



Convention on the Rights of the Child

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Summary record of the 1681st meeting

Held at the Palais Wilson, Geneva, on Tuesday, 24 January 2012, at 10 a.m.

Chairperson: Mr. Zermatten

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The meeting was called to order at 10.05 a.m.

Consideration of reports of States parties (continued)

Initial report of Togo on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (continued) (CRC/C/OPSC/TGO/1; CRC/C/OPSC/TGO/Q/1; CRC/C/OPSC/TGO/Q/1/Add.1)

1. *At the invitation of the Chairperson, the delegation of Togo took places at the Committee table.*
2. **Mr. Hamadou** (Togo) said that non-governmental organizations (NGOs), of which there were many in Togo, were present in all human rights protection mechanisms. Elected NGO representatives sat on the National Human Rights Commission alongside lawyers and magistrates, and participated in all decisions and in the preparation of texts. The report under consideration had been prepared with the active participation of civil society representatives. NGOs were not liable to any government taxes and they worked independently.
3. The delegation took note of the proposals and comments that had been made about the points to include in the definition of a child.
4. **The Chairperson** explained that the definition of the child given in Togolese legislation complied, in itself, with the requirements of the Convention, but that not enough emphasis was placed on the new concept of recognizing the child as a rights holder.
5. **Mr. Hamadou** (Togo) said that the authorities were currently conducting campaigns to issue birth certificates to children who did not have one. Since, in order to sit the exams at the end of primary school, a school identity card stating the child's date of birth was required, those campaigns primarily targeted students in the last three years of primary school. The Government's objective was to ensure that, eventually, all children were officially registered from birth, and the public authorities were actively working to achieve that.
6. With regard to the enjoyment of economic, social and cultural rights, he recalled that Togo was a poor country, which had to focus on children's basic needs, but that did not mean that Togolese children did not enjoy leisure activities. He called for international solidarity in order to help Togo ensure the best future possible for its children.
7. **Ms. Nores de García** (Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography), pointing out that the definition of the sale of children set out in domestic law did not correspond with that given in the Optional Protocol, asked if the Children's Code would be amended accordingly.
8. **Mr. Hamadou** (Togo) replied that the definitions in the Children's Code would be brought into line with those of the Optional Protocol.
9. **Mr. Ahondo** (Togo) said that, within the framework of the review of the Children's Code, a guide explaining the measures needed to protect child victims had been developed for the various parties involved. In addition, coordination between the police services and the judicial authorities for the cross-checking of information had been improved, which meant offenders could be prosecuted more quickly.
10. In Togo, child victims were protected throughout proceedings and all those involved were made aware of the needs of the children. Judicial police officers were trained to take statements from children who had been the victims of sexual violence. Furthermore, under the law on the protection of people with respect to HIV/AIDS, judges could order that a

child sexual offender should undergo an AIDS screening test, in order to obtain urgent medical attention in the event that the child had been exposed to the risk of transmission.

11. Once a criminal case had been opened, the courts could order that other urgent measures should be taken or that the social services should intervene to take care of the child and provide the necessary support. The police and the gendarmerie coordinated their action with lawyers and magistrates, which shortened proceedings and prevented a secondary victimization of the child or further trauma.

12. During the hearing, the judicial police officer would hear the child in appropriate premises. The judge could decide to remove the child from his or her family during the proceedings, if it was considered necessary for the child's safety. There were various methods (such as video recordings or hearings behind an opaque screen) of gathering a child's statement. Hearings took place in private, in order to keep the child's identity confidential.

13. An assigned lawyer assisted families that did not have the financial means to engage one throughout the proceedings. Once the proceedings had been completed and the judgement had been delivered, the judge could take whatever protection measures he considered necessary to ensure the safety of the child.

14. He recalled that the Code of Criminal Procedure contained a chapter on juvenile justice that complemented the provisions of the Children's Code. There were plans to amend the Code of Criminal Procedure to extend the period of limitation beyond the age of majority, in order to enable victims who had reached the age of majority to undertake legal proceedings.

15. **The Chairperson** asked whether the law restricted the number of hearings to which children could be subject, whether they could refuse to be confronted with the perpetrator of the offence during the hearing and whether they received the support of a trusted person throughout the procedure. He also wished to know if it was true that NGOs which defended the rights of the child often bore the costs of the court cases.

