailable or hard to reach poses a major problem, especially in rural areas. In 1996, the level of access to drinking water was 57 per cent for the country as a whole, with large disparities between urban areas (82 per cent) and rural areas (only 46 per cent).

306. Analysis of the sanitation situation shows that the population is exposed to the risk of faecal contamination, but with disparities between regions and types of housing. About 31 per cent of urban dwellers and 73 per cent of rural dwellers have no access to public or private facilities for excreta removal.

307. In 1996, there were 523 health-care units of all kinds in the country, including university hospitals and private facilities, of which 140 were in the Maritime region and 175 in the Plateaux region.

308. Of the 523 health-care units, 441 (84 per cent) are public, 32 private and 50 community-run. It should be noted that 62 per cent of the community care units are concentrated in the Plateaux region.

309. Table 2 below highlights regional disparities in the location of hospital facilities available to the public. The pharmaceutical sector faces many problems:

- (a) Excessive cost of proprietary drugs, especially those on the essential drugs list;
- (b) Growth of the illegal market in drugs whose origin cannot be checked, as well as unofficial sales outlets;
- (c) Inadequacies in the activities of the National Information, Education and Communication Service to promote the proper use of medicines and promote awareness among medical practitioners and health workers of the need to prescribe generic essential drugs, especially in hospitals;
- (d) Poor performance by the components of the system dealing with quality assurance, marketing permits, inspection, quality control and objective information on medicines and professional authorizations.

310. The community does not play a full part in funding the supply of medicines, so that there is a need to bolster State budget allocations for the management of supply systems as well as stock renewal.

### **1. Medical personnel**

311. The persistent quantitative and qualitative shortcomings of health personnel worsened with the social and economic crisis of 1991-1993, following the departure of some skilled personnel to the private sector or abroad. In the public sector, an assessment of needs carried out in 1996 revealed a major shortfall in quality.

312. There are also major disparities in coverage of quantitative needs from one region to another and from one profession to another. In 1996, Lomé accounted for 32.9 per cent of health workers and a majority of medical personnel: 54 per cent of doctors, 57 per cent of dentists and 41.5 per cent of midwives and nurses.

313. The absence of a sectoral human resources policy and a plan for training and motivation stands in the way of improving the system with a view to ensuring fair coverage of high-quality primary health care.

**Table 2**

**Health - Main diseases**

	1990	1991	1992	1993	1994	1995	1996
Number of cases of Malaria	810 509	780 825	624 166	561 339	357 280	287 758	343 664
Number of cases of diarrhoeal diseases	147 944	166 299	124 934	93 208	57 300	51 066	43 709
Number of cases of respiratory infections	128 573	133 906	117 663	107 378	71 985	75 660	59 358
Number of new cases of AIDS	458	628	864	1 330	1 284	1 710	1 527

*Source:* Ministry of Health, Division of Information, Statistics, Studies and Research.

**Table 3**

**Health - Infrastructure, human and financial resources**

	1990	1991	1992	1993	1994	1995	1996
Number of doctors	337	319	311	283	261	266	257
Number of hospital and maternity clinic beds	5 307	6 021	6 021	6 553	6 553	6 250	6 250
Share of public health expenditure in total expenditure	5.2%	5.7%	5.5%	4.9%	6.5%	6.5%	6.2%

*Source:* Ministry of Health, Division of Information, Statistics, Studies and Research.

314. To support Togo's economic recovery efforts, the Government has decided to revitalize the health system in order to afford the people equal access to high-quality health care.

315. It is the duty of the State not only to adopt measures or approaches that will bring solutions through better regulation, but also to ensure better education for all.

**2. Social security**

316. A separated or divorced woman enjoys the same pension rights as her ex-husband when the divorce or separation order is entirely in her favour and when she is not publicly cohabiting or has not married before her spouse's death.

317. Under the Civil and Military Pension Schemes Act of 23 May 1991, a female State employee may be credited with an additional year's service for each child she has borne and properly declared to the civil registry, up to a maximum of six children.

318. The National Social Security Fund provides the bulk of the protection enjoyed by women affiliated to the Fund. It pays grants to women in the event of pregnancy, childbirth or death of a husband for the benefit of dependent children.

