



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

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Committee against Torture

List of issues prior to submission of the fourth periodic report of Togo*

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

Issues identified for follow-up in the previous concluding observations

1. In its previous concluding observations,¹ the Committee requested the State party to provide information on its implementation of the Committee’s recommendations on the reform of the judicial system, the situation of persons in pretrial detention, instructions on the absolute prohibition of torture and the closure of Lomé prison (paras. 11 (a), 17 (d), 23 (b) and 25 (a), respectively). Although the Rapporteur for follow-up to concluding observations sent a reminder to the State party on 7 December 2020, the Committee has received no response.

Articles 1 and 4

2. In the light of the Committee’s previous concluding observations,² please indicate whether the State party’s criminal legislation has been amended to explicitly provide for complicity in torture and attempts to commit torture, in accordance with article 4 (1) of the Convention, and to ensure that superior officers are held criminally responsible when they are aware of acts of torture or ill-treatment committed by their subordinates. In view of the definition of torture laid down in articles 198, 199 and 205 of the Criminal Code, please indicate whether or not the official capacity of the person who perpetrated the torture or the fact of having consented to or instigated it are constituent elements of the criminal offence.

Article 2³

3. Please indicate whether the Criminal Code provides for an appropriate legal regime to criminalize enforced disappearance as such and to protect against it, in cases other than those where enforced disappearance constitutes a crime against humanity under articles 149 et seq. of the Criminal Code.

* Adopted by the Committee at its seventy-third session (19 April–13 May 2022).

¹ CAT/C/TGO/CO/3, para. 40.

² Ibid., paras. 8–9. See also CCPR/C/TGO/CO/5, paras. 25–26.

³ The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee’s general comment No. 2 (2007) on the implementation of article 2, 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 under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent such 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 chapter V of the same general comment.



4. In view of the Committee's previous concluding observations,⁴ please indicate whether the State party has established a time frame for the promulgation of the new Code of Criminal Procedure and whether all the fundamental safeguards have been incorporated into the preliminary bill on amendment of the Code of Criminal Procedure. Please also describe the obstacles that account for the delay in adopting this preliminary bill. Please describe the measures taken and the procedures put in place to ensure that detained persons benefit, in practice and from the outset of their deprivation of liberty, from all the fundamental safeguards against torture and ill-treatment, in particular the right to be informed of the reason for their arrest and the nature of the charges against them, to receive legal counsel without delay, to notify a relative or any other person of their choosing of their arrest, to have immediate access to an independent doctor and to be brought promptly before a judge. In that regard, please provide information on any disciplinary measures taken, since the consideration of the State party's third periodic report,⁵ against law enforcement officials who have not immediately allowed persons deprived of liberty to benefit from these safeguards. With reference to the Committee's previous concluding observations,⁶ please outline the measures taken to reduce the current eight-day maximum period during which a person may be held in custody following arrest on a criminal charge before being brought before a judicial authority.

5. Bearing in mind the Committee's previous concluding observations,⁷ please indicate whether the State party has taken steps to guarantee free, high-quality legal aid. Please also indicate whether the State party has taken concrete measures or established a time frame to provide for the implementation of Act No. 2013-010 of 27 May 2013 on legal aid in Togo, in particular through the adoption of a decree setting forth the mandate, terms of reference and composition of the National Legal Aid Council. With reference to articles 38 and 39 of Act No. 2019-015 of 30 October 2019 on the Judicial Code, relating to the status of lawyers exercising their duties, please specify how the State party intends to guarantee in practice that all persons have access, including from the moment they are taken into police custody and when they are brought before a court or other judicial or administrative authority, to legal counsel who may argue their case and rely on any relevant statement made in good faith in written or oral pleadings without fearing for their safety and without being threatened as a result of discharging their functions, within the meaning of the Basic Principles on the Role of Lawyers.⁸

6. In view of the Committee's previous concluding observations,⁹ please provide information on the visits to places of deprivation of liberty carried out by the National Human Rights Commission in its capacity as national preventive mechanism during the period under review and on the measures taken by the State party in response to the recommendations made by that organization. Please provide updated information on the concrete measures that have been adopted to ensure the functional, structural and financial independence of the Commission in its capacity as national preventive mechanism.

