



**International Covenant on
Civil and Political Rights**

Distr.: General
17 January 2019
English
Original: French
English, French and Spanish only

Human Rights Committee

**Fifth periodic report submitted by Togo under
article 40 of the Covenant pursuant to the optional
reporting procedure, due in 2017^{*, **}**

[Date received: 23 August 2018]

* The present document is being issued without formal editing.

** The annexes to the present report are on file with the secretariat and are available for consultation.
They are also available on the Committee's website.



Introduction

1. The Human Rights Committee considered the fourth periodic report submitted by Togo on the implementation of the International Covenant on Civil and Political Rights on 14 and 15 March 2011. Following its review, the Committee proposed that Togo submit its fifth periodic report on the implementation of the Covenant using the optional procedure, under which the Committee submits a list of issues to the State party and the responses to this list constitute the periodic report of the State party.
2. Togo welcomed the Committee's proposal. Therefore, the fifth periodic report has been submitted pursuant to the optional procedure.

List of issues prior to submission of the fifth periodic report

A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

Paragraph 1

Please provide information on measures taken to implement the recommendations contained in the Committee's previous concluding observations (CCPR/C/TGO/CO/4). Please also indicate the measures taken to give full effect to all the provisions of the Covenant in the domestic legal order, and describe the mechanisms in place to ensure full compliance with the Committee's Views under the Optional Protocol to the International Covenant on Civil and Political Rights.

Replies to the issues raised in paragraph 1

3. To implement the Committee's previous concluding observations (CCPR/C/TG/CO/4), the following measures have been taken:
 - Ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, on 14 September 2016
 - Adoption of the new Criminal Code (Act No. 2015-010 of 24 November 2015), as amended by Act No. 2016-026 of 11 October 2016
 - Adoption of the Personal and Family Code (Act No. 2012-014 of 6 July 2012), as amended by Act No. 2014-19 of 19 November 2014

Paragraph 2

Please report on any other significant developments in the legal and institutional framework within which human rights are promoted and protected that have taken place since the adoption of the previous concluding observations, and provide examples of cases in which the provisions of the Covenant have been referred to by national courts. Please indicate whether there are any continuous training programmes for judges, lawyers and court officers concerning the content of the Covenant and its primacy over domestic law.

Replies to the issues raised in paragraph 2

4. Regarding the other significant developments in the legal and institutional framework within which human rights are promoted and protected that have taken place since the adoption of the previous concluding observations, the following should be noted:
 - Adoption of Decree No. 2016-102/PR of 20 October 2016 on the organization and operation of the National Children's Rights Committee
 - Adoption of the Code of Military Justice (Act No. 2016-008 of 21 April 2016)

- Renewal of the membership of the High Audiovisual and Communications Authority in 2016
 - Adoption of Act No. 2016-21 of 24 August 2016 on the Status of Refugees
 - Adoption of Act No. 2015-005 of 28 July 2015 on the Special Status of Police Personnel
 - Appointment of the Ombudsman in December 2015
 - Renewal of the membership of the Higher Council of the Judiciary in 2015
 - Ratification of the International Convention for the Protection of All Persons from Enforced Disappearance in 2014
 - Renewal of the membership of the Constitutional Court in 2014
 - Establishment of the High Commission for Reconciliation and Strengthening of National Unity in 2014
 - Adoption of Act No. 2013-010 of 27 May 2013 on Legal Aid
 - Adoption of the General Civil Service Regulations (Act No. 2013-002 of 21 January 2013)
 - Adoption of Act No. 2013-007 of 25 February 2013 amending Organic Act No. 96-11 of 21 August 1996 establishing the status of judges
 - Ratification of the United Nations Educational, Scientific and Cultural Organization Convention against Discrimination in Education in 2012
 - Ratification of the Convention relating to the Status of Stateless Persons in 2012
 - Adoption of Act No. 2011-010 of 16 May 2011 setting the conditions for exercising the right to freedom of assembly and to peaceful public demonstrations
5. There is no specific continuous training programme for judges, lawyers and court officers that only covers the Covenant.

B. Specific information on the implementation of articles 1–27 of the Covenant, including with regard to the previous recommendations of the Committee

Constitutional and legal framework within which the Covenant is implemented (art. 2)

Paragraph 3

Given the adoption on 11 March 2016 of the new Act on the composition, organization and operation of the National Human Rights Commission, which allows the President of the Republic to appoint four of the Commission's nine members, please explain how this appointment procedure ensures the independence of the Commission, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). With reference to the recommendations made by the Committee in its previous concluding observations (para. 8), please provide information on the human and financial resources allocated to the Commission to enable it to fulfil its mandate effectively. Please also provide statistics since 2011 on the number and type of complaints received by the Commission and its response, where applicable, to the complaints of violations of civil and political rights referred to it. Please indicate whether the Commission's findings are made available to the public and provide information on the State party's implementation of recommendations made by the Commission since 2011.

Replies to the issues raised in paragraph 3

6. The Organic Act establishing the Composition, Organization and Functioning of the National Human Rights Commission adopted by the National Assembly on 11 March 2016 was not enacted. A new Organic Act on the Organization, Composition and Functioning of the National Human Rights Commission was adopted on 5 October 2017. In accordance with the Constitution, this new Act was referred to the Constitutional Court for its opinion. The observations of the Constitutional Court were incorporated into the Act, which was then adopted by the National Assembly on 10 April 2018.

7. The new law complies with the Paris Principles, since the nine members of the institution will be elected by the National Assembly, after a call for candidates.

8. The National Human Rights Commission registered:

- In 2012: 148 petitions
- In 2013: 119 petitions
- In 2014: 115 petitions
- In 2015: 101 petitions
- In 2016: 97 petitions

9. Between 2011 and 2016, the number of administrative staff employed by the Commission increased from 52 to 64. The financial resources allocated to the Commission between 2012 and 2017 have progressed as follows:

- 2012: 200,000,000
- 2013: 250,000,000, i.e. an increase of 25 per cent
- 2014: 280,000,000, i.e. an increase of 12 per cent
- 2015: 280,000,000, no increase
- 2016: 280,000,000, no increase
- 2017: 350,680,000, i.e. an increase of 25.24 per cent

Number and type of complaints received for violations of civil and political rights

<i>Alleged violations</i>	<i>Year</i>						<i>Total</i>
	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>	
Freedom of expression and information	0	0	0	1	0	0	1
Freedom of assembly and association	0	0	0	0	0	1	1
Freedom of movement	1	3	4	0	0	1	9
Right of access to justice	5	3	0	3	11	11	33
Right to a fair trial	2	0	2	2	0	0	6
Administrative delays	0	0	0	0	2	0	2
Right to a defence	1	0	1	0	0	0	2
Right to inheritance	4	0	0	2	2	0	8
Right to identity	2	1	1	4	0	1	9
Right to privacy	0	1	0	1	0	0	2
Offence against life (homicide)	0	1	1	0	2	2	6
Alleged threats	0	1	3	3	1	1	9
Right of asylum	0	1	0	0	0	0	1
Right to receive visits from family members	0	0	0	1	0	0	1
Right to protection from physical and mental injury (abuse, torture)	11	4	4	3	5	4	31

<i>Alleged violations</i>	<i>Year</i>						<i>Total</i>
	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>	
Infringement of security of person (arbitrary and/or wrongful detention)	20	13	14	5	16	14	82
Right to be presumed innocent	0	0	0	1	0	0	1
Total	46	28	30	26	39	35	204

Follow-up to the petitions

10. The action taken on the various petitions has resulted in:

- Medical expenses for assaults causing physical injury being paid for by the authorities involved, at the Commission's recommendation
- Persons in arbitrary detention often being released after an intervention by the Commission
- Use of threats being stopped through interventions by the Commission

11. The Commission's findings are recorded in the activity reports produced by the institution. These reports are published each year and sent to the President, the Prime Minister, the President of the National Assembly, the President of the Constitutional Court, the President of the Supreme Court and the Ombudsman. They are also made available to the various authorities and can be consulted on the Commission's website (www.cndh-togo.org).