319. Ordinance No. 39-73 establishing the Social Security Code provides for a benefit paid on the occasion of the birth of each of the first three children, provided that they are the children of the first marriage registered with the civil registry or of a subsequent marriage when the first husband's death has been properly declared. In such cases the beneficiary's husband must be a non-wage earner (Social Security Code, article 51, paragraph 1 (r)).

320. Assistance is also granted to mothers by the National Social Security Fund under the health and social action programme through the provision of benefits in kind, including antenatal and post-natal visits, medical care and other care for children.

321. Despite the legislation in force and the services provided in the field of social security, obvious difficulties prevent both men and women from enjoying their rights in this area as a result of the socio-economic crisis that Togo has been experiencing since 1990.

#### **K. Right to education and vocational training**

322. There is no discrimination in education based on sex, race or ethnic group. In accordance with article 35 of the Constitution of 14 October 1992, the State recognizes children's right to education and creates conditions conducive to education; education is compulsory and is gradually being extended free of charge for children of both sexes up to the age of 15; the State progressively guarantees free public education.

323. In Togo, the raising and education of children are the cornerstone of development. Consequently, further to the provisions of article 35 of the Constitution, the Criminal Code severely punishes parents or guardians of children who seriously jeopardize the education of the children in their care. Under article 74 of the Criminal Code, "any parent who, by his or her flagrant misconduct, laziness, gross behaviour or drunkenness, has seriously jeopardized the health, morals or education of his or her children or those living in his or her home shall be liable to one year's imprisonment or a fine of between CFAF 10,000 and CFAF 100,000". The State offers the same opportunities for access to knowledge to children of both sexes, and even for foreigners, in respect of both the subjects taught and enrolment formalities.

324. In their concern for the future of young people, the authorities assign priority to seeking ways and means of improving educational services and training for young people in quantitative and qualitative terms, as the tables in the following paragraphs show.

325. During the school year 1996/97, direct funding of expenditure in education through the relevant ministerial budgets stood at CFAF 32,678.5 million. This represented 77.6 per cent of total expenditure in the sector, although it was 1.2 per cent lower than the budget for the previous year.

326. In the field of technical education and vocational training, mention should be made of the establishment of the Ministry of Technical Education, Vocational Training and Handicrafts. There was a rise in numbers of 19.4 per cent during the school year 1990/91, from 6,866 pupils in 1989/90 to 8,198 in 1990/91, with girls making up 25.9 per cent of the total.

327. Despite the difficulties encountered in the expansion of education, enrolment levels at all levels and in all types of education are rising fast, and are about 5.3 per cent higher than those of the school year 1995/96.

328. The network of public schools, denominational private schools and non-denominational private schools is complemented by more recent forms of education: non-profit schools set up as a result of local initiatives, almost all of which were established in rural areas by village or neighbourhood communities that do their best to supervise the instruction and funding. These schools are thriving, and contain at least 62,737 pupils, or 7.20 per cent of primary enrolments.<sup>4</sup>

329. Overall, the education system still suffers from a number of obvious shortcomings and weak points:

(a) The net enrolment rate stands at 71.98 per cent, but a large proportion of school-age children do not have access to school owing to a lack of resources of all kinds;

(b) Major disparities in terms of gender and geographical and social origin persist despite massive efforts by the Government, demonstrating the extent to which access to education is still far from being fairly distributed.

330. Here too, these disparities are by no means associated with any form of discrimination, but are sometimes linked to traditional or extreme-poverty-related sociological inhibitors. Enrolment rates for girls are particularly poor, and they remain in a distinct minority (see tables below). Generally speaking, the enrolment rate is much higher for boys than for girls.

331. Similarly, a look at the statistics below shows that the disparities between boys and girls become more marked as they move up to higher levels of education. This disproportion can be explained mainly by sociological and economic inhibitors, which the Government is striving to overcome through awareness campaigns addressed in particular to the large rural populations, among whom the phenomenon is much more pronounced.

332. To encourage enrolment of girls, the Government has reduced tuition fees for girls and has eased the conditions for the granting of higher-education scholarships to them. The inequalities noted in the ratio of girls to boys at the various levels of education are reflected in the statistics below.

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<sup>4</sup> *Source:* Ministry of Education, Yearbook of School Statistics, 1996-1997.

