



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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Committee against Torture

**Third periodic report submitted by Togo under article 19 of
the Convention pursuant to the optional reporting procedure,
due in 2016*, **, *****


[Date received: 11 April 2018]

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- * The Committee considered the second periodic report of Togo (CAT/C/TGO/2) at its 1114th and 1117th meetings, held on 12 and 13 November 2012 (see CAT/C/SR.1114 and CAT/C/SR.1117). Having considered the report, the Committee adopted concluding observations (CAT/C/TGO/CO/2).
 - ** The present document is being issued without formal editing.
 - *** The annex to the present report is on file with the secretariat and is available for consultation. It is also available on the website of the Committee against Torture.

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Introduction

1. Togo presented its second periodic report on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to the Committee against Torture in November 2012.
2. Following consideration of the report, the Committee against Torture proposed that Togo should submit its third periodic report on the implementation of the Convention in accordance with the optional reporting procedure established by the Committee at its thirty-eighth session.
3. Under this procedure, a list of issues is drawn up and sent to the State party prior to the submission of its periodic report. The replies of the State party to this list of issues constitute its report under article 19 of the Convention.
4. Togo agreed to submit its third periodic report in accordance with this procedure.
5. The present report was prepared in a participatory, inclusive and transparent manner. To that end, two workshops were held: one for the technical validation of the report by members of the Interministerial Committee for the Preparation of Initial and Periodic Human Rights Reports, and another for domestic validation, which involved the National Human Rights Commission and other national institutions and civil society organizations working in the field of human rights.

Part One

Specific information on the implementation of articles 1 to 16 of the Convention, including with regard to the Committee's previous recommendations

Articles 1 and 4

Paragraph 1: With reference to the Committee's previous concluding observations (paras. 7 and 8), please provide up-to-date information on progress made with regard to the adoption of the new Criminal Code. Please also indicate whether the bill to amend the Criminal Code contains a definition of torture that incorporates all the elements contained in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and characterizes all acts of torture as offences punishable by penalties commensurate with the gravity of the acts committed. In this connection, when submitting the State party's report, please transmit to the Committee the bill to amend the Criminal Code and the preliminary bill to amend the Code of Criminal Procedure. Please also indicate whether a deadline has been set for the consideration of these bills.

Reply to the issues raised in paragraph 1

6. The new Criminal Code has been adopted and promulgated. It entered into force on 25 November 2015. It contains a definition of torture that covers all the elements contained in article 1 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, in accordance with Act No. 2016-027 of 11 October 2016 amending Act No. 2015-010 of 24 November 2015 instituting the new Criminal Code (see article 198 of the new Criminal Code). The penalty for torture is a term of imprisonment of 30 to 50 years (article 199).

7. No deadline has been set for the adoption of the Code of Criminal Procedure. However, every effort is being made to ensure that it will be adopted in a timely manner.

Paragraph 2: In the light of the Committee's previous concluding observations (para. 11), please indicate whether the 10-year statutory limitation provided for in article 12 of the preliminary bill on the Code of Criminal Procedure has been removed and whether a

provision on the non-applicability of statutory limitations to the crime of torture has been included in the preliminary bill. If this is not the case, please state the reasons.

Reply to the issues raised in paragraph 2

8. The 10-year statutory limitation provided for in the Criminal Code was removed pursuant to the promulgation of Act No. 2016-027 of 11 October 2016 amending Act No. 2015-10 of 24 November 2015 instituting the new Criminal Code.

9. The crime of torture is no longer subject to a statute of limitations, in accordance with the provisions of the last paragraph of article 198 of the new Criminal Code.

Article 2

Paragraph 3: Please provide up-to-date information on the measures taken by the State party to incorporate in the Constitution, or in any other law, the principle of the absolute prohibition of torture, according to which no exceptional circumstances of any kind, including a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify derogating from this principle. Please indicate whether any complaints of torture have been lodged. If so, please provide information on the number of complaints received, the number of investigations and prosecutions to which they have given rise, the number of convictions handed down and the nature of the penalties imposed.

Reply to the issues raised in paragraph 3

10. The Constitution of the Fourth Togolese Republic of 14 October 1992 expressly prohibits the use of torture no matter the reasons or circumstances (art. 21 (2)).

11. Similarly, article 206 of the new Criminal Code provides that:

“The fact that acts of torture or other ill-treatment were committed pursuant to orders from a superior officer or a public authority, or in response to exceptional circumstances including a state of war, a threat of war or internal political instability, does not constitute a ground for exemption from criminal responsibility.”

No complaint of acts of torture has been lodged since the entry into force of the act instituting the new Criminal Code.

Paragraph 4: In the light of the Committee’s previous recommendation (para. 10) and the reports received by the Committee of numerous violations of fundamental guarantees during arrest and deprivation of liberty, please supply information on measures and procedures adopted in order to guarantee, in practice, the right of all persons deprived of their liberty to be informed promptly of the reason for their arrest and the charges brought against them in a language that they understand; to consult a lawyer of their choice; to obtain legal aid; to communicate with a family member or relative; to be examined promptly by a doctor of their choice; and to be brought, as soon as possible, before an independent and impartial tribunal in order to obtain a ruling on the legality of their detention. Please indicate whether all these fundamental guarantees have been embodied in the preliminary bill to amend the Code of Criminal Procedure; clarify whether these rights are subject to restriction and, if so, on what grounds; and describe the obstacles accounting for the delay in adopting this preliminary bill.

Reply to the issues raised in paragraph 4

12. The measures taken to guarantee, in practice, the right of all persons deprived of their liberty to be informed promptly of the reason for their arrest and the charges brought against them in a language that they understand include the provision of training for students in police and gendarmerie academies. Future criminal investigation officers receive training on the application of the Code of Criminal Procedure, which contains some of these rights. Prosecutors ensure that these rights are enforced in practice by verifying that

suspects have been duly informed when they are brought before them for questioning. They check that criminal investigation officers have notified such persons of their various rights.

13. Between 2015 and 2017, 2,539 criminal investigation officers received the above-mentioned training. In this training, emphasis is placed on the obligation to respect the time limits on police custody. In order to monitor the proper implementation of such limits, official records of investigations must detail the date and time of arrest and the date and time that the detainee is sent to appear before a judge.

14. Police officers and gendarmes are also regularly sent for training in other countries, including France, Italy, Cameroon, Côte d'Ivoire and Madagascar.

15. The rights to consult a lawyer, to be examined by a doctor of one's choice, to receive information on legal aid and to communicate with a family member or relative (in the case of nationals) or inform the diplomatic mission of one's country of origin (in the case of foreign nationals) are not systematically respected.

16. Moreover, the procedure currently in force does not recognize the right of habeas corpus, which allows detained persons to challenge the legality of their detention.

17. All these guarantees are provided for in the preliminary bill to amend the Code of Criminal Procedure (arts. 91 to 99). There is, however, a slight difference with regard to the right to be examined by a doctor. The preliminary bill to amend the Code of Criminal Procedure leaves the choice of doctor to the State prosecutor. It provides for a lawyer to be present when a criminal investigation officer takes the decision to remand an arrested person in custody (art. 91). It also provides for restrictions on the lawyer's presence in recognition of the right of the State prosecutor to delay the presence of a lawyer for reasons relating to the purposes of the inquiry or the nature of the offence concerned (art. 97).