12. Regarding implementation of the recommendations made by the Commission since 2011, it should be noted that in most cases the Government pays special attention to these recommendations and incorporates them in the measures it takes.

Non-discrimination and the rights of persons belonging to ethnic, religious, linguistic or sexual minorities (arts. 2, 20, 22, 26 and 27)

Paragraph 4

With reference to the recommendations made by the Committee in its previous concluding observations (para. 9), please provide information on measures taken, including legislative measures, to prohibit all advocacy of ethnic hatred constituting incitement to discrimination, hostility or violence. Please clarify whether cases of suspected incitement of ethnic hatred by political leaders and journalists during the 2005 electoral process have been investigated and prosecuted, and indicate the outcomes of any such proceedings.

Replies to the issues raised in paragraph 4

13. Togolese legislation defines and makes punishable all advocacy of ethnic or tribal hatred.

14. Thus, article 553 of the Criminal Code (Act No. 2015-010 of 24 November 2015), as amended by Act No. 2016-027 of 11 October 2016, provides for a sentence of 1 to 3 years' imprisonment and 1 million to 3 million CFA francs, or one of the two punishments, for "any person who, using the means set out in article 552 (1), has directly incited discrimination, hatred or violence towards an individual or a group of persons based on their origin or their membership or non-membership of a particular ethnic group, nation, race or religion, or on their sex, gender or disability".

15. Under article 552 (1) of the Code, "any person who, through speeches, calls or threats in public places or at public meetings, or through handwritten or printed documents, drawings, engravings, paintings, emblems, images or any other medium for textual, verbal or pictorial content that are sold or distributed, put on sale or displayed to the public, or through any electronic means of communication to the public ... is subject to punishment".

16. The Press and Communications Code makes punishable any advocacy of ethnic hatred. “Any person who, through one of the means set out in article 85 of this Code, calls for interracial or inter-ethnic hatred or calls upon the population to break the law will be punished by 3 months’ to 1 year’s imprisonment and a fine of 100,000 to 1 million CFA francs” (art. 86).

17. Although the United Nations fact-finding mission, in a report dated 29 August 2005, highlighted “the nationalist tone of discourse on the part of politicians and sections of the media in reaction to views expressed from outside the country on its political crisis” (p. 36), no investigation was undertaken to identify and punish the journalists and political leaders whose advocacy of ethnic hatred had given rise to serious human rights abuses.

18. No complaint was filed with the security services (criminal investigation department).

19. This is due to the reconciliation process launched by the Truth, Justice and Reconciliation Commission, whose work resulted in the establishment of the High Commission for Reconciliation and Strengthening of National Unity pursuant to Decree No. 2013-040 of 24 May 2013, as amended by Decree No. 2014-103 of 3 April 2014. The responsibilities of the High Commission include proposing relevant legislative, regulatory or institutional measures incorporating aspects of the Truth, Justice and Reconciliation Commission’s recommendations on combating impunity, guarantees of non-repetition and compensation for victims.

20. Following the appointment of the members of the High Commission, several activities were carried out, including the adoption of its strategic plan and the organization of a national workshop on political and institutional reforms in July 2016.

21. The reparations programme designed by the Truth, Justice and Reconciliation Commission was launched and victim compensation began to be awarded in December 2017.

Paragraph 5

In the light of the Committee’s previous concluding observations (para. 14) and the adoption on 24 November 2015 of the revised Criminal Code, which continues to criminalize sexual relations between consenting adults of the same sex and increases the applicable penalties, please indicate whether the State party envisages repealing such provisions so as to bring its legislation into conformity with the Covenant. Please clarify reports that people have been harassed, ill-treated and arbitrarily detained by the security forces because of their sexual orientation or gender identity, actual or perceived, and report on the measures taken to ensure the protection of victims and to put an end to impunity for such acts. Please also provide statistics since 2011 on the number of allegations of assault and arbitrary arrest and detention of persons because of their actual or perceived sexual orientation or gender identity, and on the inquiries conducted and proceedings brought, including their outcomes. Please describe the efforts made by the State party to combat the social stigmatization of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons in relation to their access to employment, housing, education and health services, as well as to address the restrictions imposed on LGBTI rights organizations, and indicate whether the State party is planning to amend the domestic legislation prohibiting discrimination in employment so as to include the prohibition of discrimination based on sexual orientation or gender identity. Please also indicate any measures taken to ensure that different ethnic groups are better represented in the civil service and in the security forces.

Replies to the issues raised in paragraph 5

22. Since the criminalization of such acts is the result of public reaction, any decision made in this regard must not expose the persons concerned to mob justice. Social events may of course change, but not so abruptly as to destabilize society. For this reason, Togo does not envisage repealing these provisions.

23. Inquiries and proceedings can only be brought, and prosecution can only be effective, if the criminal authorities are informed of the offences through a complaint or report.

24. Analysis by the criminal investigation institutions has not brought to light any complaints or reports. Even if such acts are still offences under our Criminal Code, there is no legislative or regulatory provision that would allow officers to subject any persons committing them to abuse or humiliation.

25. As for any other offence, when criminal investigation officers become aware of actions constituting the offence of an “unnatural act”, they are obliged to arrest the perpetrators and begin proceedings. In this case, if they deem it necessary, they may place the offenders in custody for the purposes of the investigation. There can therefore be no question of arbitrary detention or harassment. In any event, no court has ever convicted anyone for his or her sexual orientation.

26. It should be noted that this entire issue is a taboo subject in Togolese culture and that the persons concerned do not generally wish to risk public exposure. This situation is due more to concerns of rejection by their families than any fear of the security services.

27. To date, the security and law enforcement agencies have not been made aware of any cases of harassment or violence against the lesbian, gay, bisexual, transgender and intersex community due to their sexual orientation or gender identity. They provide security and protection for all Togolese citizens without distinction.

Efforts made to combat the social stigmatization of lesbian, gay, bisexual, transgender and intersex persons in relation to their access to health, employment, housing and education services

28. As part of the fight against AIDS, in 2012, the Government drafted a national policy to combat HIV/AIDS called “Vision 2020”, which sets out four policy objectives, taking into account the situation of lesbian, gay, bisexual, transgender and intersex persons. These policy objectives are:

- Respect fairness and equality in people’s access to prevention, care, treatment and support services
- Combat discrimination and stigmatization within Togolese society
- Strengthen laws and policies on the protection of persons with respect to HIV
- Protect marginalized groups and sexual minorities¹

29. In addition, in 2013 the National AIDS Council drafted a national prevention and comprehensive support policy for key populations (female sex workers, men who have sex with men, etc.).

30. In the implementation of these policies, several specific actions have been carried out to assist these key populations. These actions include the following.

1. *Estimating the extent of the key population*

31. In 2014, the National AIDS Council, with the support of technical and financial partners, produced a study which estimated the numbers and geographical distribution of men who have sex with men and female sex workers in order to better target interventions in terms of access to health services for prevention, follow-up and care.