**Table 4**

**Togo - Education, health (Literacy rate<sup>a</sup> and school attendance rate<sup>b</sup> - percentages (%)) (Census and survey data)**

	1988 health survey
School attendance rate	70.3 %
Boys	76.5 %
Girls	63.3 %
Adult literacy rate	n.d.
Men	77.0 %
Women	51.9 %

*Source:* Statistics Department.

<sup>a</sup> The literacy rate is calculated for the population aged 15 and over using the “level of instruction”.

<sup>b</sup> The school attendance rate is calculated for the population aged between 6 and 15.

**Table 5**

**School enrolment**

Number of pupils	1989/90	1990/91	1991/92	1992/93	1993/94	1994/95	1995/96	1996/97
Primary school	597 503	646 962	652 548	n.d.	663 126	762 137	824 626	870 338
Secondary school	120 572	121 153	120 289	n.d.	126 335	145 717	161 972	170 725
Number of pupils per class	54.0	57.0	n.d.	n.d.	52.0	54.0	50.0	46.9
Number of pupils per teacher, primary level	56.0	58.5	n.d.	n.d.	53.0	55.0	52.5	45.0
Percentage of girls, primary level	39.3 %	39.5 %	40.0 %	n.d.	40.0 %	40.5 %	40.9 %	41.5 %
Percentage of girls, secondary level	25.4 %	24.4 %	24.8 %	n.d.	25.7 %	26.1 %	26.2 %	26.7 %

*Source:* Ministry of Education, Office of the Director-General for Education Planning.

**Table 6**

**Share of public expenditure on education in total public expenditure**

%	1989/90	1990/91	1991/92	1992/93	1993/94	1994/95	1995/96
	24.7	26.3	n.d.	n.d.	n.d.	18.0	24.1

*Source:* Statistics Department



**Table 7**

**Number of kindergartens, preschool classrooms, teachers and pupils,  
disaggregated by age and sex (1986-1997)**

Years	Kindergartens	Classrooms	Teachers		3 years			4 years			5 years			Total		
			M+F	F	M	F	Total	M	F	Total	M	F	Total	M	F	Total
1986/87	195	284	306	306	864	781	1 645	2 102	2 077	4 179	2 132	1 888	4 020	5 098	4 746	9 844
1987/88	212	323	353	353	711	695	1 406	2 481	2 305	4 786	2 179	2 112	4 291	5 371	5 112	1 048
1988/89	203	304	335	335	822	834	1 656	2 100	2 141	4 241	1 933	1 942	3 875	4 855	4 917	9 772
1989/90	231	331	376	375	933	824	1 757	2 165	1 974	4 139	2 225	2 079	4 304	5 323	4 877	1 020
1990/91	241	353	396	396	842	821	1 663	2 320	2 382	4 702	2 301	2 438	4 739	5 463	5 641	1 110
1991/92	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
1992/93	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
1993/94	241	366	395	395	695	595	1 290	1 989	2 002	3 991	2 607	2 638	5 245	5 291	5 235	1 052
1994/95	232	367	395	393	929	1 022	1 951	2 502	2 367	4 863	1 718	1 560	3 278	5 149	4 949	1 009
1995/96	255	393	446	441	910	831	1 741	3 028	2 898	5 926	1 342	1 345	2 687	5 280	5 074	1 035
1996/97	258	402	469	457	982	869	1 851	2 934	2 802	5 736	1 465	1 437	2 902	5 381	5 108	1 048

