



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

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## Committee against Torture

Forty-fifth session

1–19 November 2010

### List of issues prior to the submission of the second periodic report of Togo (CAT/C/TGO/2)\*

### 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

1. Taking account of the previous concluding observations of the Committee against Torture (para. 10),<sup>1</sup> please provide information on the measures adopted to ensure that, in the revision of its criminal code, the State party includes a definition of torture that covers all the elements contained in article 1 of the Convention, establishes provisions criminalizing acts of torture and prescribes appropriate penalties for them that take into account the serious nature of such acts. If this has not yet been done, please explain the reasons why.<sup>2</sup>

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\* The present list of issues was adopted by the Committee at its forty-fifth session, according to the new optional procedure established by the Committee at its thirty-eighth session, which consists of the preparation and adoption of lists of issues to be transmitted to States parties prior to the submission of their respective periodic report. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

<sup>1</sup> The paragraph numbers in brackets refer to the Committee's previous concluding observations, which are published in document CAT/C/TGO/CO/1.

<sup>2</sup> CCPR/C/TGO/Q/4, para. 98, A/HRC/7/3/Add.5, para. 93, and A/HRC/13/39/Add.6.

**Article 2<sup>3</sup>**

2. The Committee takes note of the allegations received by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment of ill-treatment reportedly inflicted by law enforcement officials, mostly during interrogations, for the purpose of obtaining a confession. It also takes note of several allegations of beatings carried out by prison guards and other prisoners as a means of punishment.<sup>4</sup> Please provide up-to-date information on the inquiries conducted into these allegations, as well as prosecutions brought in the light of these inquiries and resulting convictions. Indicate whether measures have been taken to facilitate access to particular places of detention, including National Intelligence Agency (ANR) cells. Please also comment on the reports of arbitrary arrests of opposition activists and supporters during the presidential elections of 4 March 2010 and harassment of representatives of the independent media and human rights defenders.

3. With reference to the Committee's concluding observations (para. 11), please provide information on the measures taken by the State party to revise the provisions of its Code of Criminal Procedure relating to police custody so as to uphold and guarantee the rights of persons held in police custody, including in connection with the habeas corpus rule and their right to inform a friend or relative and to consult a lawyer and a doctor of their choice or an independent doctor.<sup>5</sup> Please state whether free legal aid is guaranteed to persons with limited financial resources.

4. In the light of the Committee's concluding observations (para. 23), please list the measures taken to guarantee the complete independence of the National Human Rights Commission from the executive authorities, specifically by providing it with an adequate operating budget. Please also provide detailed and updated information on the Commission's activities and achievements. State whether its mandate includes receiving and considering complaints from individuals. If so, provide statistics on the number and type of complaints received over the period 2007–2012 and the outcome of any complaints concerning alleged acts of torture or ill-treatment.

5. Bearing in mind the Committee's concluding observations (paras. 18 and 20), please provide statistics on the number of complaints lodged regarding different forms of violence against women and the number of decisions handed down by the courts in this regard, including the number of convictions and corresponding penalties.<sup>6</sup> Please also indicate the number of complaints lodged regarding sexual violence against women in detention centres and the steps taken to follow up on these complaints. Please describe action taken to prevent domestic violence against women through the adoption of relevant measures and to conduct inquiries into cases reported. Please clarify whether domestic violence and marital rape are presently recognized as criminal offences in the State party's criminal law.

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<sup>3</sup> The points raised under article 2 could also be raised under different articles of the Convention, including but not limited to, article 16. As indicated in general comment No. 2, paragraph 3, "The obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment (hereinafter "ill-treatment") under article 16, paragraph 1, are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture ... In practice, the definitional threshold between ill-treatment and torture is often not clear". See also part V of the same general comment.

<sup>4</sup> A/HRC/7/3/Add.5, paras. 46–59, 82, and 94 and annex, paras. 24, 44, 49, 57, 61, 63, 65 and 66.

<sup>5</sup> See A/HRC/13/39/Add.6, paras. 99–101.

<sup>6</sup> CEDAW/C/TGO/CO/5, paras. 18 and 19, and E/C.12/1/Add.61, para. 14.

6. Bearing in mind the Committee's concluding observations (para. 27), please also provide details of the impact that the law prohibiting female genital mutilation has had in terms of reducing the number of cases, and describe the specific steps taken to implement the law (para. 27).<sup>7</sup> In particular, indicate what measures have been taken to:

(a) Provide training for judges, prosecutors and police officers in the strict enforcement of the law prohibiting female genital mutilation; please also provide information, *inter alia*, on prosecutions of cases of female genital mutilation and the sentences handed down;

(b) Combat and eradicate this practice through awareness-raising campaigns;

(c) Strengthen programmes providing assistance to victims;

(d) Ensure that victims have access to justice by informing them of their rights and of the remedies that are available.