32. According to the findings of the study, 1,230 men who have sex with men and 102 female sex workers with sexual deviations from the norm were identified. Of these 102 female sex workers, 97 were bisexual and 5 were lesbian. The tables below present this population according to their characteristics.

¹ National policy to combat HIV and AIDS, Vision 2020, 2012.

Table 1
Distribution of female sex workers

	Lomé municipality	Maritime region	Plateaux region	Centrale region	Kara region	Savanes region	Total
Female sex workers with sexual deviations	41	48	2	4	5	2	102

Source: Study to estimate the size and map the sites of the population of men who have sex with men and female sex workers (2014).

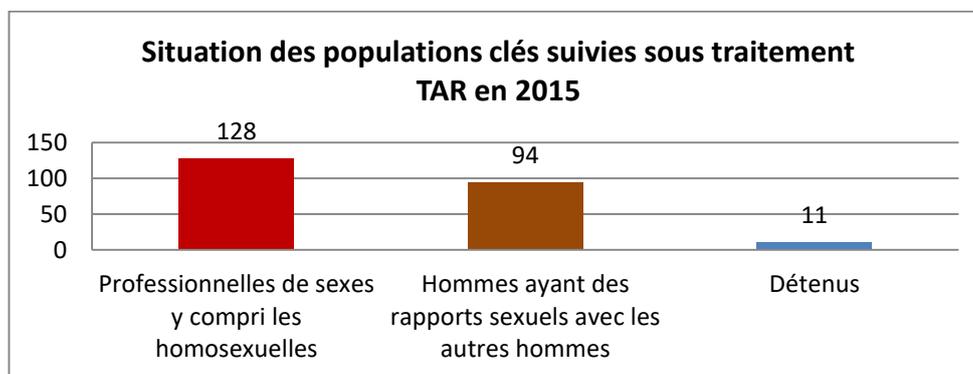
Table 2
Geographical distribution of men who have sex with men by type

	Lomé municipality	Maritime region	Plateaux region	Centrale region	Kara region	Savanes region	Total
Gay	339	160	51	14	62	44	660
Bisexual	211	144	37	47	68	23	530
Transvestite	4	1	0	0	0	0	5
Unspecified	2	32	0	0	1	0	35
Total	556	337	88	61	121	67	1 230

Source: Study to estimate the size and map the sites of the population of men who have sex with men and female sex workers (2014).

2. *Supporting key populations as part of the continuum of care*

33. As part of the continuum of care and the services offered to key populations, apart from the diagnosis, treatment of sexually transmitted infections and HIV screening, key populations identified as HIV-positive also receive medical care, particularly through antiretroviral therapy. In 2015, these key populations on antiretroviral therapy, who were registered and monitored in the appropriate services, are represented by the chart below:



3. *Laboratory monitoring*

34. Togo was given a grant under the HIV project of round 8 of the Global Fund to Fight AIDS, Tuberculosis and Malaria to conduct free laboratory tests, including liver function and blood chemistry tests, for all persons living with HIV/AIDS, particularly all key populations, through contract-based links with laboratories. To improve access to these tests, the number of laboratories was increased from 19 in 2013 to 39 in 2015. Each person living with HIV/AIDS has the right to a free check-up, including lesbian, gay, bisexual, transgender and intersex persons.

35. Regarding access to employment, article 45 of the General Civil Service Regulations (Act No. 2013-002 of 21 January 2013) provides that candidates may not be discriminated against based on their gender, physical disability, ethnic group or political, philosophical or religious opinions.

36. Furthermore, together with Decree No. 2015-120 of 15 December 2015 establishing the standard procedures for implementing the General Civil Service Regulations, it ensures equal opportunities in the recruitment, remuneration, career and retirement of civil servants.

37. Under article 3 of the Labour Code, any direct or indirect discrimination in employment and occupation is prohibited. Discrimination is understood as any distinction, exclusion or preference based on race, colour, sex, religion, ethnic origin, political or philosophical opinion, social background, legal status, national origin, state of health or disability that reduces or affects equality of opportunity or treatment with regard to employment or occupation.

38. In the matter of recruitment in the defence and security forces, the process takes the country's administrative divisions into account to ensure that all ethnic groups are represented. A recruitment board travels to all the prefectures and steps are taken to recruit mainly locals from those places in order to ensure that no one group will be disadvantaged.

39. Regarding education, in Togo schooling is compulsory up to the age of 16. The law does not establish any discrimination based on gender, race or religion.

40. The same is true for access to housing.

Non-discrimination and violence against women

Paragraph 6

In the light of the Committee's previous concluding observations (para. 11) and the adoption on 24 November 2015 of the revised Criminal Code, please provide detailed information on the changes introduced under the Criminal Code to abolish discriminatory provisions against women. Please indicate whether the State party plans to amend domestic legislation in order to abolish polygamy. With reference to the recommendations made by the Committee in its previous concluding observations (para. 12), please describe the measures taken to promote the recruitment of women in the civil service and provide statistical data on female representation in decision-making posts in the public administration and in the private sector. Please also report on the measures taken to reduce the gender wage gap and to ensure that State law prevails over rules of customary law that perpetuate inequality between men and women.

Replies to the issues raised in paragraph 6

41. Non-discrimination is a principle enshrined in article 11 of the 1992 Constitution, which provides that "every human being shall enjoy equal dignity and equal rights".

42. Regarding women and men in particular, paragraph 2 of the same article provides that men and women are equal before the law, while paragraph 3 provides that equal treatment must be given to all human beings without distinction.

43. Guided by this provision and with reference to commitments made under the international human rights instruments it has ratified, Togo has launched a project to overhaul its legislation, incorporating the principle of non-discrimination.

44. To this end, to prevent and punish all forms of discrimination against women, the legislature has included in the new Criminal Code a section devoted to discrimination in general and a paragraph concerning discrimination against women (arts. 311–313).

45. Article 311 defines discrimination against women as "any act based on the sexual identity of women which has the purpose or effect of impairing the recognition, enjoyment or exercise by women, irrespective of their marital status, of rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field".

46. This is a very broad definition which covers all areas of life and all groups of women. The prohibition on discrimination concerns an area that was once reserved for men, namely access to land. Article 313 provides that any person who prevents or prohibits a woman, based on her sex, from having access to land and to the means of production and development is punishable by a prison term of 6 months to 2 years and a fine of 500,000 to

2,000,000 CFA francs or one of those penalties. This is the penalty applicable to persons found guilty of discrimination under article 312.

47. Regarding the abolition of polygamy, article 22 of the Personal and Family Code has taken social progress into account. Monogamy is now the rule and polygamy the exception.

48. To promote the recruitment of women in the civil service, both spouses in a couple are now guaranteed the freedom to choose an occupation under article 7 of the Personal and Family Code, which provides that “either spouse may freely exercise an occupation of his or her choice unless the other spouse opposes this through the courts in the interest of the family”.

49. To offer equal opportunities to women and men in employment, article 39 of the Labour Code of 2006 provides that no person may be excluded from a recruitment procedure and no employee may be penalized or dismissed on the grounds of origin, sex, morals, family situation, ethnic, national or racial background, political opinions, trade union or cooperative activities or religious beliefs or, unless the person is declared unfit by a company or an accredited doctor, state of health or disability.