**Table 8****Enrolment by course and by sex, from 1987 to 1997 (first cycle - all levels)**

Course		CP1	CP2	CE1	CE2	CMI	CM2	Total
Years								
1987/88	M	90 618	65 483	57 149	41 919	39 217	29 722	324 108
	F	63 551	43 036	36 857	25 030	21 353	13 918	203 745
	Total	154 169	108 519	94 006	66 949	600 570	43 640	5 278 853
1988/89	M	94 554	69 052	62 020	43 966	42 481	36 663	348 736
	F	68 017	46 551	39 877	26 105	23 264	16 838	220 652
	Total	162 571	115 603	101 897	70 071	65 745	53 501	569 388
1989/90	M	9 717	72 409	67 039	51 453	50 426	42 261	391 320
	F	71 180	50 753	44 020	31 081	27 336	20 096	255 642
	Total	168 355	123 162	111 059	82 534	77 762	62 357	646 962
1990/91	M	99 714	76 921	70 545	51 453	50 426	42 261	391 320
	F	73 984	55 034	48 111	31 081	27 336	20 096	255 642
	Total	173 698	131 955	118 656	82 534	77 762	62 357	646 962
1991/92	M	96 238	75 354	71 167	52 166	52 776	43 994	391 695
	F	74 124	55 068	49 020	32 271	29 331	21 039	260 853
	Total	170 362	130 422	120 187	84 437	82 107	65 033	652 548
1992/93	M	36 441	24 867	23 621	15 869	15 632	12 386	128 816
	F	26 993	17 692	16 074	9 389	8 183	5 489	83 830
	Total	63 434	42 559	39 695	25 258	23 825	17 875	212 646
1993/94	M	112 116	74 811	68 507	50 779	51 054	40 607	397 874
	F	85 294	54 193	47 266	31 836	27 295	19 368	265 252
	Total	197 410	12 004	115 773	82 615	78 349	59 975	663 126
1994/95	M	121 308	89 857	78 763	57 267	57 226	49 074	453 495
	F	95 530	65 869	55 599	35 903	31 644	24 097	308 642
	Total	216 838	155 726	134 362	93 170	88 870	73 171	762 137
1995/96	M	125 560	98 525	89 712	64 433	59 902	49 296	487 428
	F	100 833	74 235	63 460	40 497	34 044	24 129	337 198
	Total	226 393	172 760	153 172	104 930	93 946	73 425	824 626
1996/97	M	127 979	103 919	95 067	71 001	61 906	48 923	508 795
	F	103 390	80 764	69 368	46 781	35 848	25 392	361 543
	Total	231 369	184 683	164 435	117 782	97 754	74 315	870 338

**Table 9****Number of schools and classrooms, repeating pupils and teaching staff, from 1987 to 1997 (all levels)**

Years	Schools	Classrooms	Enrolment			Repeating pupils			Teachers		
			M	F	Total	M	F	Total	M	F	Total
1988/89	2 429	10 766	348 736	220 652	569 388	140 272	70 911	211 183	8 326	2 100	10 426
1989/90	2 471	11 161	362 774	234 729	597 503	118 470	82 361	200 831	8 647	2 092	10 739
1990/91	2 483	11 346	391 320	85 642	476 962	137 730	93 736	231 466	8 975	2 085	11 060
1991/92	-	-	391 695	260 853	652 548	143 279	98 313	241 592	-	-	-
1992/93	-	-	128 816	83 830	212 646	48 268	32 036	80 304	-	-	-
1993/94	2 594	12 791	397 874	265 252	663 126	182 112	122 630	304 742	10 480	2 007	12 487
1994/95	2 733	14 105	453 495	308 642	762 137	148 195	103 913	252 108	11 667	2 225	13 892
1995/96	3 283	16 478	487 428	337 198	824 626	150 973	112 096	263 069	13 868	1 849	15 717
1996/97	3 956	18 549	508 795	361 543	870 338	142 637	104 464	247 101	16 513	2 767	19 280

**Table 10**  
**Number of pupils from 1987 to 1997 (second cycle - all levels)<sup>a</sup>**

Grades		Sixth	Fifth	Fourth	Third	Total
Years						
1987/88	M	26 765	14 931	15 862	11 948	69 505
	F	10 760	5 322	4 943	3 380	24 405
	Total	37 525	20 253	20 805	15 325	93 911
1988/89	M	17 373	18 169	17 076	12 608	65 226
	F	7 036	6 428	5 257	3 611	22 332
	Total	24 409	24 597	22 333	16 219	87 558
1989/90	M	25 487	25 487	25 487	25 487	101 948
	F	11 070	6 243	6 390	3 904	27 607
	Total	36 557	31 730	31 877	29 391	129 555
1990/91	M	19 006	19 125	18 989	13 920	71 040
	F	8 146	7 413	6 359	4 468	26 386
	Total	27 152	26 538	25 348	18 388	97 426
1991/92	M	20 635	16 513	19 165	15 602	71 915
	F	8 790	6 457	6 359	4 810	26 416
	Total	29 425	22 970	25 524	20 412	98 331
1992/93	M	7 901	5 924	5 928	5 139	24 892
	F	3 548	2 527	2 022	1 880	9 977
	Total	11 449	8 451	7 950	7 019	34 869
1993/94	M	24 450	19 393	17 781	16 250	77 874
	F	10 438	7 269	6 311	5 472	29 490
	Total	34 888	26 662	24 092	21 722	107 364
1994/95	M	24 662	22 244	20 585	19 497	86 988
	F	10 244	8 910	7 572	7 171	33 897
	Total	34 906	31 154	28 157	26 668	120 885
1995/96	M	31 705	22 688	23 024	19 650	97 067
	F	13 445	8 712	8 306	7 205	37 668
	Total	45 150	31 400	31 330	26 855	134 735
1996/97	M	34 268	24 240	22 292	19 058	99 858
	F	15 186	9 675	8 231	6 883	39 975
	Total	49 454	33 915	30 523	25 941	139 833