7. With regard to the Committee's previous concluding observations,¹⁰ please provide updated information on the legislative or other measures taken during the period under review to prevent and punish all forms of violence against women and girls, especially those cases involving actions or omissions by State authorities or other entities that engage the international responsibility of the State party under the Convention. Please describe the measures taken to criminalize acts of domestic violence and to align the penalty prescribed for marital rape with that prescribed for rape in general.¹¹ Please also provide updated information on the protection and support services available to victims of gender-based

⁴ CAT/C/TGO/CO/3, paras. 10–11.

⁵ CAT/C/TGO/3.

⁶ CAT/C/TGO/CO/3, paras. 12–13.

⁷ Ibid., paras. 14–15.

⁸ See, among other things, principles 16, 17, 19 and 20. These principles were adopted at the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August–7 September 1990.

⁹ CAT/C/TGO/CO/3, paras. 28–29.

¹⁰ Ibid., paras. 30–31.

¹¹ CCPR/C/TGO/CO/5, paras. 2122.

violence in the State party. Please include statistical data, disaggregated by the age and ethnicity or nationality of the victims, on the number of complaints, investigations, prosecutions, convictions and sentences recorded in cases of gender-based violence since the consideration of the State party's third periodic report. Please provide information on the measures that the State party has taken to strengthen the prevention of harmful traditional practices, in particular female genital mutilation and forced or early marriage.¹²

8. Please provide updated information, disaggregated by the age, sex and ethnicity or nationality of the victims, on the number of complaints, investigations, prosecutions and convictions recorded in cases of trafficking in persons since the consideration of the State party's third periodic report.¹³ Please also provide information on the provision of redress to victims of trafficking during the reporting period, including data on the number of persons who benefited from protection and support measures for victims.

Article 3

9. Bearing in mind the Committee's previous concluding observations,¹⁴ please describe the measures taken during the period under review to ensure that no one is returned to a country where he or she would be at risk of torture. Please describe steps being taken to guarantee effective access to the procedure for determining refugee status. Please indicate the measures taken to ensure that procedural safeguards against refoulement are in place and that effective remedies are available with respect to refoulement claims in removal proceedings, including review by an independent judicial body concerning rejections, in particular on appeal. Please clarify whether individuals facing expulsion, return or extradition are informed that they have the right to seek asylum and to appeal a deportation decision. If so, please also indicate whether such an appeal has a suspensive effect. Please provide information on the measures taken to identify vulnerable persons seeking asylum in Togo, including victims of torture or trauma, and to ensure that their specific needs are taken into consideration and addressed in a timely manner. Please provide updated information on the number of asylum applications received during the period under review, the number of successful applications and the number of asylum-seekers whose applications were accepted because they had been tortured or might be tortured if returned to their country of origin. Please include information, disaggregated by country of origin, on the number of persons who have been returned, extradited or expelled since the consideration of the State party's third periodic report, including a list of countries to which individuals were returned. Please indicate the number of returns, extraditions and expulsions carried out by the State party during the reporting period on the basis of diplomatic assurances or the equivalent thereof. Please also indicate the minimum content of any such assurances or guarantees and what measures have been taken in such cases with regard to subsequent monitoring.

10. 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. 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. In the case of handovers made by police departments under the quadripartite agreement signed between Benin, Ghana, Nigeria and Togo in 1984,¹⁵ please specify how the State party ensures that the provisions of the Convention prevail as minimum standards over the provisions of the quadripartite agreement.

¹² CAT/C/TGO/CO/3, paras. 32–33.

¹³ Ibid., paras. 32 and 33 (b) and (c).

¹⁴ Ibid., paras. 20–21.

¹⁵ CAT/C/TGO/3, para. 71.