Paragraph 5: Please indicate whether the State party has taken concrete measures to provide for the implementation of the Act of 24 May 2013 on legal aid, in particular through the adoption of a decree setting forth the mandate, terms of reference and composition of the National Legal Aid Council.

Reply to the issues raised in paragraph 5

18. In order to implement the Act of 24 May 2013 on legal aid, briefing trips to African countries with experience in the area were organized with a view to enhancing the draft implementing decrees already developed, in particular with regard to the mandate, operation and membership of the National Legal Aid Council. These trips led to a proposal to amend the Act of 24 May 2013 in order to facilitate its application.

Paragraph 6: Taking into account the previous concluding observations of the Committee (para. 15) and reports received by the Committee concerning a recurring problem of violence against women and girls, please provide information on the measures taken by the State party to prevent and punish all forms of violence against women and girls. In that connection, please indicate whether a comprehensive national action plan has been developed. Please also indicate whether the bill to amend the Criminal Code characterizes violence against women as "crimes against the person" rather than as "crimes against morality", which is the wording used in the current Criminal Code. Have provisions relating to the criminalization of domestic violence, including marital rape, been included in the preliminary bill to amend the Criminal Code?

Reply to the issues raised in paragraph 6

19. In order to prevent and punish all forms of violence against women, Togo has incorporated specific provisions and penalties into articles 232 to 237 of the new Criminal Code, under title II, "Offences against the person". Violent acts against women are no longer characterized as offences against morality. Marital rape is defined and punished under article 212 (2).

20. Moreover, the new Individuals and Family Code protects women from traditions and customs that harm their integrity (for example, humiliating and degrading widowhood rites).

21. In addition to the improvements made to the legal framework, measures have been taken to facilitate implementation of legislation, strengthen the institutional framework and foster dynamic cooperation with civil society organizations.

22. These measures include, in addition to other actions carried out in an interactive fashion:

- The revision and implementation, since 2012, of a national strategy to combat gender-based violence, accompanied by a national action plan and a gender-based violence monitoring framework;
- The implementation, with the support of the French Cooperation Service, Japanese Cooperation and the United Nations Children’s Fund (UNICEF), of a national programme focusing on gender-based violence against adolescents both in and out of school. Thus, capacity-building modules for adolescents have been developed with accompanying picture boxes, which serve as a learning support tool for teachers and those who do extra-curricular work with adolescents;
- The development of standards and procedures for the establishment and management of counselling and psychological care centres for victims of gender-based violence, which have helped to strengthen the human resources of these centres;
- The launch, in 2014, of a partnership initiative between the public authorities, civil society and the private sector aimed at developing a legal assistance pilot project for girl victims of violence;
- Community-based public awareness-raising activities on gender-based violence for religious and community leaders and other development stakeholders;
- The annual nationwide celebration of the 16 Days of Activism against Gender-Based Violence campaign and of days dedicated to women and girls;
- Regular capacity-building for non-governmental organizations (NGOs), paralegals, counselling centre staff and media professionals on the inclusion of gender-based violence prevention in their community action programmes;
- Capacity-building for country programme focal points, managers and gender units within ministries with a view to refining the integration of gender mainstreaming in sectoral policies, programmes and projects;
- Awareness-raising about trafficking in children and women through information campaigns on violence against children and women;
- The collaborative development of leaflets to combat gender-based violence from traditional cultural, Muslim and Christian perspectives; the leaflets have been distributed and serve as communication tools in awareness-raising and advocacy sessions;
- The organization of awareness-raising sessions and training workshops for prefects, traditional leaders, religious authorities, landowners, school pupils and other key groups in local communities on gender issues and women’s access to land, measures to combat violence, and discrimination against women and girls, which were attended by 30,000 people in the regions of Kara and Plateaux in 2015 and 2016.

23. The new Criminal Code has a section devoted to violence against women, including marital rape, economic violence, sexual harassment and domestic violence.

Obstacles

24. Despite the favourable legal framework, the results achieved by the State and civil society remain modest. This is partly due to the limited implementation of legislation owing to sociocultural impediments that make it difficult to change attitudes and behaviour and that cause citizens to favour family or community practices at the expense of the law.

25. The situation is compounded by perceptions about violence against women, the choice of means of dispute settlement, women’s economic dependence, the lack of awareness about rights, the difficulties women have in accessing the judicial system, the

lack of emergency care services for women and girls who are victims of violence, the absence of a culture of victims reporting cases of violence, etc.

Challenges

- Obtaining adequate national and international funding for the national programme to combat violence against women in order to ensure a coherent and comprehensive response to the problem;
- Disseminating documents and carrying out community awareness-raising activities on human rights;
- Providing legal support for women so that violence is punished in accordance with the law, with a view to promoting respect for the law and discouraging abuse;
- Providing urgent medical care to girl and women victims of violence;
- Extending counselling and care centres to all local communities;
- Revising the training and education curricula so as to include gender issues and ways to combat violence against women and girls;
- Providing human rights education in schools.

Paragraph 7: *As a follow-up to the Committee's previous concluding observations (para. 15) and in the light of the continuing high prevalence of female genital mutilation and the ineffectiveness of national legislation in this area, and taking into account the awareness-raising campaigns organized by the Ministry for the Advancement of Women, please provide information on the measures taken by the State party to put an end to this practice. Please indicate whether any nationwide awareness-raising programmes on the harmful effects of female genital mutilation have been organized; whether special shelters have been set up for women and girls who have fled their homes in order to escape genital mutilation; and, lastly, whether rehabilitation programmes have been organized to offer alternative sources of income to persons for whom the practice of female genital mutilation constitutes a means of subsistence. Where appropriate, please indicate the criteria used by the State party to evaluate the effectiveness of the measures it has implemented. Finally, please indicate whether an obligation to provide redress to the victims of such practices has been included in the preliminary bill to amend the Code of Criminal Procedure.*

Reply to the issues raised in paragraph 7

26. According to the Togolese Demographic and Health Survey report 2013–2014, 5 per cent of women aged between 15 and 49 years stated that they had undergone excision. The results broken down by age show that the practice of excision has decreased across generations, from older to younger: the proportion of women who have undergone excision falls from 10 per cent among women aged between 45 and 49 years to 2 per cent among those aged between 15 and 24 years.

27. Measures taken to put an end to these practices include:

- The signing by practitioners of female genital mutilation in December 2012 in Sokodé of an agreement to cease the practice, and the pledge made by 300 women to hand over their excision instruments and report clandestine cases. The introduction of these practitioners to other income-generating activities (engaging in small-scale retail trade, selling maize and yams, etc.);
- The inclusive and participatory development by all stakeholders (public service providers, civil society organizations and community and religious leaders) of leaflets to combat gender-based violence, including female genital mutilation, from traditional cultural, Muslim and Christian perspectives. These leaflets are assembled in a collection of communication materials used during campaigns and awareness-raising sessions on the consequences of female genital mutilation and when conducting advocacy work with religious and traditional leaders.

28. In order to escape the full force of the law in Togo, the few cases of female genital mutilation that still occur tend to be carried out against nursing infants. In response to this trend, the Government, with the support of UNICEF, has strengthened the capacities of

health professionals to check infants' genitals during routine medical examinations. Thus, between 2012 and 2015, four cases of excision found by these professionals and reported to the relevant helpline were brought before the courts.