50. Out of concern for promoting the recruitment of women in the civil service and ensuring that they keep their posts, the dismissal of a female employee due to maternity is considered wrongful termination under article 60 of the Code. An entire chapter is devoted to protecting working women, including the type of work they can perform, specific protection in the event of pregnancy and maternity and the rights to social security and to breastfeeding breaks.

51. For equality between men and women in the teaching profession, the competitive examination for the recruitment of trainee teachers envisages a gender quota.

Table (a)

	<i>Class of 2012</i>	<i>Percentage</i>	<i>Class of 2014</i>	<i>Percentage</i>
Women	592	44.08%	411	41.35%
Men	751	55.92%	583	58.65%
Total	1 343	100%	994	100%

Source: Ministry of Primary and Secondary Education – Human Resources Directorate.

52. Since 2007, in accordance with the armed forces regulations, women have entered the military and police as follows:

- 580 women have been recruited to the army, representing 5 per cent of recruits
- 350 women have been recruited to the police force, representing 8 per cent of recruits

Statistical data on female representation in decision-making posts in the public administration

<i>Position</i>	<i>Number of personnel</i>	
	<i>Men</i>	<i>Women</i>
Ambassador	7	0
Head of Office	16	3
Executive Officer	27	0
Press attaché	3	1
Deputy head teacher	137	7
Head of Mission	20	6
Chief of Staff	7	0
Chief of Protocol	1	0

<i>Position</i>	<i>Number of personnel</i>	
	<i>Men</i>	<i>Women</i>
Chief inspector of schools	39	3
Regional chief inspector of secondary schools	8	5
Careers adviser	1	1
Legal adviser	2	1
Technical adviser	20	3
National Museum curator	2	0
Head of the Office of General Services	3	0
Primary school head teacher	1 579	212
Head of Human Resources	1	2
Head of a Central Directorate	247	65
Deputy Director	26	6
Administrative and financial director	9	0
Library director	2	0
Middle secondary school head teacher	173	8
Director General	17	4
Deputy Director General	4	1
Prefectoral Director	83	1
Preschool head teacher	1	20
Regional Director	37	3
Deputy Regional Director	1	0
Director/Head of Centre	2	1
Authorized representative	6	1
Chief court clerk	26	3
Inspector	41	9
Inspector of Finances	3	2
Auditor General	1	1
Deputy Auditor General	4	1
Primary education inspector	6	0
Secondary education inspector	5	0
Inspector General of Finances	1	0
Inspector General of Legal Services	1	0
Inspector General	2	1
Prefect	37	2
Prime Minister	1	0
Head of institution	4	2
President of the Supreme Court	1	0
Lower court judge	28	0
Head of Judicial Chamber	1	0
Prosecutor	12	1
Head Prosecutor	3	0
High school principal	77	6
Prison governor	10	1
Prefecture secretary general	17	1
OHADA Permanent Secretary	0	1
School supervisor	101	13

Position	Number of personnel	
	Men	Women
Treasurer	27	0
Head Treasurer	3	1
Total	2 921	402
Overall total		3 323

Source: Directorate of government personnel data management, February 2017.

Measures taken to reduce the gender wage gap

53. The salary scale appended to Decree No. 2015/20 containing the details of implementation of the General Civil Service Regulations 2015-2015 ensures equal treatment for all civil servants.

54. Furthermore, article 118 of the Labour Code provides that all employers must ensure equal pay for the same work or work of equal value, irrespective of their nationality, sex, age or status.

Measures taken to ensure that State law prevails over the rules of customary law that perpetuate inequality between men and women

55. To ensure that State law prevails over the rules of customary law that perpetuate inequality between women and men, the Personal and Family Code (Act No. 2012-014 of 6 July 2012) was adopted to reduce the disparities in treatment between husbands and wives that result from some customary practices. However, in order to ensure greater gender equity and equality, some articles of the Act were amended by a new law, Act No. 2014-09 of 17 November 2014.

56. For example, regarding marriage and relations between husbands and wives, article 43 of the new Code provides that women and men may choose their spouses freely and enter into marriage only with their free and full consent. This provides a solution to the forced marriages practised according to certain customary rules, giving women the right to choose their spouses freely.

57. To ensure that modern law prevails over customary law, despite the coexistence of custom and modern law, the new Code stipulates that modern law is the general law.

58. When a person opts to follow custom, it is only applied if it conforms to the law, human rights and the basic principles of the Constitution (Personal and Family Code, art. 403).

59. The possibility of widows having to forfeit their inheritance if they do not submit to widowhood rites is not permitted under the new code (Personal and Family Code, art. 411).

60. Further action has been taken in this regard. This includes:

- Training and awareness-raising workshops on gender and women's access to land, which were organized for prefects, traditional leaders, religious authorities, landowners and other key actors in local communities between 2013 and 2014, allowing for capacity-building for 175 actors in the Savanes, Kara and Plateaux regions
- Awareness-raising among men and women, community leaders and local authorities on violence against women and girls in four cantons
- Introduction of village and cantonal focal points to combat violence against women

Paragraph 7

Taking into account the inclusion of marital rape in the new Criminal Code, please explain why the penalty for this offence is less than the penalty for rape in general. Please also indicate whether the State party plans to outlaw domestic violence as a separate

criminal offence. Please provide annual data since 2011 on: (a) the number of complaints filed concerning different forms of violence against women, including domestic violence and sexual violence; (b) the investigations into and prosecutions of those complaints; (c) the convictions handed down; (d) the number of protection measures granted, if any; and (e) the compensation awarded to victims. Taking into account the previous concluding observations (para. 13), please indicate the measures taken to put an end to the practice of female genital mutilation, including awareness-raising programmes put in place since 2011 in communities where the practice is widespread. Please also indicate whether there are any statistics on illegal abortion and its consequences for the lives and health of women.

Replies to the issues raised in paragraph 7

61. The incorporation of marital rape in the new Criminal Code (art. 212) represents a social revolution.

62. The penalty proposed takes account of social attitudes and aims to preserve family cohesion. In our societies, despite the progress seen, it is difficult to imagine a spouse remaining within the bonds of marriage after making a complaint that led to the arrest of his or her spouse. In fact, incarceration transfers the full burden of responsibility for the family to the spouse who remains at liberty which, instead of punishing the guilty party, ends up punishing the other spouse who is forced to look after the family without help.

Domestic violence

63. The Togolese Criminal Code does not include specific provisions related to domestic violence. However, these cases are handled with reference to the provisions set out in articles 198 to 216 and 225 to 247, which cover the types of violence that may be committed against women and children.