7. Please provide detailed and updated information on measures adopted to prevent, combat and punish human trafficking for the purposes of forced labour and sexual exploitation.<sup>8</sup> Please provide details on the impact of the law on trafficking in children in Togo adopted in 2005 and the specific measures taken towards its implementation. Please also indicate the number of complaints lodged, inquiries and prosecutions undertaken and convictions and sentences handed down.

### Article 3

8. In its previous concluding observations (para. 13), the Committee expressed its concern at the absence of provisions in Togolese legislation prohibiting the expulsion, return or extradition of a person to another State where he or she might be tortured. Please provide information on the measures taken to bring national legislation into conformity with the Convention and international refugee law. Please also give detailed information on the competent authorities and bodies responsible for extradition, expulsion and return measures, bearing in mind the provisions of article 3 of the Convention, including information on the appeals procedures for challenging decisions on extradition, return or expulsion (and, generally, all decisions rejecting requests for asylum or admission of refugees). Please also provide examples of decisions taken in cases relevant to article 3 of the Convention.

9. In the light of the Committee's concluding observations (para. 14), please provide detailed information on the measures adopted to revise the subregional agreements signed by Togo and neighbouring States on 10 December 1984 and to guarantee that the return of a person who has been convicted of an offence to one of the signatory States is carried out under a judicial procedure, in accordance with article 3 of the Convention.

### Articles 5, 6, 8 and 9

10. Bearing in mind the concluding observations (para. 15), please provide information on the measures adopted by Togo to establish and exercise its jurisdiction over acts of torture when the alleged author of the offence is in Togo, either to extradite or to prosecute him or her, in accordance with the provisions of the Convention. Also specify the measures adopted to revise the agreements which prevent the nationals of certain States who are on

<sup>7</sup> A/HRC/13/39/Add.6, para. 97; CCPR/C/TGO/4, para. 62; and CRC/C/15/Add.255, paras. 56–57.

<sup>8</sup> CRC/C/15/Add.255, para. 72 and CAT/C/TGO/CO/1, para. 26.

Togolese territory from being brought before the International Criminal Court to be tried for war crimes or crimes against humanity (para. 16).

### **Article 10**

11. Bearing in mind the Committee's concluding observations (para. 18), please provide information on training courses introduced by the State party to ensure that law enforcement personnel, including members of the police force and prison staff, have a good knowledge of the provisions of the Convention, and are well aware that no breaches will be tolerated, that all violations will be investigated, and that those who break the law are liable for prosecution. Also indicate whether the State party has drafted a handbook describing interrogation techniques that are in keeping with the Standard Minimum Rules for the Treatment of Prisoners and those that are prohibited, as they run counter to them.

12. Please provide detailed information on training programmes for judges, prosecutors, forensic doctors and medical personnel dealing with detained persons on the detection and documentation of the physical and psychological sequelae of torture. Do such programmes include specific training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol)?

### **Article 11**

13. Please describe the procedures in place for ensuring compliance with article 11 of the Convention and provide information on any new rules, instructions, methods and practices as well as arrangements for custody that may have been introduced since the consideration of the previous periodic report in 2006. Please also indicate the frequency with which these are reviewed. Please describe new measures taken by the State party to ensure effective and independent supervision and monitoring of detention facilities and inform the Committee of any rules that would prohibit investigations, visits by international bodies or mechanisms, or other forms of human rights scrutiny.

14. What measures have been adopted in follow-up to the Committee's recommendation (para. 19) urging the State party to put an end to practices that run counter to the Standard Minimum Rules for the Treatment of Prisoners? Please comment on the information that the situation in detention centres in Togo is alarming in respect of hygiene, access to health care, food and overcrowding.<sup>9</sup> Please provide updated statistics on the prison population by prison, indicating sex, age and ethnic or national origin, in respect both of convicts and of persons in pretrial detention. Please also provide figures on the occupancy rates for the detention facilities between 2007 and 2012, together with the levels of prison overcrowding.

15. Further to the Committee's previous concluding observations, please:

(a) Indicate the measures the State party has taken to guarantee that persons awaiting trial are separated from those serving sentence, and that women and children are held separately from men and adults (para. 19);

(b) Detail what measures the State party has taken to address the Committee's concerns regarding allegations of sexual violence against women held in detention (para. 20);

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<sup>9</sup> A/HRC/7/3/Add.5, paras. 85 and 103.

(c) Provide information on the public body charged with monitoring places of detention and preventing torture and other forms of ill-treatment contrary to the Convention from being practised. Please also provide specific information as to its composition, mandate and powers (para. 21).

### **Articles 12 and 13**

16. In its previous concluding observations (para. 12), the Committee expressed concern at allegations of serious human rights violations committed during and after the presidential election of 24 April 2005. Please provide detailed information on the inquiries and prosecutions initiated, the type of sanctions imposed on those responsible, and the compensation granted to the victims or their close relatives.