Articles 5–9

11. Please provide information on any new legislation or measures that have been adopted to implement article 5 of the Convention. Please inform the Committee of any extradition treaties concluded with other States parties and indicate whether the offences referred to in article 4 of the Convention are included as extraditable offences in such treaties. Please indicate what measures have been adopted by the State party to comply with its obligation to extradite or prosecute (*aut dedere aut judicare*). Please clarify what treaties or agreements on mutual legal and judicial assistance the State party has entered into, and whether such treaties or agreements have led in practice to the transfer of any evidence in connection with prosecutions concerning torture or ill-treatment. Please provide examples.

Article 10

12. With reference to the Committee's previous concluding observations,¹⁶ please provide information on educational programmes developed by the State party to ensure that all public officials, in particular law enforcement officials, military personnel, prison staff and medical personnel employed in prisons, are fully acquainted with the provisions of the Convention and are aware that breaches will not be tolerated and will be investigated, and that any offenders will be prosecuted. Please also provide details on the programmes used in the training of police officers and other law enforcement officials in non-coercive investigating techniques. Please indicate whether the State party has developed a methodology to assess the effectiveness of training and educational programmes in reducing the number of cases of torture and ill-treatment and, if so, please provide information on that methodology. Please also indicate the measures taken to give effect to the provisions of article 10 (2) of the Convention. Lastly, please provide detailed information on the training programmes for judges, prosecutors, forensic doctors and medical personnel dealing with detained persons on detecting and documenting the physical and psychological sequelae of torture, including whether the programmes contain specific training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (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 interrogation rules, instructions, methods and practices or arrangements for custody that may have been introduced since the consideration of the State party's third periodic report. Please indicate the frequency with which they are reviewed.

14. In the light of the Committee's previous concluding observations,¹⁷ please provide updated information on the measures taken to address concerns regarding conditions of detention, including the unsanitary conditions, lack of ventilation and light, insufficient quantity of food and limited recreational or training activities to foster rehabilitation, in prisons and other places of detention, such as the custody facilities of police stations and gendarmeries. Please describe the specific measures taken during the period under review to address prison overcrowding. In particular, please explain whether the State party has adopted a strategy to reduce prison overcrowding and, if so, whether it provides for: (a) the prioritization of alternatives to detention both before and after trial; (b) the adoption of internal rules and regulations in all places of detention, the opening of investigations into all cases of corruption and privileges and the imposition of punishments on the persons found responsible, where applicable; and (c) the introduction of measures to provide prisons with a sufficient number of qualified, trained members of staff, including medical personnel. Please explain how the State party ensures that sufficient human and material resources are allocated to the provision of proper medical care for prisoners. Please also indicate what measures have been taken to treat drug addiction in prisons. Please also indicate whether the strategies and programmes for the prevention and detection of suicide risk in prisons have been reviewed.

¹⁶ CAT/C/TGO/CO/3, paras. 36–37.

¹⁷ Ibid., paras. 24–25.

15. Please provide statistical data, disaggregated by sex, age and ethnicity or nationality, on the number of pretrial detainees and convicted prisoners and the occupancy rate of all places of detention. Please provide clarification on the legislation and policies relating to pretrial detention and on the measures taken to avoid the excessive use of such detention. Please also provide information on measures taken to ensure the effective separation of different categories of prisoners. Please provide information on the measures taken by the State party to ensure that its law and practice regarding solitary confinement are consistent with international standards. Please include data on the use of solitary confinement during the period under review and an indication of its duration. Please indicate whether this prison regime is subject to any oversight mechanism or external supervision.

16. Please provide information on the measures taken to meet the particular needs of women and minors in detention. Please also indicate whether protocols are in place to meet the needs of other groups of prisoners with particular requirements, such as persons with disabilities, older persons and lesbian, gay, bisexual, transgender and intersex persons. Please describe the measures taken to ensure that body search procedures in prisons are not degrading to inmates or visitors. Please indicate whether the mechanism under which payments were required of prison visitors has been abolished.

17. Please provide information on the measures taken during the period under review to ensure security inside prisons. Please provide information on incidents of inter-prisoner violence and riots, including cases involving possible negligence on the part of prison personnel, the number of complaints made in this regard and their outcome. Please indicate what preventive measures have been taken in this regard. Please provide statistical data regarding deaths in custody during the period under review, disaggregated by place of detention, the sex, age and ethnicity or nationality of the deceased person and the cause of death. Please provide information on the results of the investigations into the deaths and on the measures taken to prevent similar cases occurring in the future. Please indicate whether relatives received compensation in those cases.