29. Since 2015, a national communication strategy targeting cultural or traditional practices that incite violence or discrimination against women, including female genital mutilation and child marriage, has also been implemented with the support of UNICEF.

30. The national strategy focuses on involving key actors from local authorities and organizations, including prefects, traditional and religious leaders and representatives of the various religious denominations.

31. For example, between 2015 and 2016, five regional consultation meetings were held with the prefects, traditional and religious leaders, leaders of various religious denominations, social actors and groups of children. These meetings led to the holding of a national forum on the problem of child marriage in Togo as part of the campaign to combat child marriage in Africa in line with the 2014 recommendations of the African Union. In Togo, this campaign culminated in the signing by traditional and religious leaders of an additional commitment to the Notsè Declaration on combating child marriage in Togo.

Paragraph 8: In the light of the Committee's previous recommendation (para. 20), please provide statistical data, broken down by age and nationality or ethnic origin, on the number of complaints, investigations, formal charges and convictions, and on the sentences handed down, in cases of physical or sexual violence against women and girls since the Committee's most recent recommendations.

Reply to the issues raised in paragraph 8

32. It is difficult to provide a comprehensive and firm answer regarding the number of complaints, investigations and formal charges, particularly disaggregated by age, nationality and ethnic origin, given that there is no computerized system for registering complaints, investigations or charges concerning violence against women.

33. In order to solve the problem of the lack of statistics, the Ministry of Justice is working to develop an information-gathering tool and publish the data collected in the form of a quarterly or annual statistical yearbook. It is with this in mind that meetings were held with an expert statistician during the second half of 2016 to gather information on the offences to be included in the yearbook.

34. Between 2015 and 2016, the number of acts of sexual violence that led to convictions within the jurisdictions of the courts of appeal of Lomé and Kara were 51 and 22 respectively; the sentences handed down ranged from 2 to 15 years of imprisonment.

Paragraph 9: On the basis of reports received by the Committee of a widespread problem of internal and cross-border trafficking of men, women and children for the purposes of sexual exploitation, forced labour or domestic slavery, please provide up-to-date statistics, broken down by the victims' sex, age and nationality or ethnic origin, on the number of complaints, investigations, formal charges and convictions, and on the sentences handed down in such cases, since the consideration of the previous periodic report. Please indicate whether the bill to amend the Criminal Code contains provisions that prevent and criminalize all forms of trafficking in persons and that bring the Code into line with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, which was ratified by the State party on 8 May 2009.

Reply to the issues raised in paragraph 9

35. It is not yet possible to provide up-to-date statistics, broken down by the victims' sex, age and nationality or ethnic origin, on the number of complaints, investigations, formal charges and convictions, or on the sentences handed down in such cases, since the consideration of the previous periodic report.

36. However, some detailed statistics can be provided on trafficking in children. These are presented in the following table:

Year	Number of reported cases	Number of cases investigated	Number of cases resulting in prosecution	Number of cases resulting in convictions
2012	110	106	80	69
2013	85	81	62	40
2014	134	108	80	58
2015	124	112	101	60

37. The new Criminal Code, promulgated on 24 November 2015, includes provisions that criminalize the various forms of trafficking in persons. Article 317 of the Code, which defines trafficking in persons, lists the same characteristic elements as those contained in the definition provided in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Thus, article 317 provides that “trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation”.

38. Exploitation includes:

- Sexual exploitation, including the exploitation of the prostitution of others
- Labour exploitation, including forced labour or services, slavery or servitude
- Exploitation by means of forced or servile marriage
- Exploitation in armed conflict
- Exploitation through begging
- Exploitation of human body parts
- Exploitation through illicit activities by others, including the production and trafficking of drugs

39. The consent of a victim of trafficking in persons to the intended exploitation defined in article 317 (1) and (2) is irrelevant.

40. Other provisions on trafficking in persons in accordance with the United Nations Convention against Transnational Organized Crime are provided for in articles 317 to 334 in particular.

41. It is difficult to provide statistics on the internal and cross-border trafficking of men, women and children for the purpose of sexual exploitation, forced labour or domestic servitude. However, it can be reported that in 2015, 50 cases of trafficking in children were recorded, of which 48 were resolved, with 72 individuals charged and 49 brought to trial.

Paragraph 10: *Please provide information on specific measures taken by the State party to effectively combat trafficking in children, in accordance with the previous recommendations of the Committee on the Rights of the Child (CRC/C/TGO/CO/3-4). Please indicate whether the State party intends to amend the Togolese Children’s Code and Act No. 2005-009 on child trafficking, in order to bring them into conformity with the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, which was ratified by the State party on 2 July 2004, and to increase the length of the sentences prescribed for such crimes. Please also indicate when the National Commission for Combating Child Trafficking, as established pursuant to Act No. 2005-009 on child trafficking in Togo, will become operational, and give details of the powers included in its mandate – in particular, whether it can initiate investigations – and the annual budget that will be allocated to it.*

Reply to the issues raised in paragraph 10

42. Specific measures taken to combat child trafficking include:

- The establishment of networks of national actors involved in combating trafficking in children in order to facilitate the exchange of information relating to traffickers and their accomplices;
- The design and production of charts that illustrate the harmful effects of trafficking in children and serve as a communication tool during sessions to raise public awareness in high-prevalence areas;
- A project to improve the access of children in Togo to justice, funded by the European Union and UNICEF and implemented over the 2016–2018 period, which provides for the revision of the Children’s Code in line with ratified conventions.

43. The establishment of the National Commission for Combating Child Trafficking, as provided for under Act No. 2005-009 of 5 August 2005, is no longer relevant, since the Act, under which trafficking in persons was classified as a less serious offence, was repealed by the new Criminal Code of 2015, which characterized trafficking in persons as a serious offence.

44. To meet the requirement for the establishment of a national body to coordinate anti-trafficking efforts, a new draft decree more closely aligned with the new legislation was submitted to the Government by the Minister of Justice and the Minister of Social Action, Advancement of Women and Literacy. The draft has been examined on first reading by the Council of Ministers.

45. Measures taken to combat child trafficking include:

- Strengthening the national legal framework through the adoption and promulgation, in 2015, of the new Criminal Code, which bolsters the provisions of the Children’s Code by considering as an aggravating circumstance, among others, the commission of trafficking offences against a person in a particularly vulnerable situation as a result of his or her status as a minor (art. 319-1); thus, unlike the Children’s Code, which provides for a prison term of 2 to 5 years and a fine of 1 to 5 million CFA francs for perpetrators of child trafficking, the new Criminal Code provides for a prison term of 20 to 30 years and a fine of 20 to 50 million CFA francs;
- The organization, in 2014, under the Priority Solidarity Fund Project implemented by the French Embassy in five Gulf of Guinea countries, of training on trafficking, victim protection and on the procedure for prosecuting perpetrators for 21 judges and criminal investigation officers, who subsequently replicated the training for 150 gendarmerie cadets. In 2015, the process culminated in a discussion workshop with around 100 participants from the five countries concerned, the purpose of which was to strengthen police and judicial cooperation efforts at the regional level and to encourage the exchange of experience and best practices among participants;
- Periodic mass awareness-raising campaigns through the media, focusing on the harmful effects of child trafficking and the penalties imposed on perpetrators;
- The allocation, since 2012, of funding to the ministry in charge of child protection for the care of children identified as victims of trafficking.

