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HUMAN RIGHTS COMMITTEE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 40 OF THE COVENANT**

**Concluding observations of the Human Rights Committee**

**TOGO**

**Addendum**

**Comments by the Government of Togo on the concluding  
observations of the Human Rights Committee\***

[18 November 2003]

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\* This document is being distributed in all languages. The annex may be consulted in the secretariat files.

### Comments by the Government of Togo

1. The Human Rights Committee, after considering the third periodic report of Togo (CCPR/GO/2001/3) at its seventy-sixth session, adopted its concluding observations (CCPR/CO/76/TGO) on 28 November 2002, in which it sought additional information from the Government of Togo concerning, in particular, one case of impunity, cases of arbitrary arrest and detention and one court ruling.

#### 1. Impunity

##### **Case of Mr. Méléssoussou Edoh, former President of the National Union of Students and Trainees of Togo (UNESTO)**

2. On 19 January 1998, Mr. Méléssoussou Edoh fell from a one-storey building. The circumstances of the accident remain unclear.

3. On 22 January 1998, he was transferred to the Yopougon university hospital in Abidjan (Côte d'Ivoire) and placed in the neurosurgery department, in the care of Dr. Varlet and Dr. Boni, for additional exploratory examinations and appropriate treatment. The Government of Togo paid his transport and in-patient costs.

4. On 23 March 1998, he was transferred to the Lomé university hospital, which he left on 23 September 2000. Since leaving the hospital, he has been receiving regular medical supervision and material and financial support, and his health has improved.

##### **Bank cheques received by the student Méléssoussou following his accident**

Dates	Cheque number	Amount (CFA francs)
12 February 1998	565989C	300 000
12 May 1998	5659923C	67 865
28 May 1998	5659928C	200 000
27 July 1998	5696421C	35 910
25 August 1998	5696425C	100 155
24 September 1998	5696433C	88 000
13 October 1998	5996440C	150 000
18 November 1998	5996453C	250 000
30 December 1998	6000562C	550 000
28 June 1999	6000586C	250 000
30 June 1999	6000596C	250 000
11 January 2000	6530883C	250 000
7 June 2000	6530886C	250 000
19 September 2000	6530910C	205 000
24 October 2000	6530917C	90 000
2 May 2001	6530952C	250 000
7 September 2001	6872633C	250 000
8 January 2002	6872633C [sic]	250 000
14 May 2002	6872649C	250 000
	<b>Total</b>	4 081 930

5. On 8 January 2003, Mr. Méléssoussou presented the Rector-Chancellor of the Universities of Togo and Rector of the University of Lomé with a request for assistance in the amount of 350,000 CFA francs, a request for the purchase of a wheelchair and crutches, and a request for a job.

## 2. Arbitrary arrests and detentions

### **(a) Case of El Hadj Arouna, President of the Federal Bureau of PDR-Assoli (Bafilo), and Mr. Ali-Mandjaye and Séidou Ouro-Salim, of the same bureau, arrested on 17 July 2002 and held without charge since that date in the civil prison of Kara**

6. It is customary in Bafilo for imams to be chosen by rotation from four families, and when an imam dies, he is automatically replaced by his deputy.

7. In April 2002, the imam of Bafilo, Abdouramane Bah-Traoré, died. In accordance with custom, his deputy Mamam Arouna was proposed as his successor and another deputy - Abdoussalami Bah-Traoré Ahmed - was appointed.

8. Mamam AROUNA opposed this decision by the administrative authorities. Saying that he was old and sick, he wished to yield the position of imam to which he was entitled to his son Mohamed YOUSSEUF, who had returned from KUWAIT following advanced Koranic studies. He considers that, since the late imam came from the Bah-Traoré family, custom dictated that the post of deputy should be allocated to the Alfa-Biao family.

9. An argument then arose between the supporters and opponents of Mamam AROUNA. The matter was put before the head of State. On 15 July 2002, with no solution having been found, Mamam AROUNA died.

10. When the administrative authorities went to his funeral the next day, they found their way barred by young people who said that they had received instructions from certain religious dignitaries.

11. Following the burial, Mourama Abiliya ISSA, a supporter of the late Mamam AROUNA, decided to close the main mosque in Bafilo and took away the keys, on the grounds that the mosque had been built by his brother.