18. Please provide information on the number of persons deprived of their liberty in psychiatric hospitals and other institutions for persons with intellectual or psychosocial disabilities. Please indicate any measures for the deinstitutionalization of persons with disabilities, and describe the situation with respect to alternative forms of treatment, such as community-based rehabilitation services and other outpatient programmes. Please also indicate the measures taken to prevent isolation, coercion and over-medicalization of persons with disabilities in all mental health settings.

19. Please indicate the measures taken during the reporting period to ensure that the detention of asylum-seekers and migrants is used only as a last resort, where necessary and for as short a period as possible, and to make greater use of alternatives to detention. Please provide information on the measures taken to ensure the early identification of victims of torture and to guarantee that such individuals are not detained in the context of asylum procedures.

Articles 12–13

20. In the light of the Committee's previous concluding observations,¹⁸ please provide updated statistical data on complaints filed in respect of acts of torture, ill-treatment and the excessive use of force recorded by the State authorities during the reporting period.¹⁹ Please include information on investigations, disciplinary and criminal proceedings, convictions and the disciplinary or criminal sanctions applied. Please also provide updated information on the measures taken to ensure that officials suspected of having committed acts of torture or ill-treatment are immediately suspended from duty for the duration of the investigation. Please provide examples of relevant cases or judicial decisions. Please indicate whether a central, dedicated register has been set up to record acts of torture or ill-treatment.

¹⁸ *Ibid.*, paras. 22–23 and 34–35.

¹⁹ [CCPR/C/TGO/CO/5](#), paras. 45–46.

21. With reference to the Committee's previous concluding observations,²⁰ please indicate what progress has been made in the investigation and prosecution of acts of torture and other serious human rights violations committed in the past. Please provide information on the progress made in the investigation and criminal proceedings relating to acts of torture allegedly committed between 2009 and 2012, including by officials of the National Intelligence Agency, and the serious human rights violations which marred the presidential election of 2005.

22. Please indicate the specific steps that the State party has taken to prevent and combat police violence based on actual or perceived sexual orientation or gender identity.²¹ In particular, please provide statistical data, disaggregated by the age, sex and ethnicity or nationality of the victims, on complaints, investigations, prosecutions and convictions in cases involving police violence against lesbian, gay, bisexual and transgender persons.

23. Please provide information about the legislative or regulatory measures and judicial practice intended to ensure that allegations of torture and ill-treatment always result in the immediate initiation of an investigation into the allegations. Please also provide information about the judicial procedures applicable when the judicial authority conducting an ongoing criminal case becomes aware of an allegation of torture or ill-treatment. Please also provide information about the mechanism for ordering forensic medical assessments in criminal cases. Please indicate the number of doctors, throughout the territory of the State party, who are available to participate in judicial procedures through forensic medical assessments relating to the investigation and documentation of allegations of torture and ill-treatment. Please specify the extent to which the national code of conduct or ethics applicable to health professionals is compatible with the Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.²² Please also describe the legislative or regulatory measures and judicial practice intended to ensure effective forensic medical monitoring in line with the Istanbul Protocol. Please indicate whether the results of forensic medical assessments are fully accessible and visible to the persons entitled to use them, including alleged victims of torture and their legal representatives.

Article 14

24. In the light of the Committee's previous concluding observations,²³ please outline the measures taken by the State party during the period under review 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, even in cases where the perpetrators of the torture or ill-treatment have not been identified. Please provide information on redress and compensation measures, including means of rehabilitation, ordered by the courts and actually provided to victims of torture or their families since the consideration of the State party's third periodic report. This information should include the number of requests for compensation that have been made, the number granted and the amounts ordered and actually provided in each case. Please also provide information on any ongoing reparation programmes, including those covering the treatment of trauma and other forms of rehabilitation, made available to victims of torture and ill-treatment and on the material, human and budgetary resources allocated for their effective functioning. Based on practical examples, particularly those in which courts have handed down decisions in cases of torture, such as the cases of Sessi Mélé and Dedjo Komla Sena, both of whom were recognized as victims of torture in decisions of the Court of Justice of the Economic Community of West African States, please indicate whether criminal prosecutions for torture have been initiated at the national level and whether the State party has provided the necessary reparation and rehabilitation to the two aforementioned recognized victims of torture.