46. The establishment of networks of national and subregional actors involved in combating child trafficking in order to facilitate the exchange of information on traffickers and their accomplices has enhanced coordination in this area. Since 2016, those involved in such work in Benin, Ghana and Togo have met periodically to exchange best practices.

Paragraph 11: Lastly, please indicate the measures taken by the State party to develop a policy of mutual legal assistance with other originating, receiving and transit States for cross-border trafficking in persons.

Reply to the issues raised in paragraph 11

47. Togo has signed and ratified the following mutual legal assistance agreements:
- The Multilateral Cooperation Agreement to Combat Child Trafficking in West Africa, signed in Abidjan on 27 July 2005;
 - Convention A/P.1/7/92 of the Economic Community of West African States (ECOWAS) on mutual legal assistance in criminal matters, signed on 29 July 1992 in Dakar and ratified by Togo on 28 October 1998.
48. Togo also has recourse to INTERPOL – a valuable tool for cooperation with other countries.

Paragraph 12: In the light of reports received by the Committee of a recurring problem of excessive use of force by law enforcement officers, please provide information on action taken by the State party to implement effective measures to prevent all acts of torture and other forms of ill-treatment by such officers – including the excessive use of force – in particular through criminal penalties and effective disciplinary mechanisms, in accordance with the State party's obligations under the Convention. Please also include information on the training imparted to law enforcement officers on this subject. Moreover, please provide information on the results of investigations conducted, proceedings initiated and convictions and sentences handed down in cases of political repression involving the excessive use of force, such as those of Anselme Sinadare Gouyano, Douiti Sinanlengue, Mohamed Loum, Jean Eklou, Ouro Akpo, Athiirey Apollinaire and Etienne Yakanou.

Reply to the issues raised in paragraph 12

49. As noted above in the reply to the issues raised in paragraph 4, training in policing and criminal investigation is frequently organized for law enforcement officials so as to ensure that they do not commit acts of torture and other forms of ill-treatment, including excessive use of force. Decree No. 2013-013/PR of 6 March 2013 on maintaining and restoring law and order has been issued.
50. To make sanctions more effective, new regulations on general discipline in the Togolese armed forces are being drafted. Similarly, Act No. 2015-005 of 28 July 2015 on the Special Status of the National Police provides for the strengthening of disciplinary sanctions for non-compliance with regulations.
51. Act No. 2016-008 of 21 April 2016 on the Code of Military Justice has been adopted to ensure that military personnel cannot avoid criminal prosecution. Criminal offences will be dealt with by the military courts (art. 47) with the same guarantees as the ordinary courts and will be punished in accordance with the provisions of the new Criminal Code. Awareness-raising activities are planned for all officials. Plans are also in place for the establishment of these courts, which are intended to effectively fight impunity within the defence and security forces.
52. To prevent acts of torture from being committed, all such acts, regardless of their origin or perpetrator, are punishable under articles 198 et seq. of the new Criminal Code. Thus, law enforcement or security officials who, in discharging their duties, resort to acts of torture cannot escape punishment by invoking an order from a superior officer. They have the right to refuse to perform acts that are clearly illegal without risking disciplinary sanction.
53. With regard to the sanctions imposed on the perpetrators of the acts that led to the deaths of Anselme Sinadare Gouyano and Douiti Sinanlengue, a police officer has been tried and convicted of manslaughter and given a 36-month sentence, with 10 months suspension, and ordered by the State to compensate the victims' families.
54. The results of the investigations into the cases of Mohamed Loum, Jean Eklou, Ouro Akpo, Athiirey Apollinaire and Etienne Yakanou have yet to be made public.

Paragraph 13: *In the light of the Committee's most recent concluding observations (para. 14), the Committee notes with satisfaction the finalization of the preliminary bill to amend and supplement Organic Acts No. 2005-04 and No. 96-12 on the composition, organization and functioning of the National Human Rights Commission, but requests that the State party supply more detailed information on the specific provisions included in the bill in order to ensure that the Commission fulfils the role of national preventive mechanism in an independent and impartial manner, in accordance with the requirements of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Paris Principles. In particular, please indicate whether its new mandate will enable it to conduct investigations into allegations of torture or ill-treatment and to undertake unannounced visits to all places of detention, including unofficial facilities. Please also specify the annual budget allocated to the Commission, the allocating agency and the periodicity of disbursements.*

Reply to the issues raised in paragraph 13

55. To ensure that the National Human Rights Commission fulfils the role of national preventive mechanism in an independent and impartial manner, in accordance with the requirements of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Paris Principles, a new organic act on the composition, organization and functioning of the Commission was adopted by the National Assembly on 5 October 2017.

56. Article 6 of the Organic Act provides: "The Commission is responsible for preventing torture and other cruel, inhuman or degrading treatment or punishment, including in places of detention and any other place that it may identify. It is empowered to make regular and unannounced visits to all places of deprivation of liberty."

57. Article 13 of the above-mentioned Act provides for the creation of a subcommission on the prevention of torture and other cruel, inhuman or degrading treatment or punishment. To enable it to carry out its preventive mission, the subcommission must be granted:

- Access to all information concerning the number of persons deprived of their liberty in places of detention as defined in article 6 (1);
- Access to all information referring to the treatment of those persons as well as their conditions of detention;
- Access to all places of detention and their installations and facilities;
- The opportunity to have private interviews with persons deprived of their liberty without witnesses, either personally or with an accredited interpreter if deemed necessary, as well as with any other person who the subcommission believes may supply relevant information;
- The liberty to choose the places it wants to visit and the persons it wants to interview;
- The opportunity to liaise with the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- The due support of all authorities upon request.

58. The budget of the National Human Rights Commission is voted on by the National Assembly and allocated to it as a grant. The Commission manages the budget for its operations and the implementation of its activities.

59. The budget has been steadily increased to meet the need for greater efficiency. It was raised from 250 million CFA francs in 2013 to 280 million CFA francs in 2014 and 350 million CFA francs in 2017.

Paragraph 14: *Please also provide explanations for the information contained in the report of the Special Rapporteur on the situation of human rights defenders, which indicates a decrease in the financial resources allocated to the National Human Rights Commission since the publication of the Commission's report on allegations of torture made by prisoners in connection with proceedings brought for endangering State security. Lastly, please indicate whether an investigation was initiated in order to shed light on the reasons*

that led Koffi Kounté, former president of the National Human Rights Commission, and his family to leave Togo following the publication of the Commission's report and, if so, indicate the status of the investigation, its results and whether the necessary guarantees have been extended in order to ensure his safe return to Togo.

Reply to the issues raised in paragraph 14

60. There is no basis for the information contained in the report of the Special Rapporteur on the situation of human rights defenders that indicates a decrease in the financial resources allocated to the National Human Rights Commission since the publication of the Commission's report on allegations of torture made by prisoners in connection with proceedings brought for endangering State security. Indeed, since 2013, one year after the report was published, the Commission's budget has been increased, as indicated above (reply to the issues raised in paragraph 13).

61. The National Human Rights Commission is not aware of any investigation having been carried out to shed light on the reasons that led Koffi Kounté and his family to leave Togo following the publication of its report.