<sup>a</sup> Estimated population between the ages of 12 and 15 in 1996: M = 264,605; F = 216,518; total = 481,123.

Crude school attendance rate in 1996/97: M = 37.74; F = 18.46; total = 29.06.

**Table 11**  
**Distribution of pupils by grade, age and sex (second cycle - 1996/97)**

Age	Sixth			Fifth			Fourth			Third			Total		
	M	F	Total	M	F	Total	M	F	Total	M	F	Total	M	F	Total
< 11	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
11	1 694	700	2 394	268	115	383	9	1	10	9	2	11	1 980	818	2 798
12	4 510	1 812	6 322	885	395	1 280	63	20	83	37	5	42	5 495	2 232	7 727
13	6 654	2 821	9 475	2 377	921	3 298	493	229	722	86	128	214	9 610	4 099	13 709
14	6 688	3 272	9 960	3 882	1 674	5 556	1 418	572	1 990	329	172	501	12 317	5 690	18 007
15	5 245	2 818	8 063	4 495	1 995	6 490	2 730	1 090	3 820	911	403	1 314	13 381	6 306	19 687
16	4 025	1 955	5 980	4 721	1 910	6 631	4 330	1 724	6 054	2 001	743	2 744	15 077	6 332	21 409
17	2 739	1 066	3 805	3 530	1 470	5 000	4 703	1 948	6 661	3 247	1 160	4 407	14 229	5 644	19 873
18	1 593	482	2 075	2 213	734	2 947	3 942	1 436	5 378	3 720	1 363	5 083	11 468	4 015	15 483
19	649	182	831	1 024	320	1 344	2 412	739	3 151	3 311	1 121	4 432	7 396	2 362	9 758
20	324	60	384	613	106	719	1 331	312	1 643	2 522	932	3 454	4 790	1 410	6 200
> 20	147	18	165	232	35	267	851	160	1 011	2 885	854	3 739	4 115	1 067	5 182
Total	34 268	15 186	49 454	24 240	9 675	33 915	22 292	8 231	30 523	19 058	6 883	25 941	99 859	39 975	13 983

**Table 12****Number of pupils, 1987-1997 (third cycle - all levels)<sup>a</sup>**

Grades		Second	First	Final	Total
Years					
1987/88	M	5 061	4 357	3 229	12 647
	F	800	655	544	1 999
	Total	5 861	5 012	3 773	14 646
1988/89	M	5 044	5 010	3 914	13 968
	F	927	836	546	2 309
	Total	5 971	5 846	4 460	16 277
1989/90	M	5 802	5 685	4 944	16 431
	F	1 244	1 019	754	3 017
	Total	7 046	6 704	5 698	19 448
1990/91	M	5 896	6 310	4 302	16 508
	F	1 204	1 312	703	3 219
	Total	7 100	7 622	5 005	19 727
1991/92	M	6 650	6 951	4 988	18 589
	F	1 196	1 365	808	3 369
	Total	7 846	8 316	5 796	21 958
1992/93	M	730	692	350	1 772
	F	174	96	57	327
	Total	904	788	407	2 099
1993/94	M	5 970	5 852	4 296	16 118
	F	1 171	1 036	736	2 943
	Total	7 141	6 888	5 032	19 061
1994/95	M	6 825	7 861	6 066	20 752
	F	1 317	1 683	1 080	4 080
	Total	8 142	9 544	7 146	24 832
1995/96	M	7 561	7 507	7 251	22 319
	F	1 555	1 607	1 456	4 618
	Total	9 116	9 114	8 707	26 937
1996/97	M	9 159	8 788	7 270	25 217
	F	2 204	2 023	1 448	5 675
	Total	11 363	10 811	8 718	30 892

<sup>a</sup> Estimated population between the ages of 16 and 18 in 1996:  
M = 131,632; F = 127,936; Total = 259,568.