Female genital mutilation

64. The new Criminal Code prohibits and stipulates the punishment for female genital mutilation (arts. 217–222).

65. To combat such acts, several measures have been taken, including:

- Training and awareness-raising on violence and discrimination against women provided to various actors between 2015 and 2017, including 80 in the justice system (bailiffs, notaries, judges and criminal investigation officers) and 550 volunteer primary and secondary school teachers
- Organization of forums in primary and secondary schools on gender-based violence in school settings
- Awareness-raising on gender-based violence in November 2013 for representatives of religious faiths, traditional leaders, civil society organizations, children and senior staff in the Ministry for Social Welfare and the Advancement of Women
- Implementation since 2015 of a national communication strategy targeting cultural or traditional practices that lead to violence or discrimination against children, including female genital mutilation, and early marriage, with the support of the United Nations Children's Fund
- This strategy focuses on the involvement of the primary representatives of decentralized administrations and grass-roots organizations, namely prefects, traditional and religious leaders, representatives of various religious faiths, neighbourhood development committees and village development committees. Eight regional consultations and two national consultations were organized and culminated in the signing of agreements by these opinion leaders. Through these agreements, the actors commit to becoming more involved or to leading initiatives in order to eradicate traditional practices that are harmful to children
- Establishment of counselling centres in all regional social welfare directorates

- Adoption of the law prohibiting female genital mutilation and awareness-raising campaigns, which have led to a significant reduction in the practice, with the prevalence rate decreasing from 12 per cent in 1996 to 2 per cent in 2012
- Signing of a pledge to stop female genital mutilation followed by the commitment by 300 women practitioners to get rid of their excision instruments and report illegal cases
- Public awareness-raising in communities aimed at religious and community leaders and other development actors regarding gender-based violence
- Annual observance of 16 days of campaigning and activism against violence across the entire country and days dedicated to women and girls
- Regular capacity-building for non-governmental organizations, paralegals, counselling centre workers and media professionals on incorporating gender-based violence in their community action programmes
- Capacity-building for senior staff, national programme focal points and gender focal groups in the ministries to improve gender mainstreaming in sectoral policies, programmes and projects
- Awareness-raising on trafficking in children and women through information campaigns about violence against children and women
- Collaborative drafting of arguments against gender-based violence from cultural, traditional, Muslim and Christian points of view, which have been disseminated and are used as communication tools during awareness-raising and advocacy sessions
- Organization of awareness-raising sessions and training workshops on violence and discrimination against women and girls for prefects, traditional leaders, religious authorities, landowners, male and female school students and other key actors in local communities, attended by 30,000 persons in the Kara and Plateaux regions between 2015 and 2016

Number of complaints filed concerning violence against women and sexual violence and their outcomes

Convictions handed down in rape and paedophilia trials between 2011 and 2018 by the Lomé criminal court

Year	<i>Offences, maximum and minimum penalties</i>					
	Rape	Penalties		Paedophilia	Penalties	
		Maximum	Minimum		Maximum	Minimum
2011	7	20 years	5 years	0	--	--
2012	13	15 years	3 years	3	5 years	5 years
2013	3	7 years	5 years	1	4 years	4 years
2014	6	17 years	5 years	5	6 years	3 years 6 months (42 months)
2015						No trials
2016	30	20 years	3 years			17
2017						No trials
2018	7	15 years	4 years	13	10 years	5 years
Total			66			39
Overall total						105

Protection measures for victims of violence

Compensation awarded to victims

66. Compensation for victims of sexual violence is restricted to the damages that the judge orders the perpetrator to pay at the time of conviction. If the perpetrator is insolvent, the victim receives no compensation.

67. If the perpetrator is solvent, the victim may not receive the amount of compensation that the judge has ordered the perpetrator to pay, since the State does not pay on behalf of a destitute perpetrator.

68. It is therefore difficult to know whether a victim has been compensated or not. Furthermore, the level of compensation depends on the amount requested by the victim, which the judge assesses considering the circumstances, facts and consequences of the offence.

Statistics on illegal abortion and its consequences

Illegal abortion in Togo between 2013 and 2015

	2013	2014	2015
Number of abortions	7 493	6 694	5 300
Number of illegal abortions	1 884	1 618	2 062
Proportion	25%	24%	39%

Source: Data from the Directorate of Maternal and Child Health.

69. The data in the table above show that, despite numerous awareness-raising and training campaigns initiated by the Government and its partners, illegal abortions remain widespread in Togo. They represent 25 per cent, 24 per cent and 39 per cent of the total number of abortions recorded in 2013, 2014 and 2015 respectively.

70. These abortions have grave consequences for women's health and constitute a major problem for public sexual and reproductive health.

Right to life and prohibition of torture and other cruel, inhuman or degrading treatment or punishment (arts. 2, 6 and 7)**Paragraph 8**

In the light of the Committee's previous concluding observations (para. 11) and the introduction of the offence of torture under article 198 of the new Criminal Code, please explain whether torture is defined in conformity with article 7 of the Covenant and international standards. Please provide information on the specific measures taken in response to allegations of torture and ill-treatment during arrest and pretrial detention in order to extract confessions, as well as the measures taken to prosecute the perpetrators of such acts, in particular those committed: (a) during the protests in Mango in November 2015; (b) during the arrests of students in Kara in April 2012; and (c) during the arrest of Mohamed Loum in January 2013 following the fires that destroyed markets in Lomé and Kara. Please indicate the number of complaints of torture and ill-treatment by law enforcement officials and prison staff received during the reporting period and provide information on the investigations and prosecutions carried out and on the convictions obtained, the penalties imposed and the compensation awarded.

Replies to the issues raised in paragraph 8

71. Regarding the right to life and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (arts. 2, 6 and 7), Togo has strengthened its legal framework by ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, on 14 September 2016.

72. Following the amendment made to article 198 of the new Criminal Code through Act No. 2016-027 of 11 October 2016, torture is defined in conformity with article 7 of the Covenant and international standards.

73. Under the new article 198, “the term ‘torture’ means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or her or a third person information or a confession, punishing him or her for an act he or she or a third person has committed or is suspected of having committed, or intimidating or coercing him or her or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions. Torture is not subject to any statute of limitations.”

74. For the purpose of combating torture, a new Organic Act on the Composition, Organization and Functioning of the National Human Rights Commission was adopted by the National Assembly on 10 April 2018. The new Act incorporates the function of national preventive mechanism against torture into the functions of the National Human Rights Commission. Training workshops for the trainers of criminal investigation officers and prison and probation staff have been organized, with the support of the United Nations Development Programme (UNDP), to combat torture in detention.

75. Capacity-building has been ensured for various actors working to combat torture through the “Atlas of Torture” project, at the initiative of Manfred Nowak, former United Nations Special Rapporteur on torture.

76. No complaints of torture have been recorded since the entry into force of the amended Criminal Code, which defines and punishes torture. Due to the principle of non-retroactivity of criminal law, it is not possible to list previous complaints that were categorized as intentional violence as complaints of torture.

77. The security forces carry out their police duties in strict compliance with the current Code of Criminal Procedure. They do not resort to ill-treatment or torture while seeking and collecting evidence. Moreover, a confession alone is no longer considered evidence. Material and technical evidence is now preferred in criminal investigations. In addition, the new Criminal Code prohibits such abuses and stipulates a severe punishment.

78. As regards custody, it is used in accordance with the Code of Criminal Procedure and overseen by the State prosecutor.

79. No formal complaints for torture or ill-treatment committed by law enforcement officers have been recorded by the security services during the reporting period.

80. In addition to the cases raised, whenever allegations are brought to the attention of superiors about the use of torture or ill-treatment during arrests or investigations in order to extract confessions, an investigation is conducted and any law enforcement officers found guilty are punished through disciplinary and criminal procedures.

8 (a): Events in Mango

81. In the case of Mango, the violent demonstrations on 6, 7 and 8 November 2015 against the project to strengthen the role of conservation of the national system of protected areas of Togo degenerated into confrontations between demonstrators and law enforcement officers. From the very beginning of this demonstration, whose organizers acted outside the established legal framework, the demonstrators showed extreme violence and seized weapons from the city police station. This situation changed the nature of the demonstration given that the crowd was now armed as well as being extremely violent, which led to the civil authorities requisitioning armed forces personnel to provide protection for sensitive sites. Unfortunately, as they were approaching, their convoy was involved in a traffic accident. This led to loss of human life both among civilians and the military personnel on board the vehicle.