²⁰ CAT/C/TGO/CO/3, paras. 26–27. See also CCPR/C/TGO/CO/5, paras. 13–14.

²¹ CCPR/C/TGO/CO/5, paras. 17 and 18 (c).

²² General Assembly resolution 37/194, annex.

²³ CAT/C/TGO/CO/3, paras. 38–39.

Article 15

25. With reference to article 200 of the Criminal Code establishing the rules governing statements and confessions obtained under torture and the annulment of convictions based on such statements, please explain whether the applicability of this article depends on a prior judicial decision finding that the offence of torture has occurred. If so, please specify whether, under national criminal law, the fact that a criminal investigation has been opened into an allegation of torture or ill-treatment would constitute a preliminary point of law requiring the other ongoing criminal case to be stayed. Please indicate whether judges have refused to admit evidence in any cases during the reporting period on the grounds that it was obtained through torture or ill-treatment.

Article 16

26. With reference to articles 201 and 203 of the Criminal Code, containing definitions of cruel, inhuman or degrading treatment or punishment, please specify whether the involvement, instigation, consent or acquiescence of a public official or other person acting in an official capacity, as set out in article 16 of the Convention, is a constituent element of those offences. With regard to articles 200 and 206 of the Criminal Code and in view of their wording and the applicability of article 4 of the Criminal Code regarding the strict interpretation of criminal provisions, please confirm that the scope of article 200 is limited to established acts of torture and that article 206 applies to cruel, inhuman or degrading treatment or punishment.

27. With reference to the Committee's previous concluding observations,²⁴ please provide information on the measures taken to protect human rights defenders, political opponents and other representatives of civil society and to punish the perpetrators of acts of intimidation and violence against them. With reference to the bill on the recognition and protection of human rights defenders,²⁵ which the State party has indicated is in the process of adoption, please state whether this bill includes amendments to Act No. 2019-010 of 12 August 2019, amending Act No. 2011-010 of 16 May 2011 establishing the conditions for the exercise of freedom of peaceful public assembly and protest.

Other issues

28. Given that the prohibition of torture is absolute and cannot be derogated from, including within the framework of measures related to states of emergency and other exceptional circumstances, please provide information on any steps taken by the State party during the coronavirus disease (COVID-19) pandemic to ensure that its policies and actions comply with its obligations under the Convention. Please also specify the measures taken in relation to persons deprived of their liberty and in other situations of confinement, such as in homes for older persons, hospitals or institutions for persons with intellectual and psychosocial disabilities.

29. Please provide updated information on the measures taken by the State party to respond to threats of terrorism. Please describe whether those measures have affected human rights safeguards in law and in practice and, if so, how they have affected them. Please also describe how the State party has ensured that those measures are compatible with all its obligations under international law, especially the Convention. Furthermore, please indicate what training is given to law enforcement officers in this area; the number of persons who have been convicted under legislation adopted to combat terrorism; the legal remedies and safeguards available in law and in practice to persons subjected to anti-terrorism measures; and whether there have been complaints of the non-observance of international standards in applying measures to combat terrorism and, if so, what the outcome was.

²⁴ *Ibid.*, paras. 34–35. See also [CCPR/C/TGO/CO/5](#), paras. 45–46.

²⁵ [A/HRC/WG.6/40/TGO/1](#), para. 58.

General information on other measures and developments relating to the implementation of the Convention in the State party

30. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken since the consideration of the State party's previous periodic report to implement the provisions of the Convention or the Committee's recommendations, including institutional developments, plans or programmes. Please indicate the resources allocated and provide statistical data. Please also provide any other information that the State party considers relevant.