62. Regarding the guarantees needed to ensure the safe return of Mr Kounté to Togo, it should be noted that the Government reassured Mr. Kounté and his family, the day after they had left the country, that security measures had been taken to ensure their safety.

Article 3

Paragraph 15: With regard to the Committee's previous concluding observations (para. 16), please provide detailed information on relevant developments both at the institutional and legislative levels and in practice that have taken place since the Committee's previous concluding observations, as they relate to the principle of non-refoulement and the obligations arising from article 3 of the Convention. Please indicate whether the bill to amend the Criminal Code includes provisions guaranteeing that a person may not be expelled if there is an acknowledged risk that he or she would be subjected to torture if returned to a third State.

Reply to the issues raised in paragraph 15

63. Article 208 of the new Criminal Code prohibits the expulsion, refoulement and extradition of a person if there is an acknowledged risk that that person would be subjected to torture if he or she was returned to a third State.

64. The principle of non-refoulement is enshrined in article 20 of Act No. 2016-021 of 24 August 2016 on the status of refugees in Togo.

65. Article 20 of the Act states that "no refugee or asylum seeker shall be subjected to refoulement which would compel him or her to return to his or her country of origin or remain in a territory where his or her life, physical integrity or liberty would be threatened".

Paragraph 16: What procedure is followed in the event of a request for asylum or expulsion? Are individuals awaiting expulsion, return or extradition informed of their right to seek asylum and to lodge an appeal? Is there a requirement for these procedures to include a personal interview in order to assess the risk faced by each applicant individually? In the event that an appeal is lodged following an expulsion, return or extradition order, does such an appeal have suspensive effect? Does the preliminary bill to amend the Criminal Code contain specific provisions guaranteeing the right to an appeal with suspensive effect in such procedures, as well as all the fundamental guarantees arising from the Convention and international instruments, pending the outcome of the remedies sought?

Reply to the issues raised in paragraph 16

66. Extradition appeals have suspensive effect. The draft of the new Code of Criminal Procedure contains provisions to that effect. With regard to extradition proceedings, there is

a legal requirement for an interview with the person concerned (art. 13 of the Act of 10 March 1927 on the extradition of foreigners). Where expulsion is ordered by a court, the person concerned has a right of appeal with suspensive effect.

Paragraph 17: Please indicate the number of asylum applications received during the period under review and the number of applications that were granted because there were substantial grounds for believing that there was an acknowledged risk that the persons in question would be tortured if they were returned to their country of origin or to a third State. Please include data, broken down by sex, age and country of origin, on the number of persons who have been returned, extradited or expelled since the consideration of the State party's previous report.

Reply to the issues raised in paragraph 17

67. Togo has received 9,272 asylum applications since 2012:

- 643 have been recognized on the basis of an established fear of persecution. There have since been several spontaneous departures. A number of individuals have been voluntarily repatriated to their countries of origin or resettled in third countries.
- During the reporting period, no refugees have been returned, extradited or expelled.

68. In 2015, the National Commission for Refugees registered 21,456 refugees from 14 countries: Burundi, the Central African Republic, Chad, Congo, Côte d'Ivoire, the Democratic Republic of the Congo, Ghana, Iraq, Libya, Mali, Nigeria, Rwanda, Somalia, Sudan and the Syrian Arab Republic.

69. Since the previous report, it has registered 720 asylum seekers, including 244 in 2015, from Burundi, the Central African Republic, Chad, Congo, Côte d'Ivoire, the Democratic Republic of the Congo, Lebanon, Mali, Nigeria, Rwanda, Senegal, Sierra Leone, Sudan, the Syrian Arab Republic and Ukraine. The details are provided in the table below:

Legal status of asylum seekers in Togo

<i>Nationality</i>	<i>Number of asylum seekers</i>
Burundi	1
Central African Republic	143
Chad	3
Congo	10
Democratic Republic of the Congo	77
Côte d'Ivoire	323
Lebanon	10
Mali	130
Nigeria	12
Rwanda	1
Senegal	1
Sierra Leone	1
Sudan	1
Syria	6
Ukraine	1
Total	720

70. Togo has not had to return or expel any asylum seekers. The services of the national registry are often enlisted to regularize the situation of persons who are not granted asylum seeker or refugee status (by means of residence permits and so on).

Paragraph 18: Please indicate the number of cases of refoulement, extradition and expulsion in which the State party accepted diplomatic assurances or similar guarantees and the number of cases in which it provided such assurances or guarantees. What are the minimum terms of such assurances, whether given or received, and what type of follow-up actions do they entail? Please also indicate whether there have been any cases of extraordinary rendition and, if so, provide explanations in that regard.

Reply to the issues raised in paragraph 18

71. Apart from handovers made by police departments under the quadripartite agreement signed between Benin, Ghana, Nigeria and Togo in 1984, Togo does not carry out extraordinary renditions.

Articles 5 to 9

Paragraph 19: Please indicate what legislative or other measures have been taken to give effect to article 5 of the Convention. Please clarify whether, under national law, acts of torture are considered to be offences for which the State party is required to exercise universal jurisdiction, irrespective of the place in which the acts were committed and of the nationality of the perpetrators or victims of such offences. Please give specific examples of decisions handed down in this regard. Please also indicate whether the State party plans to ratify the Rome Statute of the International Criminal Court.

Reply to the issues raised in paragraph 19

72. A number of legislative and other measures have been taken to give effect to articles 5 to 9 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

73. The Constitution of 14 October 1992 contains provisions on combating torture and other cruel, inhuman or degrading treatment or punishment. Articles 13 (1) and 21 provide for the prohibition of any act that violates the physical integrity of citizens.

- To give effect to this prohibition, Togo ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 18 November 1987 and the Optional Protocol thereto in 2010.
- To give effect to articles 5 to 9 of the Convention, articles 198 and 199 of Act No. 2015-10 of 24 November 2015 on the new Criminal Code define torture and other cruel, inhuman or degrading treatment or punishment and provide for the punishment of perpetrators.
- On 5 October 2017, the National Assembly adopted the new organic act on the composition, organization and functioning of the National Human Rights Commission in order for the Commission to take on the role of national preventive mechanism.
- In line with its long-established mission to protect human rights, the National Human Rights Commission visits places of detention in order to put an end to arbitrary detention.

74. In order to ensure compliance with the Convention, the National Intelligence Agency no longer detains persons on its premises.

75. The Atlas of Torture project, launched by Manfred Nowak, former United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, with the support of the European Union, was implemented in Togo during the 2012–2013 period. The project has facilitated visits to detention centres and facilities throughout the country to ascertain the living conditions of detainees. On the basis of such visits, proposals and recommendations have been made to the Government on detention and living conditions in prison settings.

76. The project has also helped to build the capacity of commissioners and staff of the National Human Rights Commission to monitor places of detention.

77. Moreover, it has aided the Government's revision of the Organic Act on the National Human Rights Commission, with a view to enabling the Commission to serve as a torture prevention mechanism in accordance with the provisions of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Togo received the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in December 2014.

78. Under domestic law, when extradition to a requesting country is denied for fear that the person concerned may be subjected to torture, the offence in question must be tried by Togolese courts (art. 208 (3) of the new Criminal Code). There are currently no known examples of such cases.