16. **Ms. Abbey-Kounte** (Togo) said that the 2007 version of the Children's Code laid down conditions governing legal proceedings for child victims. In order to avoid secondary victimization, the children themselves were to be heard once only. The Children's Code did not entitle child victims to automatically receive the free assistance of a lawyer, even though that was provided for children in conflict with the law. It was often associations for the defence of children's rights that covered lawyers' fees. The Children's Code did not provide for mandatory reporting of abuse, which was why it was generally the person who started legal proceedings who had to cover the costs. Under the 2009 legal aid Act, the State had to cover legal costs for all victims of crime qualified as indigent by the social services, but in practice such aid was rarely forthcoming. The Children's Code therefore needed reviewing to take account of all those aspects.

17. **Mr. Ahondo** (Togo) said that, within the framework of proceedings concerning child victims, judges required a medical examination certificate in order to assess the extent of injury to the victim, but doctors were reluctant to carry out such examinations free of charge. The Health Code provided an alternative procedure, which allowed urgent cases to be referred to Ministry of Health officials, who then ordered a doctor to carry out the examination and to issue a medical certificate. In that case, the victim did not pay any fees. The Children's Code also stated that fees should be covered by the State where possible.

18. **The Chairperson** said that, currently, the cost of medical examination fees was largely borne by the victims, which created a problem in terms of access to justice.

19. **Mr. Hamadou** (Togo) said that it was true that there was a gap between law and practice on that issue and that the situation needed to be rectified. NGOs, which had few

resources, should not have to pay the fees. Establishing legal aid would provide a definitive solution to the problem.

20. **Ms. Abbey-Kounte** (Togo) said that if, during the proceedings, the defence insisted on a confrontation, it had to take place in private.

21. **Mr. Ahondo** (Togo) said that under article 6 of the Criminal Code the Togolese courts were competent to try any wrongdoing committed on Togolese territory. Togolese courts were also competent if part of the offence had been committed on Togolese territory or there had been complicity in the principal action that had taken place in the country. Any offence classified as a crime under Togolese law which was committed abroad by a Togolese national also fell within the jurisdiction of the Togolese courts provided that the act was punishable under the law of the country in which it was committed. Court proceedings were initiated on the basis of complaints either by the victims or by the authority of the country where the offence was committed.

22. **Mr. Kotrane** (Country Rapporteur for the Convention) said that the major contribution of the Optional Protocol was that it provided new definitions, which broke away from received notions. The key principle of international criminal law was the principle of dual criminality. The Optional Protocol, however, required States parties not to apply that principle, but rather encouraged them to prosecute all acts and events defined by the Optional Protocol even if they were not punishable in the country in which they were committed, considering that many countries had not brought their legislation into line with the provisions of the Optional Protocol. The Optional Protocol thus encouraged States parties to broaden their competence to prosecute acts committed outside their territory without the requirement of dual criminality in the case where one of their nationals had committed an offence abroad, or if the victim was a national of the State party, or if the offender usually resided in the State party.

23. **Mr. Ahondo** (Togo) said that the previous speaker's comment would be taken into account in the preparation of new texts. The new telecommunications Act, which should be adopted shortly, would extend the competence of the Togolese Courts to cover offences committed with the aid of the new communication technologies.

24. In the case of procuring of children, legal costs were charged to the procurer; it was the other cases that posed a problem.

25. **The Chairperson** asked whether, when a child had been a victim of sale, prostitution or pornography and the offender was unable to offer compensation or had not been indentified, the State could pay compensation to the child in lieu of the offender.

26. **Mr. Hamadou** (Togo) said that, in such a case, the State did indeed assume the cost of compensation.

27. **Ms. Nores de García** asked whether, with regard to the procuring of children, the law prohibited advertising the places and services of prostitution and allowed the closure of premises used for prostitution, and whether the State party had established criminal liability in the case of legal persons. She also wished to know whether the assets and profits derived from prostitution could be seized and whether convictions had already been obtained against brothels and hotels in red light districts.