Crude school attendance rate in 1996/97: M = 19.16; F = 4.44;  
Total = 11.90.

**Table 13****Distribution of pupils by grade, age and sex (third cycle - all levels)**

Grades Years	Second			First			Final			Total		
	M	F	Total	M	F	Total	M	F	Total	M	F	Total
< 15	81	27	108	5	2	7	0	0	0	86	29	115
16	276	101	377	27	19	46	1	3	4	304	123	427
17	919	314	1 233	179	53	232	20	7	27	1 118	374	1 492
18	1 409	455	1 864	539	180	719	96	43	142	2 047	678	2 725
19	2 518	490	3 008	1 088	302	1 390	378	91	469	3 984	883	4 867
20	1 213	358	1 581	2 272	647	2 919	734	235	969	4 219	1 240	5 459
21	1 199	217	1 416	1 583	313	1 896	1 140	225	1 365	3 922	755	4 677
22	797	141	938	1 402	256	1 658	1 648	362	2 010	3 847	759	4 606
23	433	42	475	893	129	1 022	1 204	229	1 433	2 530	400	2 930
24	192	28	220	444	74	518	942	182	1 124	1 578	284	1 862
>25	122	31	153	356	48	404	1 104	71	1 175	1 582	150	1 732
Total	9 159	2 204	11 363	8 788	2 023	710 811	7 270	14 487	8 718	25 217	5 675	30 892

**L. Right to sports and cultural activities**

333. In Togo, we have not experienced discrimination on grounds of race, sex or even ethnic group. Both Togolese men and women participate in various national and international competitions.

334. All sports clubs in Togo have men's and women's teams in almost all sports disciplines. In national school competitions, girls and boys engage in the same physical disciplines.

335. Everyone has the right to participate in the cultural activities of his or her choice. This freedom of participation is inherent in every human being regardless of nationality or border.

336. Togo has always organized and participated in cultural events abroad.

337. During national cultural events, all participants are treated as equals, with the same conditions of access. The right of access adds an important social element by making every person and the authorities responsible for promoting conditions that give the greatest number of people, particularly the poorest, access to culture, through education and cultural policies.

338. In the area of culture, the individual is free to participate in activities of his or her choice on an equal footing. This is not a question of imposing cultural relativism but of ensuring that everyone is absolutely free to develop his or her own identity.

339. Everyone has the right to develop his or her knowledge and conduct research with a view to participating in creative activities.

340. In addition to intellectual creativity, the authorities are taking measures to enable authors to benefit from the resources that they can derive from their works. One of the tasks of the authorities is to protect and support artists in order to enable them not to have to produce works that are immediately profitable. In order to fulfil its role as protector, the State issues norms and regulates and monitors the art market.

341. In Togo, the State's role of protector has been demonstrated by the creation of a Togolese copyright agency. The aim of the agency is to manage the right of all Togolese or foreign artists who have allowed this body to operate on their behalf in order to recover royalties from persons who use their works.

### **Article 6**

342. In Togo, any person who considers himself or herself to be a victim of a human rights violation has recourse to human rights protection institutions or to the courts.

#### **A. Judicial protection of human rights**

343. Every person living in the national territory, regardless of sex, ethnic group, religion or nationality, has the right to apply to Togolese courts.

344. The only restrictions on the right to go to court relate to a person's legal capacity, to time limits on the filing of appeals or to the subject of the lawsuit. Thus, any individual can file appeals before the national courts against any act of racial discrimination. The lawsuit may be criminal, civil, social or cumulative.

345. In criminal cases, the victim of discrimination can apply to the courts by invoking article 6 of the Convention or article 59 of the Criminal Code (see paragraphs 158-181 above for developments relating to article 4).

346. In civil cases, the victim may, on the basis of article 1382 of the French Civil Code of 1804, request compensation for damages resulting from an act of discrimination.

#### **B. Extrajudicial protection**

347. Togo has non-judicial mechanisms for protecting human rights. These include, in particular, the National Human Rights Commission and the Directorate-General for Human Rights.

348. These two institutions may receive any complaint relating to human rights violations. If the examination of the complaint reveals that there has been a violation of the human right(s) invoked by the complainant, the aforementioned institutions engage in mediation with a view to restoring the victim's rights.