17. Bearing in mind the allegations that violations and abuses are rarely investigated in practice, please provide data for the years 2007–2012 on the following (para. 31):

(a) Cases of alleged torture or other cruel, inhuman or degrading treatment, specifying the number of cases in which the police, the army or the prison system were involved, and statistics identifying the institutions responsible, the places where the acts were committed, and the sex, age and ethnic or national origin of the victims;

(b) Progress in and the outcome of each investigation into allegations of torture or other cruel, inhuman or degrading treatment, and the penalties imposed in the event of conviction;

(c) The number of police, army and prison officers who have been suspended from their duties for acts of torture or other cruel, inhuman or degrading treatment as a preventive measure or sanction, or who have been subsequently dismissed;

(d) The judicial authority (ordinary criminal justice or military criminal justice) that was in charge of the investigations;

(e) Allegations of torture or cruel, inhuman or degrading treatment that resulted in exoneration;

(f) Compensation and rehabilitation services provided to the victims.

18. Please provide disaggregated statistical data regarding reported deaths in custody according to location of detention, sex, age, ethnic or national origin of the deceased and cause of death for the years 2007–2012. Please make available detailed information on the results of the investigations in respect of those deaths and measures implemented to prevent the recurrence of such situations.

### **Article 14**

19. Please provide information on redress and compensation ordered by the courts and actually provided to victims of torture, or their families, since the consideration of the previous periodic report in 2006. Indicate the number of requests for compensation made, the number granted, and the amounts awarded and those actually provided in each case.

### **Article 15**

20. Further to the Committee's concluding observations (para. 24), please provide information on the measures adopted by the State party to include in the Code of Criminal Procedure provisions on the inadmissibility of evidence obtained through torture.

## Article 16

21. In its previous concluding observations (para. 25), the Committee noted with concern information on reprisals, serious acts of intimidation and threats to which human rights defenders were subjected, especially those who reported acts of torture and ill-treatment. Please describe the measures adopted to give legitimate recognition to human rights defenders and their work, and to guarantee their safety.<sup>10</sup>

22. Please describe measures taken by the State party to prohibit corporal punishment and enforce the prohibition in all settings, particularly in juvenile detention centres.<sup>11</sup> Please also provide information on the measures taken to ensure that juvenile justice standards are fully implemented, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules).<sup>12</sup>

## Other issues

23. Bearing in mind that the State party ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in July 2010, please describe the measures adopted to set up or designate a national mechanism that would conduct periodic inspection visits to places of detention in order to prevent torture or other cruel, inhuman or degrading treatment or punishment.

24. Please indicate what steps have been taken by the State party to accept the competence of the Committee under articles 21 and 22 of the Convention.

25. Please provide up-to-date information on the measures adopted by the State party in response to the threat of terrorist acts and indicate whether, and how, these measures have had an impact on human rights safeguards, in law or in practice. Please describe the relevant training given to law enforcement officers; the number and types of convictions handed down under such legislation; the guarantees and legal remedies available to persons subjected to anti-terrorist measures in law and in practice; whether there are complaints of non-observance of international standards; and the outcome of these complaints.

26. Please provide information on the measures adopted to protect stateless persons, particularly children, and to allow for the ratification by the State party of the Convention on the Reduction of Statelessness (1961) and the Convention relating to the Status of Stateless Persons (1954).

## General information on the national human rights situation in the State party, including new measures and developments relating to the implementation of the Convention

27. Please provide detailed information on developments relevant to the legal and institutional framework within which human rights are promoted and protected at the national level that have occurred since the consideration of the initial report, including any relevant jurisprudential decisions.

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<sup>10</sup> Report of the Special Rapporteur on the situation of human rights defenders – Mission to Togo, 28 July–4 August 2008, and A/HRC/10/125/Add.2, paras. 96–119.

<sup>11</sup> A/HRC/7/3/Add.5, para. 59, and A/HRC/13/39/Add.6, paras. 95 and 96.

<sup>12</sup> CRC/C/15/Add.255, paras. 75, 110 and 111; A/HRC/7/3/Add.5, paras. 55–59, 87, 111, and Annex, paras. 27–36; and A/HRC/13/39/Add.6, paras. 95 and 96.

28. Please provide detailed information on the new political, administrative and other measures taken to promote and protect human rights at the national level since the consideration of the initial report, including on any national human rights plans or programmes, and the resources allocated thereto, their means, objectives and results.

29. Please provide any other information on new measures and initiatives undertaken to implement the Convention and the Committee's recommendations since the consideration of the initial report in 2006, including the necessary statistical data, as well as on any events that have occurred in the State party and are relevant under the Convention.

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