28. **Mr. Hamadou** (Togo) said that the procuring of children was punishable under the Criminal Code and that there was case law in that respect. A European Union national had in fact been prosecuted and given a firm prison sentence for child procuring. Anyone found guilty of such offences was punished. When it was discovered that a place was being used for prostitution, the first penalty was the closure of the establishment, even if it was functioning under the guise of another business; a second penalty was applied to the person running the place, and consisted in a prison sentence or a fine or both penalties at once.

29. **The Chairperson** said that there was nevertheless a place in Lomé that was known as the child prostitution market, which was the subject of grave concern. In addition, the maximum sentence for trafficking was a 2-year prison sentence, which seemed quite lenient for such a serious offence. Further information on those issues would be appreciated.

30. **Mr. Hamadou** (Togo) replied that the place in question was indeed known, but that completely legal activities took place there, behind which were hidden illegal activities. In any case, the State was taking measures to intensify efforts to combat child prostitution and had developed mechanisms, such as a helpline, which would help to eradicate the phenomenon.

31. **Mr. Kotrane** said that the case of the European national that had been mentioned was one of the rare cases that had been brought to justice and that no compensation had been paid to the victim. A sort of impunity generally prevailed in Lomé with regard to child prostitution.

32. **Mr. Hamadou** (Togo) said that he had been the victim's lawyer and that compensation had been ordered. The case involving that European national was not the only one concerning child prostitution that had been brought to court, but it had perhaps been the most heavily publicized. Pressure had in fact been brought to bear on the Togolese courts by certain Western chancelleries in that particular case and the Committee's help would be invaluable in such cases to avoid that kind of problem.

33. **Mr. Ahondo** (Togo) said that Togo prohibited voluntary abortion but that it was permitted in the case of sexual assault, especially when the victim was a minor.

34. **Ms. Nores de García** asked whether the State party planned to reduce the costs related to adoption procedures in order to encourage adoption in the country and whether adoption files were thoroughly scrutinized in order to ensure that the procedures undertaken were not hiding any harmful practices.

35. **Mr. Hamadou** (Togo) assured the Committee members that the Togolese Government would do all it could, including trying to reduce the costs of adoption procedures, to prevent children, who were the future, from leaving the country.

36. **Mr. Ahondo** (Togo) said that, in order to guarantee the best possible protection for children who were likely to be adopted, the Togolese authorities responsible for adoption procedures contacted the organizations responsible for vetting the adoptive families abroad, and that, if there was any doubt, the procedure was immediately broken off.

37. **Ms. Azambo** (Togo) said that, following the appeal that had been launched in that regard by the African Union on the occasion of the Day of the African Child on 16 June 2011, round tables had been held on a national scale to record the concerns of street children and form a clear understanding of their needs. It was found that those children (the majority of whom had been victims of traditional practices or were orphans) aspired to live in a family and to have access to education or vocational training. The Togolese authorities therefore offered assistance to place such children in foster care which was paid for by the Government and by civil society partners. Children who had not yet been placed in a foster family were enrolled in a programme of the Non-Institutional Educational Action run by NGOs and public bodies.

38. **The Chairperson**, recalling that street children were the target of prostitution and sale networks, deplored the absence of statistical data on that population. He wished to know how many of those children had been placed in foster families or had returned to their family home, and how many had received assistance from the aforementioned Non-Institutional Educational Action programme. He would also like to know whether that action programme was the result of an isolated initiative or was conducted within the framework of a pilot project that could be copied in other towns in the country.

39. **Ms. Azambo** (Togo) said that, according to a quick assessment that had been carried out in the country, it would seem that there were more street children in Lomé than in Togo's other towns. Altogether 305 children had been placed in foster families and 615 had joined in the Non-Institutional Educational Action programme. Street children often moved from one town to another, however.

40. The Togolese Government had requested the help of the United Nations Children's Fund (UNICEF) to carry out a nationwide study into the extent and nature of harmful traditional practices, which tended to vary from one region to another. The purpose of the study was to develop an appropriate communication strategy and to make contact with community leaders and the children themselves.

41. **Ms. Aidoo** said that the study should also cover the root causes of those practices, which were sometimes related to poverty, but not exclusively. The State party should work together with West African countries to combat the phenomenon of street children.