12. At that moment, the police arrested Assane BAH-TRAORE, Tchalare ALI-MADJAYE, Sarakata AROUNA, Séidou OURO-SALIM, Mouhama ISSA, Abiliya, Zato Ousmanou Abdoulaye, Nouri Dini ALFA-BIAO and Moukaila FOFANA on charges of inciting rebellion and disturbing public order.

13. They were brought before the Kara prosecutor's office and taken to the town prison on 19 July 2002.

14. The supporters of Mamam AROUNA, who were furious, organized demonstrations in Bafilo the same day. They set up barricades and committed acts of vandalism.

15. The police carried out a further series of arrests, bringing to the Kara prosecutor's office Moukaila AROUNA, Fousséni YAYA, Lawani ALLASSANI, Sani ASSOUMA,

Kassim AMIDOU, Koli AGBANDJALA, Alassani MAMADOU, Alassani KALAMPAI, Abdoulaye AROUNA, Amidou FOUSSINI and Simfailé Saliou MALOUROU, who were subsequently taken to the prison. In no way were these cases of arbitrary arrest, still less of unlawful detention. The persons concerned were guilty of disturbing the peace, as was borne out by ruling No. 191/02 handed down by the Kara court of first instance on 16 September 2002. The persons concerned sought and were granted a Presidential pardon. They have all been released.

**(b) Case of Safiou Alabi and Kokou Avigan, members of the Comité d'Action pour le Renouveau (CAR), who have been in the civil prison in Sokodé and Lomé since the end of September 2002**

16. Mr. Safiou ALABI was stopped and questioned in Sotouboua during September 2002 while he was distributing leaflets calling for a revolt by the army.

17. When questioned by investigators, Mr. ALABI said that he had received the leaflets from Kokou AVIGAN, who confirmed this claim after he was held for questioning in Lomé.

18. Safiou ALABI was brought before Sotouboua court charged with offences against State security. Examination proceedings were initiated against him.

19. Kokou AVIGAN was brought before the court in Lomé on the same charges, and examination proceedings were initiated at the office of examining magistrate No. 2 attached to Lomé court.

20. A request has been lodged for the two cases to be handled together, and proceedings are following their course.

21. There was no question of arbitrary arrest or unlawful detention in these two cases.

**(c) Case of Alex LOOKY, ex-Director of the Union Togolaise de Banques (UTB), "imprisoned for over two years by the national gendarmerie without being brought before a court".**

22. Mr. LOOKY was held by the national gendarmerie on charges of aggravated breach of trust.

23. He was released on 1 December 2002 and is at present in France.

### **3. Court ruling**

**Conviction of the lawyer AGBOYIBO and information on the ongoing proceedings.**

24. The lawyer Yawovi AGBOYIBO was prosecuted and convicted for damage to a person's honour. By ruling No. 0773/01 of 3 August 2001, the Lomé correctional court imposed on him a non-suspended prison sentence of six months and a fine of 100,000 francs.

25. His lawyers appealed against this ruling. By decision No. 01/2002 of 10 January 2002, the Lomé court of appeal quashed the ruling of 3 August 2001 and invited the Public Prosecutor and the party claiming criminal indemnification to re-present their case after eliminating procedural irregularities.
26. The party claiming criminal indemnification, Messan AGBEYOME, lodged a new claim for criminal indemnification on 14 January 2002 with the senior examining magistrate.
27. Yawovi AGBOYIBO was charged again with the same offence.
28. The accused invoked the principle *non bis in idem* and requested the examining magistrate to declare the new charge against him extinguished and inadmissible.
29. By order No. 31/2002 of 4 March 2002, the senior examining magistrate rejected the principle and ordered that the proceedings should continue.
30. The accused lodged an appeal, as did the prosecutor.
31. By order No. 31/2002 [sic] of 6 March 2002, the President of the Lomé court of appeal upheld the order issued by the senior examining magistrate.
32. Counsel for the accused appealed against this order, as did the prosecutor attached to the Lomé court of appeal on 18 March 2002.
33. The lawyer AGBOYIBO is at present at liberty by virtue of a Presidential pardon.

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