79. Articles 149 et seq. of the new Criminal Code define and provide for the punishment of crimes against humanity, war crimes and genocide.

80. Discussions are ongoing with respect to the ratification of the Rome Statute of the International Criminal Court.

Paragraph 20: Please indicate whether the State party has concluded bilateral or multilateral extradition agreements with other States, whether, under those agreements, the offences described in article 4 of the Convention are recognized as extraditable offences and whether, even in the case of an extradition agreement with a third country, the obligations under article 3 of the Convention are met. Lastly, please describe the legislative and administrative measures taken by the State party to ensure that the Convention may be invoked as a legal basis for extradition in respect of the offences referred to in article 4 of the Convention when it receives an extradition request from a State with which it has no extradition agreement or treaty, in accordance with article 3 of the Convention.

Reply to the issues raised in paragraph 20

81. Togo has been party to Convention A/P.1/8/94 on Extradition of the Economic Community of West African States since 24 September 2003.

82. For countries that do not have an agreement with Togo, the provisions of the Convention against Torture are applicable to the extradition of any person suspected of having committed acts of torture in his or her country of origin or another country and who has taken refuge in Togo.

83. The possibility of invoking the Convention against Torture as a legal basis for seeking extradition is provided by article 50 of the Constitution, which incorporates the provisions of the human rights conventions ratified by Togo.

Article 10

Paragraph 21: With reference to the previous recommendation of the Committee (para. 17), please provide information on whether or not the following have been developed:

(a) *Training courses on the absolute prohibition of the crime of torture in order to ensure that all law enforcement personnel and members of the armed forces are aware of their obligations under the Convention and know that any omissions will not be tolerated, that any violation of the Convention will be investigated and that those who commit offences will be prosecuted;*

(b) *Training courses for judges and law enforcement personnel, as part of the national programme to modernize the justice system, on the non-applicability of statutory limitations to the offence of torture, the inadmissibility of statements obtained under torture and the positive obligation to conduct an investigation when an allegation of torture is brought to their attention;*

(c) *Training courses for medical personnel, and for all other persons involved in the supervision, interrogation, investigation or treatment of prisoners, on the detection and documentation of the physical and psychological after-effects of torture. Please indicate whether such courses include specific training in the Manual on the Effective Investigation*

and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol);

(d) A method for evaluating the effectiveness of these training programmes and their impact in terms of reducing the number of cases of torture and ill-treatment. Please give details of the content and application of this method and the results of the measures taken.

Reply to the issues raised in paragraph 21

(a)

84. Training is carried out in gendarmerie and national police academies and Togolese armed forces training centres (see the first paragraph of the reply to the issues raised in paragraph 4).

(b)

85. A large part of initial and in-service training programmes for judges and law enforcement officials is dedicated to the prohibition of torture.

86. As part of efforts to strengthen the capacity of criminal investigation officers and staff of the Prison and Reintegration Service to combat torture, two regional training-of-trainers workshops were held in September 2014 for 120 participants, in particular criminal investigation officers, from the five administrative regions and Lomé. The workshops were organized with the technical and financial support of the United Nations Development Programme in Togo and the Office of the United Nations High Commissioner for Human Rights in Togo.

87. The draft Code of Criminal Procedure contains provisions on the inadmissibility of statements obtained under duress and the obligation to conduct an investigation when an allegation of torture is brought to the attention of the judicial authorities. The inadmissibility of statements obtained under torture is already provided for under article 200 of the new Criminal Code, which states that “if an act of torture is found to have taken place, any statements or confessions obtained by that means or convictions based on such statements or confessions shall be null and void”.

(c)

88. The specific training provided to prison officers responsible for the custody of prisoners has dealt with the latter’s treatment, covering such topics as the prohibition of torture and ill-treatment, the rights of persons deprived of their liberty and the management of prisoners’ computerized records. The Istanbul Protocol is not yet widely known or taught in training centres.

(d)

89. It is difficult to establish a method to assess the impact of training in terms of reducing the number of torture cases. Since provisions on the criminalization and punishment of torture have only recently been included in the Criminal Code, it would be premature to analyse the incidence of torture and the reduction thereof.

Article 11

Paragraph 22: In the light of the Committee’s previous concluding observations (paras. 12 and 13), please provide up-to-date statistics, broken down by sex, age and nationality or ethnic origin, on the number of accused and convicted persons, and on the occupancy rate, in all places of detention in the country, including detention facilities, police stations, gendarmeries, offices of the National Intelligence Agency and facilities for minors. Has a central register been set up to collect information on all detainees and their offence, date of admission to detention, place of detention, age and sex?

Reply to the issues raised in paragraph 22

90. It is not possible to use the statistics as compiled to establish occupancy rates by sex, age, profession or nationality in detention facilities, police stations and gendarmeries.

91. As at 30 September 2016, the total prison population was 4,465, of whom 2,801 were pretrial detainees. Of the total population, 75 were female, including 4 minors, and 4,390 male, including 48 minors. The occupancy rate of detention facilities in Togo is 164 per cent as at the same date. For police stations and gendarmeries, where the period of custody is 48 hours, it is difficult to give a verifiable figure even for a one-hour period.

92. Since the 2012 reform, the National Intelligence Agency no longer holds persons in custody.

93. Registers are maintained in each investigation unit and detention facility. However, there is no central register to collect information on all detainees and their offence, date of admission to detention, place of detention, age and sex.

Paragraph 23: *Given the previous recommendation of the Committee (para. 13) and the reports received by the Committee to the effect that conditions of detention are still very poor, please indicate:*

(a) *What measures the State party has taken to ensure that detainees are treated in accordance with the Standard Minimum Rules for the Treatment of Prisoners and to ensure the separation between remand prisoners and sentenced prisoners, and between men, on the one hand, and women and children, on the other;*

(b) *What steps have been taken to make greater use of non-custodial measures and to transfer minor offences from the criminal justice system to the preventive justice system;*

(c) *Whether the Order of 9 May 2001 concerning debt collection by financial institutions, which authorizes imprisonment for debt and for the non-fulfilment of contractual obligations, has been rescinded and, if not, when it will be rescinded;*

(d) *What percentage of additional funds has been allocated to prison facilities, aside from sanitation and disinfection operations in the country's detention centres and the deployment of additional prison officers trained in human rights, in order to ensure the financing of basic services such as access to clean water, food, hygiene and the provision of medical care for prisoners;*

(e) *What the status of the prison construction project is;*

(f) *Whether the small cells in the Notsé prison and in the Kara military camp have been done away with.*

Reply to the issues raised in paragraph 23

(a)

94. A number of measures have been taken to ensure that detained persons are treated in accordance with all the minimum rules.

95. Within the criminal investigation service:

- Training has been provided to enhance officials' professionalism
- Adults are separated from minors and women are separated from men. Significant support has been received from NGOs to adapt police detention facilities to the needs of women and minors.

96. Within the prison service:

- A new civilian prison has opened in Kpalimé, which has helped to ease overcrowding at Lomé prison following the transfer of 311 detainees to the new prison in September 2016.