42. **Ms. Azambo** (Togo) said that in 2009 UNAIDS had estimated the number of AIDS orphans in Togo at 66,000, of whom 39,534 had received the minimum package of services for vulnerable children, approved in June 2009. That package, the development of which had involved experts from numerous fields, including doctors, was chiefly aimed at providing medical cover for the children, such as medical prescriptions and follow-up treatment.

43. **Mr. Ahondo** (Togo) said that Togo planned to create a database on vulnerable children, which NGOs and everyone involved in the protection of at-risk children could access, whether to add to or consult. The database would also enable the Togolese Government to fine-tune its policies and plans in that field.

44. While it was true that the Children's Code contained no provision on detention arrangements for minors, the Criminal Code provided lighter sentences for pregnant women and nursing mothers so that the mother's detention had no harmful effect on the child.

45. **The Chairperson** asked whether there was any scheme in the State party for the prevention of child prostitution and child pornography that provided rehabilitation, reintegration and psychological care for young victims. He also wished to know how the State party spread awareness of the Optional Protocol.

46. **Mr. Hamadou** (Togo) said that, as it did for the Convention, the competent authorities carried out measures to raise the public's awareness of the principles enshrined in the Protocol, targeting particularly members of associations, civil society organizations and various government departments. The scope of the measures could certainly be broader, but they came up against a lack of resources. The law would also be more strictly enforced.

47. The Togolese Government wished to assist AIDS orphans who were not yet in care (around half of all AIDS orphans) and even aimed to overcome the disease; but for that to happen, it would be necessary to increase national funding, and even call upon the international community.

48. **Ms. Varmah** asked whether the Togo National Adoption Committee, created in 2009, was an independent body and about its composition, how frequently it met, and how it functioned.

49. **Mr. Hamadou** (Togo) explained that the Committee was made up of experts from the Ministries of Justice, Health, Social Action and National Solidarity, and Foreign Affairs, and that it consulted associations that defended the rights of the child and worked in close collaboration with all institutions concerned with the rights of the child. Its

objective was to prevent adoption from being used as a disguised form of trafficking. The Committee could be referred to by anyone who found irregularities in an adoption request.

50. **Ms. Azambo** (Togo) said that the Committee was multidisciplinary as it gathered together social workers, paediatricians, psychologists and lawyers. It met one to three times a week to examine national and international adoption requests and to confer directly with the prospective adoptive parents.

51. **Mr. Ahondo** (Togo) said that according to its rules of procedure the Committee was obliged to adopt its decisions by consensus.

52. **The Chairperson** would like to know why the 2008 global strategy to combat trafficking and prostitution had not yet been implemented.

53. **Mr. Hamadou** (Togo) explained that it was unwillingness but rather the lack of resources that had caused the delay. He would welcome support, certainly financial but above all technical, to launch the strategy.

54. **Mr. Kotrane** applauded the breadth of the discussion conducted with a multisectoral, high-level delegation, which he thanked for its frankness. While appreciating the progress that had been made since 2005, despite persisting economic and political difficulties, much remained to be done, particularly in order to bring legislation into line with the provisions of the Convention on the Rights of the Child, to improve coordinate action at all levels, to adopt an overall plan of action, to apply the right of children to be heard in practice, to improve data collection, to increase the resources allocated to children, to improve birth registration, to end discrimination against girls and children with disabilities, to put an end to corporal punishment and harmful traditional practices, and to the economic exploitation of children, and to develop juvenile justice in compliance with international human rights instruments.

55. **Ms. Nores de García** also welcomed the delegation's open and frank approach. She hoped that the legislation would be improved in order to facilitate better application of the provisions of the Optional Protocol. She also trusted that Togo's extraterritorial jurisdiction would be broadened, that the study on street children would lead to the introduction of an adequate programme and that more emphasis would be placed on the dissemination of the Convention and the Protocol for preventive purposes. Lastly, she hoped that the efforts undertaken with UNICEF to fight against harmful traditional practices would be successful.

56. **Mr. Hamadou** (Togo) assured the Committee that due attention would be paid to its concerns and recommendations and thanked it for its valuable assistance.

57. **The Chairperson** thanked the delegation and hoped that the Committee's recommendations would help improve the situation of Togo's children.

The meeting rose at 11.55 a.m.