82. A total of 7 deaths were recorded, including that of a police officer who was killed by demonstrators, and several people were injured, including 12 members of the law enforcement and security agencies. Significant damage to property occurred, including the destruction of three residences of security force personnel, looting of private property and the burning of three vehicles belonging to the security forces. In total, 176 persons suffered property damage, the cost of which was estimated by the Oti prefectural social welfare directorate at 41,330,250 CFA francs.

8 (b): Arrests of students in Kara in April 2012

83. On 24 April 2012, students were taken in for questioning during particularly violent demonstrations. They strongly resisted arrest, causing injuries both among law enforcement officers and among the students. Allegations of torture are therefore utterly groundless.

8 (c): Fires at the Kara and Lomé markets

84. No formal complaints have been filed in relation to allegations of torture in the case involving fires at the Lomé and Kara markets.

85. Regarding Mr. Mohamed Loum, he has never complained of acts of torture, either to the prosecutor's office or the investigating judge.

Paragraph 9

In the light of the Committee's previous concluding observations (para. 15) and the information provided by the State party on the implementation of the concluding observations, please give further details of measures taken to give effect to Decree No. 2014/PR of April 2014 concerning the white paper on the implementation of the recommendations of the Truth, Justice and Reconciliation Commission. Please also provide statistics on the number of complaints lodged by the families of victims of the political violence that accompanied the presidential election of 2005, the number of disciplinary and criminal investigations opened, the outcomes of such investigations, the sanctions imposed on the perpetrators and the compensation obtained by the victims.

Replies to the issues raised in paragraph 9

86. Following adoption of the white paper on 3 April 2014, the Government established the High Commission for Reconciliation and Strengthening of National Unity.

87. This institution is responsible for implementing the recommendations and the reparations programme.

88. An action plan for implementing the recommendations was drafted in July 2015.

89. Aside from intangible reparations (public apology by the Head of State, purification ceremonies, etc.), a special compensation fund was established. It will be funded as required to allow the High Commission to compensate the victims identified by the Truth, Justice and Reconciliation Commission. To achieve this, the High Commission for Reconciliation and Strengthening of National Unity decided to begin with compensation for the victims of the period known as phase 3, who are victims of the 2005 events.

90. Thus, for 2017, the Fund was awarded a budget of 2 billion CFA francs to compensate 2,475 victims, beginning with the 126 most vulnerable, all victims of events occurring in 2005 and 11 additional vulnerable victims of events occurring in other phases (before 2005). These vulnerable victims, who are listed on the website of the High Commission and appeared in the daily newspaper *Togo-Presse* on 30 November 2017, were identified because they are suffering from ongoing after-effects requiring psychological and medical care.

Complaints lodged by families concerning the 2005 events

91. It should be noted that, in opting for traditional justice, Togo wanted to encourage reconciliation and forgiveness. Nonetheless, victims have the right to apply to the courts if they so desire. A total of 72 complaints related to the 2005 events have been lodged.

Paragraph 10

With reference to the Committee's previous recommendations (para. 16) and the information provided by the State party on the implementation of the concluding observations, please provide further information on the measures taken to implement the recommendations made by the National Human Rights Commission in 2012 following its investigation into allegations of torture and ill-treatment on the premises of the National Intelligence Agency, including in the case of Kpatcha Gnassingbé and co-defendants. Please also respond to allegations that the Commission's report was falsified by members of the Government and that threats were made against the President of the National Human Rights Commission, and explain whether investigations have been opened to shed light on those allegations. Please also describe the specific reforms undertaken by the State party concerning the National Intelligence Agency and indicate the current status of the implementation of the ruling of the Court of Justice of the Economic Community of West African States in the case of Kpatcha Gnassingbé and co-defendants, including with regard to the status of compensation payments and the release of the detainees, as requested by the United Nations Working Group on Arbitrary Detention. Please describe the measures taken to open a criminal investigation, irrespective of disciplinary proceedings, into the torture suffered by the seven victims concerned, as well as by other victims mentioned in the report of the National Human Rights Commission.

Replies to the issues raised in paragraph 10

92. At a Council of Ministers held on 29 February 2012, the Government adopted 13 measures as part of its efforts to implement the recommendations of the National Human Rights Commission.

93. Under the chairmanship of the Prime Minister, a committee – composed of the Garde des Sceaux, Minister of Justice, the ministers responsible for human rights and for culture and the Chief of the Military Staff of the President of the Republic – was set up, in accordance with the twelfth in the series of measures taken, to ensure the implementation and follow-up of these measures.

94. In accordance with a letter dated 24 September 2012 (No. 000697/MJ/RIR/CAB/SG/SP), sent to the Prime Minister by the Garde des Sceaux, Minister of Justice in charge of relations with the institutions of the Republic, the status of implementation of the recommendations is as follows:

- The intelligence and security services are being reorganized through the reconstitution of their commands and the replacement of a number of agents involved.
- With regard to the detention of persons who have committed a criminal offence, measures are being taken to ensure that the National Intelligence Agency no longer detains persons on its premises.
- Disciplinary sanctions have been imposed on four of the Agency's staff members, including the Director General. These sanctions could not be used against three of the others involved, as they had retired before any action was taken.
- The ministers responsible for health, finance and justice were instructed to propose a team of specialist doctors to examine the complainants and, if necessary, put forward a compensation plan. In accordance with a judgment handed down by the Court of Justice of the Economic Community of West African States in the same case, the State paid damages of 532 million CFA francs to the victims.
- With regard to the revision of the Criminal Code, it should be noted that a new Criminal Code has been adopted. This law incorporates all the conventions signed and ratified by Togo, including those relating to torture and other cruel, inhuman or degrading treatment or punishment.
- The possibility of requesting a doctor's visit when being taken into or released from police custody is provided for in the preliminary draft of the Code of Criminal Procedure, which was covered in the same validation workshop that reviewed the bill to amend the Criminal Code.

- The Code of Criminal Procedure stipulates that places of detention used for police custody, pretrial detention or the execution of sentences are open for visits and, in the last instance, under the supervision of the Prison Service. The revised Code also provides for such visits. Moreover, all places of detention are currently open for visits by humanitarian non-governmental organizations and human rights associations.
- The National Human Rights Commission has already been designated as the national mechanism for the prevention of torture. On 10 April 2018, the new Organic Act establishing the Composition, Organization and Functioning of the National Human Rights Commission was adopted by the National Assembly to enable the institution to carry out its mission effectively in accordance with the Optional Protocol to the Convention against Torture.
- The reform of the legislation on prison administration is under way.
- With regard to the equipping and training of the criminal police, it should be noted that the service is currently being reorganized with a structure based on that of the forensic police.
- In 2011, the Office of the United Nations High Commissioner for Human Rights organized local training sessions on human rights for the criminal police in every region.
- Under the national programme to modernize the justice system, the European Union has provided the criminal police with forensic laboratory equipment. An ambitious programme addressing the training and equipping of the forensic police is under way.
- The report published by the National Human Rights Commission is authentic and the allegations of falsification are unproven.
- Mr. Kounté received every assurance that he would be safe and that, once sworn in at the National Assembly, he would be able to resume his position and exercise his new mandate but, in writing and through proxies, he declined all offers.
- Most of the detainees in the case of Kpatcha Gnassingbé have been released. In January 2018, three other detainees – Sassou Sassouvi, Gnassingbe Essozimna Esso and Seidou Oogbkiti – were also released. Three other persons – Kpatcha Gnassingbe, Captain Dontema and Commander Atti – remain in detention.