- A legal aid programme has been introduced for destitute detainees with the support of UNDP. The programme involves the organization of extraordinary hearings, which even take place on Saturdays, not only to inform detainees of their status within the criminal justice system but also to release those who should not be incarcerated. It also allows lawyers appointed by the Government's partner NGO, Prison Délices, to follow up on detainees' cases pending before the judicial authorities. Under the programme, 700 detainees were released over four years.
- The number of trials has been increased exponentially to improve compliance with pretrial detention periods.
- Men and women, on the one hand, and adults and minors, on the other, have always been detained in separate units.

97. One remaining challenge is the separation of remand prisoners and sentenced prisoners from all of the above categories of detainee in the prison yard. Sentenced prisoners are assigned different cells from remand prisoners wherever possible.

(b)

98. The new Criminal Code provides for alternatives to custodial sentences, including suspended sentences (art. 95), mediation (art. 59), settlement (art. 61), community service (art. 82), discharge (art. 96) and deferment of sentence (arts. 95 and 100). Pretrial release (arts. 113 et seq. of the Code of Criminal Procedure) and conditional release (art. 511 of the Code of Criminal Procedure) are further alternatives to deprivation of liberty.

(c)

99. The Order of 9 May 2001 concerning debt collection by financial institutions, which authorizes imprisonment for the non-fulfilment of contractual obligations, has not yet been expressly rescinded; however, imprisonment is no longer imposed. It can be said to have been de facto repealed since judicial officials no longer order arrests or imprisonment for debt.

(d)

100. No additional funds have been allocated to prison facilities in recent years. On the contrary, funding has been cut by a quarter since 2015.

(e)

101. Kpalimé civilian prison has housed approximately 320 inmates since it opened. No additional prisons have been built.

(f)

102. The small cells in the Kara military camp are now used for storage.

103. The small cells in Notsé civilian prison are still used, as there are more detainees than available places. Taking them out of use would further reduce the number of available places and exacerbate the problem of overcrowding.

***Paragraph 24:** Please provide statistical data on the number of deaths in detention reported during the period under review, broken down by place of detention, sex, age, nationality or ethnic origin of the deceased and cause of death. Please elaborate on the outcome of investigations, including any investigations into the 14 deaths alleged to have occurred in the Cabano Service since January 2013, on the penalties imposed and on the measures taken to prevent the recurrence of such violations. Please indicate whether, in any of the cases, the victim's relatives received redress or compensation.*

Reply to the issues raised in paragraph 24

Statistics on civilian prison deaths in Togo between 2012 and 2015

Year	Number of deaths	Cause of death
2012	58	Malaria, intestinal infections, tumour, infectious disease,
2013	38	HIV, stroke, constitutional syndrome, heart attack,
2014	24	injuries following public lynching after the commission of
2015	37 (1 female)	an offence, oedema, anaemia, tuberculosis, anaemia,
2016	33	lymphangitis, oedematous-ascitic syndrome and cirrhosis
		of the liver.
Total	190	

Source: Lomé Prison Service.

Paragraph 25: *With reference to its previous recommendations (paras. 11 and 13), the Committee welcomes the release of Captain Lambert Adjinon by presidential pardon but remains very concerned about other individuals in similar situations. Accordingly, please specify which individuals remain in prison and which have been released and describe the results of investigations into allegations of torture and ill-treatment, the proceedings that have been initiated and the convictions and sentences that have been handed down. Please indicate in each case whether adequate redress has been provided.*

Reply to the issues raised in paragraph 25

104. Most of the individuals involved in the Kpatcha affair have been released from prison. Messrs. Sassou Sassouvi and Eso Gnassingbé were the last detainees released, on 18 January 2018. Three individuals remain in prison following the affair, namely Kpatcha Gnassingbé, Kokou Tchaa Dontema and Abi Atti.

105. The prisoners have been provided with redress in the form of compensation totalling 530 million CFA francs, in accordance with judgment No. ECW/CCJ/JUD/06/13 of the ECOWAS Court of Justice.

Articles 12 and 13

Paragraph 26: *Taking into account the previous concluding observations of the Committee (para. 11) and the facts reported during the dialogue between the Togolese delegation and the Committee concerning the refusal of judges to deal with cases of torture committed by law enforcement officers, please provide information on investigations into allegations of torture or ill-treatment in which members of the security services or others are implicated and prosecutions launched. Please indicate whether members of the security forces who have been found guilty of such acts have been relieved of their duties.*

Reply to the issues raised in paragraph 26

106. There have been no complaints of torture since the adoption of the new Criminal Code.

Paragraph 27: *In view of the Committee's previous recommendation (para. 9), please provide data, broken down by the victims' age, sex and ethnic origin or nationality, on the number of complaints, investigations, formal charges and convictions, and on the sentences handed down, in cases of torture or ill-treatment suffered by detainees since the consideration of the State party's previous periodic report. Has a central, dedicated register been set up to record acts of torture or ill-treatment?*

Reply to the issues raised in paragraph 27

107. There is no central register for recording acts of torture or ill-treatment. The persons detained following the protests of 19 August 2017 have not lodged any complaints of torture.

Article 14

Paragraph 28: In the light of the Committee's previous concluding observations (para. 18), and in accordance with the Committee's general comment No. 3 (2012) on the implementation of article 14 by States parties, please provide detailed information on the measures taken by the State party since the consideration of the previous report to ensure that all victims of torture or ill-treatment and their families benefit from all possible forms of redress, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. Does the preliminary bill to amend the Criminal Code contain provisions to guarantee all these forms of redress?

Reply to the issues raised in paragraph 28

108. Guarantees regarding any form of redress may be made only under the provisions of the Code of Criminal Procedure establishing the competence of the trial judge. Those provisions were already contained in the current Code of Criminal Procedure (art. 337, which states that "the Court shall rule on the civil action, where applicable, and may order provisional execution of all or part of the judgment. If it is not in a position to rule on the claim for damages, it may award an interim payment, notwithstanding any challenge or appeal." The provision is reproduced in the draft code of criminal procedure. Other than judgment No. ECW/CCJ/JUD/06/13 of the ECOWAS Court of Justice, which ordered the State to pay damages to the individuals who had been prosecuted and convicted following the affair which undermined the internal security of the State, almost all of whom were Togolese by birth or by naturalization, no individuals have been identified as victims of torture or ill-treatment. The complaint in that case could not be processed by the courts until 25 November 2015.

109. The Truth, Justice and Reconciliation Commission, established under points 2.2.2 and 2.4 of the Global Political Accord signed on 20 August 2006 by social and political stakeholders in Togo to shed light on past acts of political violence, recommended setting up an institution that would be responsible for implementing its recommendations and the reparation programme that it had developed. The Office of the High Commissioner for Reconciliation and Strengthening National Unity was established to that end by Decree No. 2013-040 of 24 May 2013.

110. The strategic plan of the Office of the High Commissioner included a section on reparations with the goal of "soothing the hearts and alleviating the physical, moral and psychological pain and suffering of victims and the Togolese people".

111. The reparation programme is based on the United Nations guidelines on reparations for human rights violations, and on international humanitarian law. It covers the different forms of redress in accordance with international standards, namely restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. It is worth noting that the programme also applies to victims of political events in Togo between 1958 and 2005.

Paragraph 29: Please indicate how many claims for reparation in connection with cases of torture or ill-treatment have been submitted since the Committee's previous recommendations and how many have been granted, specifying the amounts ordered and the amounts actually disbursed in each case.