349. To this end, the National Human Rights Commission may make recommendations to the place of the administration that has been accused, or assist the victim with judicial proceedings.

350. Legal aid for victims can also be provided by associations and NGOs working in the field of human rights; such organizations are very active in Togo.

351. Since racial discrimination is a very rare phenomenon in Togo, no complaint has yet been registered either with the courts or with non-judicial institutions.

### **Article 7**

352. The effective implementation of the instruments relating to the elimination of all forms of racial discrimination requires that individuals be aware of such instruments and that they understand the reasons for eliminating discrimination. Education is essential for the implementation of any policy that seeks to bring about changes in behaviour. It is essential because the elimination of racism cannot be decreed but must be affirmed and observed by people who come to realize the benefits of such a policy and understand the painful consequences of racial prejudice. Anti-racist theories that place emphasis on the universality of human dignity must be developed and very widely disseminated. By popularizing international instruments and by introducing human rights instruction in school curricula, Togo is participating in the elimination of racism in its territory.

353. The promotion of international and national instruments should not be the obligation of signatory States alone. International organizations must make efforts to popularize such texts. They should provide States, associations and anti-racist movements with the financial and technical assistance necessary for disseminating the universal principles relating to the human person. Steps must be taken to raise awareness among people, educate the young and constantly remind leaders of their obligations. It is only by international cooperation that Togo, like other developing States, will be able to begin to disseminate international human rights instruments in satisfactory conditions.

### **Conclusion**

354. Togo has a multi-ethnic and multicultural population. The Government of Togo is aware of the ethnic, cultural and linguistic diversity of its populations, and since 1967 has made national unity and peace the cornerstone of its national policy.

355. Thus, the Government is making efforts to consolidate national unity, without which it will not be possible to build the Togolese nation or to guarantee the enjoyment of fundamental rights to all citizens without exception. In this regard, the Government has always given priority to dialogue with a view to overcoming the political and social antagonisms that occur from time to time.

356. Since the 1993 presidential elections, tangible efforts have been made to achieve national reconciliation and restore social peace. The Government of Togo wishes to share this social peace with the international community, particularly through a policy of subregional and regional understanding.

357. The elimination of racial discrimination is an ideal that the Government of Togo shares with all peoples who support the development of the human person in a world where borders and racial, ethnic and linguistic differences are disappearing.

358. To be sure, the elimination of racial discrimination is a long-term undertaking, but it is not a vain effort. Togo hopes that the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which was held in Durban in August and September 2001, will elicit among States and human rights organizations a strong and decisive commitment in the struggle against racism and all related acts.



359. This is the report that the Government of Togo is submitting to the Committee on the Elimination of Racial Discrimination.

**Table 14**

**Drafting committee**

Name	First name	Service
1. Ms. PABOZI	N'Do	Ministry of Justice responsible for the promotion of democracy and the rule of law
2. Ms. GBODUI	Suéto	Ministry of Culture, Youth and Sport
3. Mr. ADOKI	Toï	Ministry of Justice responsible for the promotion of democracy and the rule of law
4. Mr. d'ALMEIDA	Dossè	Ministry of Justice responsible for the promotion of democracy and the rule of law
5. Mr. ALOU	Bayabako	Ministry of Planning, Land Management, Housing and Urban Development
6. Mr. KADJANTA	Tcha	Ministry of Public Health
7. Mr. LAISON	Amala	Ministry of Public Service, Labour and Employment
8. Mr. GNOM	Wiyao	Ministry of Social Affairs, Promotion of Women and Child Protection
9. Mr. DJERI-ALASSANI	Alassane	Ministry of the Environment and Forestry Resources
10. Mr. AGBEDANOU	Clément	Ministry of Equipment, Mines, Energy and Post and Telecommunications
11. Mr. DJOBO	Koum-Miguiba	National Human Rights Commission
12. Colonel ALI	Bédiabadja	Ministry of Defence and Former Combatants
Secretary		
Ms. AKO-KADANGA	Pawiwa	Ministry of Justice responsible for the promotion of democracy and the rule of law
Coordinators		
Ms. POLO	Nakpa	Director-General for Human Rights
Mr. d'ALMEIDA	Dossè	Chef de Cabinet of the Ministry of Justice responsible for the promotion of democracy and the rule of law

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