Paragraph 11

Please respond to allegations that mob justice, administered to persons suspected of having committed criminal acts, is widespread in the State party. Please provide information on the identified cases of mob justice: (a) in Nukafu, where a suspected thief was set on fire by a crowd on 4 November 2015; (b) in Lomé, where two people accused of theft were lynched by a group of young people, also on 4 November 2015; and (c) in Djidjolé, where another alleged thief was set on fire by a crowd on 5 November 2015. Please indicate the measures taken to prosecute the perpetrators of these and other acts of mob justice identified since 2011, the number of prosecutions and convictions, and the sanctions imposed. Please also indicate the measures taken or envisaged to combat this practice.

Replies to the issues raised in paragraph 11

95. The phenomenon of mob justice is a well-known problem that the Government is seeking to address by every legal means at its disposal. It has almost become a social trend and is not necessarily linked to the lack of security measures.

96. The security services occasionally encounter cases involving the lynching of presumed lawbreakers. Investigations opened with a view to identifying and arresting the alleged perpetrators of the lynchings are difficult to pursue since the offences involve mobs. Some investigations, however, have been successful, including one concerning the case of an alleged robber who was lynched on the night of 19–20 January 2015 and whose body was dumped in the Cacavéli district of Lomé. Following police investigations, five

individuals were taken in for questioning and held on suspicion of murder at the civil prison in Lomé according to police report No. 030/01/DGPN/DCPJ of 30 January 2015.

97. To put an end to this situation, day and night patrols that were already active in the various neighbourhoods have been strengthened. However, despite the security measures taken and the increased presence of law enforcement and security forces on the ground, the phenomenon persists. Therefore, the Government has had to use radio, television and press announcements to condemn such acts and remind the population of the need to comply with the law.

98. The implementation of a community policing policy by the Government, with the technical and financial support of the Hanns Seidel Foundation, has brought the security services closer to the public and enabled a series of awareness-raising campaigns on the risks and harmful consequences of certain actions to be carried out. As a result of these closer relations and awareness-raising efforts, recent cases in which lynching has begun have been swiftly reported to the police and the victims have been promptly rescued. The Government is currently trying to curb this phenomenon.

99. Civil society organizations, such as the Community of Sant'Egidio, the Togolese branch of Action by Christians for the Abolition of Torture and Amnesty International Togo, have organized exchange meetings to expose the phenomenon and remind the State of its responsibility to protect citizens, in accordance with its international commitments.

100. In 2016, for example, the average number of cases of mob justice fell from 3 per month, in the first half of the year, to 1.25 per month, in the second half of the year.

101. As these are offences involving groups of people, it is difficult to identify, prosecute and convict the perpetrators. The persons at the scene are often curious bystanders rather than the actual perpetrators. Prosecutions carried out following a police investigation often fail to yield any results. It is therefore not possible to provide statistics on prosecutions and convictions for mob justice.

Paragraph 12

In the light of the Committee's previous concluding observations (para. 17), please respond to reports of arbitrary arrest and detention and the failure to observe the legal time limits on police custody. Please specify the measures taken to ensure that the legal time limits on police custody are respected in practice, to put an end to all arbitrary detention and to compensate all persons detained arbitrarily. Please also state whether the law and practice of the State party permit any person who is arrested or detained to take proceedings before a court, in order that the court may decide without delay on the lawfulness of the detention and order his or her release if the detention is not lawful, in accordance with article 9 of the Covenant. Please also indicate whether the State party intends to repeal the 2001 Ordinance concerning debt collection by financial institutions, which authorizes imprisonment for debt.

Replies to the issues raised in paragraph 12

102. Article 15 of the Togolese Constitution stipulates that no one may be arbitrarily arrested or detained. However, some irregularities can be observed in the actions of the police, the gendarmerie and sometimes the judiciary. Efforts are being made to ensure respect for the rights of persons in police custody and, above all, prison inmates. These efforts have led to the establishment of inspection services in police and gendarmerie units and in prison facilities.

103. A draft bill on the Code of Criminal Procedure is being prepared to strengthen guarantees of citizens' rights in their dealings with the police and courts.

104. Particular emphasis is placed on these aspects of criminal law and procedure in initial and in-service training provided at police and gendarmerie academies. In addition, the supervision exercised by superiors in criminal police units has been tightened to prevent misconduct.

105. Under the current procedure, there are no provisions allowing arrested or detained persons to apply to the court for a ruling on the lawfulness of their arrest or detention, as required by article 9 of the Covenant. This procedure is expected to be provided for in the preliminary draft of the Code of Criminal Procedure.

106. Compensation is provided for in the Code of Criminal Procedure although the procedure by which it may be obtained is not specified. All these shortcomings are reviewed in the preliminary draft of the Code of Criminal Procedure.

107. The 2001 Ordinance concerning debt collection by financial institutions, which authorizes imprisonment for debt, is no longer in use. No court applies it and the committee responsible for its implementation no longer has any active members. It has been de facto repealed.

108. Nowadays, criminal police officers are sufficiently well trained and aware of the issue of arbitrary arrest and detention and the need to respect time limits on police custody. Such acts are now very rare and perpetrators are subject to both disciplinary and criminal sanctions. Daily checks by superior officers in places of detention, workshops and awareness-raising sessions aimed at the public prosecution service and criminal police officers, and unannounced visits by prosecutors to police custody facilities, among other measures, have helped to bring about a significant improvement in the professionalism of the security services in this area.

Paragraph 13

With reference to the Committee's previous recommendations (para. 18), please provide statistics, disaggregated by sex, age group and ethnic origin or nationality, on the number of persons in detention, including remand prisoners, and the total capacity of places of detention. Please describe the steps taken to ensure that pretrial detention is limited to exceptional cases and to promote the use of alternative measures. Please also provide information on measures taken or envisaged to ensure the effective separation of accused persons from convicted prisoners, juveniles from adults, and women from men in police and gendarmerie stations.

Replies to the issues raised in paragraph 13

109. The new Criminal Code of 24 November 2015 provides for alternatives to imprisonment, including community service and mediation and settlement in criminal cases (arts. 59–62). These measures are in addition to suspended sentences, bail and parole. The first series of measures will enter into force when the new Code of Criminal Procedure is adopted.

110. Provisions on the treatment of accused persons and prisoners, including respect for their dignity and the separation of accused persons from convicted persons and adult prisoners from young prisoners, are contained in the Constitution and the Children's Code (Constitution, arts. 16–17, and Children's Code (Act No. 2007-017 of 6 July 2007), art. 348).

111. The principle of separating men from women, and adults from children, is recognized and respected, even if, at present, appropriate facilities have not been established in all places of police custody and detention.

112. Currently, although the principle is recognized, it is difficult to separate convicted persons from accused persons. Persons are remanded in custody in accordance with international standards in this area. Women are kept separate from men.

113. In Lomé, minors are placed in the juvenile division. In most prisons in the interior of the country, young people are held in wings for minors. All prisons have women's wings.

Paragraph 14

Please explain the measures taken to improve conditions in prisons, in particular those aimed at eliminating overcrowding, improving food, sanitary conditions and access to health care, and stepping up the presence of medical personnel. Please also provide

information on the number of deaths in custody and the measures taken to significantly reduce the number of such deaths. Please indicate the measures taken to establish effective mechanisms for detainees to report violations of which they are victims, including in relation to their conditions of detention.