Reply to the issues raised in paragraph 29

112. Since the persons convicted of crimes against internal security were part of a single action, only one case of torture was investigated and tried by the ECOWAS Court of Justice.

The Court awarded 530 million CFA francs to the plaintiffs, which was paid in full by the State.

Paragraph 30: Please provide detailed information on reparation and rehabilitation programmes set up by the State party for all women and girl victims of violence, victims of human trafficking and victims of prison violence.

Reply to the issues raised in paragraph 30

113. Within the framework of combating gender-based violence and violence against women and children, 14 counselling centres, a national centre specializing in medical and psychosocial care for all victims of violence, and a national plan for the protection of victims of child abuse and exploitation, including trafficking, have been set up. A multidisciplinary team comprising health-care and justice professionals, psychologists, sociologists, paralegals and social workers cooperate to rehabilitate victims.

114. Between 2013 and 2016, counselling, psychosocial support, health-care and legal assistance services were provided to 7,145 child victims of violence, abuse and exploitation, including trafficking. Between 2014 and 2016, counselling and advisory services were provided to 5,237 victims of gender-based violence, of whom 4,181 were women and 1,056 were men.

115. The assistance fund for women and girl victims, the product of the partnership between the Ministry for the Advancement of Women, the private sector and NGOs, covers the medical and legal costs of victims in need.

116. The fund has been allocated an annual budget line of between 18 million and 20 million CFA francs since 2013 in order to cover the food, medical and travel expenses and the social and professional reintegration costs of child trafficking victims. The budget allocation allowed 2,987 children – 1,861 of whom were girls – to be identified between 2013 and 2014 and during the first six months of 2017.

Article 15

Paragraph 31: Taking into account the previous concluding observations of the Committee (para. 9) and the allegations of acts of torture for the purpose of extracting confessions that have been brought to the attention of the Committee, please confirm that the bill to amend the Criminal Code guarantees that any confession obtained under torture cannot be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made. Have there already been cases in which such evidence has been either rejected or admitted?

Reply to the issues raised in paragraph 31

117. Article 200 of the new Criminal Code provides that “if an act of torture is found to have taken place, any statements or confessions obtained by that means or convictions based on such statements or confessions shall be null and void”.

Article 16

Paragraph 32: In the light of the Committee’s previous concluding observations (para. 19), please indicate whether the State party has amended Act No. 2007-017 of 6 July 2007 on the Togolese Children’s Code so as to include provisions criminalizing the corporal punishment of children in all environments and contexts, in accordance with international standards in this area.

Reply to the issues raised in paragraph 32

118. Articles 353 to 356 and 376 of Act No. 2007-017 of 6 July 2007 on the Togolese Children’s Code criminalize the corporal punishment of children in all environments and contexts. Measures to reinforce those provisions may be adopted when the Act is amended.

119. The prohibition on corporal punishment is covered in certain provisions of the Code. This is the case with article 355, which defines and punishes physical or mental attacks or brutality, abandonment or negligence, and ill-treatment by the child's own parents or any other person having authority over the child or his or her care.

120. Article 376 provides that "corporal punishment and any other form of violence or ill-treatment shall be prohibited in schools, vocational training centres and institutions".

121. It also states that "institution means any orphanage, centre for children with disabilities, reception or social reintegration centre, hospital, rehabilitation centre or any other place accommodating children on a temporary or permanent basis".

Paragraph 33: Please provide detailed information on the entry into force of the law on the abolition of the death penalty in Togo, which was adopted on 23 June 2009. General information on the human rights situation in the State party, including information on new measures and developments relating to the implementation of the Convention.

Reply to the issues raised in paragraph 33

122. In accordance with the legal provisions concerning the entry into force of a law, the Act of 23 June 2009 on the abolition of the death penalty entered into effect the day immediately after its enactment, namely 24 June 2009. Between that date and 25 November 2015, when the new Criminal Code entered into force, all death sentences that had become final but had not yet been carried out were commuted to life imprisonment. After 25 November 2015, life sentences were commuted to 50 years in prison. To bolster that decision, Togo ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty on 13 September 2016.

Part Two

General information on the human rights situation in the country, including new measures and developments relating to the implementation of the Convention

Paragraph 34: Please provide detailed information on any other legislative, administrative, judicial or other measures taken since the consideration of the previous periodic report to give effect to the Committee's recommendations. Such information may also include institutional changes and plans or programmes. Please specify the resources allocated and provide statistical data or any other information that the State party considers useful.

Reply to the issues raised in paragraph 34

123. The measures adopted and the action taken include:

- The training of 484 staff members of the Prison and Reintegration Service on human rights, including the prevention of torture and the rights of persons deprived of their liberty (2012).
- The establishment of legal clubs to inform detainees of their rights and the procedures in civilian prisons.
- The construction and equipping of two courts of appeal in Lomé and Kara.
- The renovation, extension and equipping of two courts (Atakpamé and Aného).
- The introduction of prison management software.
- The provision of equipment for forensic police (forensic kits).
- The establishment of a virtual library.
- The dissemination of a guide for detainees on their rights and duties.
- The establishment of a department for access to justice, which has published a citizen's legal guide providing an overview of rights and procedures, the relationship

between the authorities and institutions, and the organization and functioning of judicial bodies. It also contains a list of international human rights instruments (2014).

- The signing of an agreement between Togo and the European Union on 26 October 2015 to fund a new programme to support the justice sector. The programme was launched on 15 March 2016.
- The adoption of the justice sector policy document (2015).
- The ongoing construction of a police academy in line with international standards, with financial support from the European Union.
- The training of 582 officials of the national police force (2015–2016).
- The supervision of female detainees by female officials as from 2012.
- The provision of courts with computer equipment and training for staff on its use, as from 2012. A policy on the construction of courts is being implemented and construction work on a court in Sokodé is under way. In terms of ongoing training, the training centre for professionals of the judiciary provided capacity-building for 27 judges in 2012, and 83 in 2013.
- The creation of a unit in charge of hygiene and sanitation in civilian prisons.
- A system for transforming sewage sludge into biogas for cooking purposes in Lomé civilian prison, established on 8 May 2014 with the financial support of UNDP.
- The purchase of two drainage vehicles in 2014.
- Periodic visits to places of detention by members of parliament to check prison conditions.
- A sanitation and disinfection operation carried out in prisons by the International Committee of the Red Cross (2013).
- Disinfection and rodent extermination at Lomé civilian prison by the NGO “DOMINO”.
- One-week sanitation operation together with free care at Lomé civilian prison launched by the Gnassingbé Eyadéma Foundation for Education and Health (2012).
- Medical consultations with the International Association of Physicians for the Promotion of Education and Health (AIMES-Afrique) in certain prisons in 2016.
- Capacity-building for various stakeholders in torture prevention through the Atlas of Torture project (2012/2013).
- The adoption by the National Assembly on 5 October 2017 of an organic law on the composition, organization and functions of the National Human Rights Commission.

124. The Office of the High Commissioner for Reconciliation and Strengthening National Unity was set up by Decree No. 2014-103/PR, amending Decree No. 2013 on the creation of the Office of the High Commissioner for Reconciliation and Strengthening National Unity. The Office is responsible for implementing the recommendations and the reparation programme of the Truth, Justice and Reconciliation Commission. The Commission’s recommendations concern political and institutional reforms in Togo.