Replies to the issues raised in paragraph 14

114. To address prison overcrowding, extraordinary hearings are held to inform inmates of their eligibility for leaving prison, reduce the number of remand prisoners and, above all, release those who should be released.

Summary table of prisoners released at the 2014–2017 extraordinary hearings

Year/ Prisoners released	2014		2015		2016		2017	
	Men	Women	Men	Women	Men	Women	Men	Women
	209	23	275	4	98	9	153	7
Total	232		279		107		160	

115. The opening of the civil prison in Kpalimé, in September 2016, has made it possible to reduce the prison population in Lomé. Bringing prisoners closer to the court before which proceedings against them were instituted will allow their cases to be dealt with quickly.

116. At present, insufficient attention is paid to the issue of health. In terms of health care, however, full-time or part-time health-care staff are made available to prison facilities.

117. From October 2017, as part of a pilot project on rights and health in prisons supported by the German Embassy, all prisoners will have a medical file from the moment that they are incarcerated.

Statistics on deaths recorded in civil prisons in Togo from 2012 to 2015

Year	Number of deaths	Cause of death
2012	58	
2013	38	Malaria, intestinal infections, swelling, infectious syndrome, HIV, stroke, change in general state of health, heart attack, effects of a public lynching at the
2014	24	time of commission of an offence, oedema etc.
2015	37, including 1 woman	
Total	157	

Source: Lomé Prison Service.

118. A number of measures have been taken to improve prison conditions, particularly in the area of health. These include the following:

- The establishment of a group responsible for hygiene and sanitation in civil prisons
- A one-week sanitation operation with free care provided at Lomé civil prison, launched by the Gnassingbé Eyadéma Foundation for Education and Health (2012)
- A sanitation and disinfection operation carried out by the International Committee of the Red Cross in prisons (2013)
- The establishment of a system for transforming sludge into used biogas in Lomé civil prison, launched on 8 May 2014 with the financial support of UNDP

119. All prisoners may write in complete confidence to the director of the prison authorities, the judge or their lawyer to report possible violations of their rights or conditions of detention.

120. In most prisons in Togo there are legal clubs made up of prisoners with an appropriate level of education who are trained by judges, lawyers and criminal police

officers in the rights of inmates and in certain procedures, including requests for bail, requests to be released as a matter of right or a matter of course, and the exercise of legal remedies. These clubs help other inmates to assert their rights and implement the various procedures aimed at guaranteeing those rights.

Paragraph 15

Please describe the measures taken to: (a) eliminate child labour in sectors such as stone and sand quarrying and agriculture, including cocoa, coffee and cotton farming, and to end the servitude of children working as domestic servants, pedlars, beggars or in prostitution; (b) combat the cross-border trafficking of children, mainly from Benin and Ghana, as well as that of women and men, for forced labour; and (c) adopt legislative measures prohibiting the forced labour and forced prostitution of adults. Please provide annual statistical data, disaggregated by sex, age group and country of origin, on: (a) the victims of trafficking in persons; (b) the number of reported cases of trafficking; (c) the investigations and prosecutions initiated and the convictions and sentences handed down; (d) the availability of support services for victims of trafficking, including legal assistance and reintegration services, as well as the occupancy rate of shelters. In addition, please provide information on the training provided to judges, prosecutors, police officers and other State agents in detecting, investigating and handling cases of trafficking in persons. Please provide information on the steps taken to grant residence permits to victims of trafficking.

Replies to the issues raised in paragraph 15

(a) Measures taken to end child labour in stone and sand quarries and in agriculture

121. Child labour is a global phenomenon. In 2010, a national survey on child labour in Togo revealed that approximately 6 out of 10 children (58.1 per cent) aged from 5 to 17 years are economically active and 53.1 per cent of these children are exposed to hazardous work. Such children are mainly working in agriculture, quarrying, sand collection and the informal sector.

122. To tackle this problem, several programmes have been developed, including the project entitled “Combating Child Labour through Education”, which is funded by the United States Department of Labor and managed by the International Labour Office. Twelve action programmes have been developed that have benefited 12,000 children in various areas, including agriculture, stone and sand quarrying and sexual exploitation.

Agricultural sector

123. The capacities of community organizations are being strengthened under one such programme in order to protect vulnerable children from hazardous agricultural work, including removing 1,800 children from such work and reintegrating them into society.

124. The Regional Office for Social Welfare for the Centrale region has implemented this action programme with a view to changing attitudes at the community level. This programme has reached 3,383 children.

Stone quarries and sand collection

125. A system for observation, monitoring and inspection of child labour in Togo has been established under another programme.

126. The Directorate General of Labour has implemented this action programme. This system has made it possible to continue the campaign against child labour in agriculture, quarrying, sand collection and the informal sector. Labour inspectors, trade unions, non-governmental organizations and grass-roots communities are continuing to monitor child labour.

Strengthening education

127. The conditions of access to school for children in five rural communities are being improved through community engagement and infrastructure development.

128. This action programme was developed by Aide et Action. It has made it possible to raise public awareness, change attitudes in communities and build new school buildings. This programme has benefited 938 children.

129. A national campaign has been conducted to raise awareness of the schooling of children, especially girls, and of non-discrimination against persons living with HIV/AIDS. Steps have been taken to support the social reintegration of 300 children under 15 years of age, including 200 children made vulnerable by HIV/AIDS and 100 girls not attending school.

130. This programme, which is conducted by the trade union watchdog on combating child labour, aims to change community attitudes in order to encourage parents to send their children to school. This programme has benefited 4,500 children.

(b) Measures taken to combat the cross-border trafficking of children, mainly from Benin and Ghana, and of women and men for forced labour

131. There is no slave trade in Togo. However, in the Maritime and Plateaux regions, in the south of the country, certain cultural practices similar to modern forms of slavery have been observed. These include cultural practices in convents where children undergo initiation rites that are detrimental to their development.

132. In order to combat these practices, a declaration known as the Notsé Declaration was adopted on 16 June 2013 on the occasion of the Day of the African Child. The implementation of this declaration made it possible to remove 118 children from convents in 2014 and 2015. These children have returned to school.

133. The security services ensure that the regulations governing this area are upheld. Monitoring measures are taken at borders in order to detect suspicious movements of children to other countries. The security forces have been made well aware of the need to combat child trafficking at the national level.

134. In accordance with an order issued by the Minister of Security, modules on the rights of the child were included in the training provided at police and gendarmerie academies in 2013.

135. Since then, a module on the rights and protection of the child has been used to train 2,002 police officers and 2,600 gendarmes.

136. A module on the rights and protection of the child has been included in the in-service training of criminal police officers and senior officers.

137. In addition, international police cooperation has been strengthened through the International Criminal Police Organization (INTERPOL) and, in particular, the signing of conventions on mutual legal assistance and security cooperation between Togo and the countries of the subregion.

138. Measures taken at the institutional level include the establishment of a national steering committee on combating child labour, an interministerial committee on combating child labour, the consultation forum for persons involved in child protection and local child protection committees at the village and canton levels.

139. The strengthening of the national legal framework through the adoption of Act No. 2016-027 of 11 October 2016, amending Act No. 2015-10 of 24 November 2015 establishing the new Criminal Code, is one of the significant steps taken by the Government to combat the cross-border trafficking of children, mainly from Benin and Ghana, and of women and men for the purpose of forced labour. This Act fills the legal void that existed with respect to male and female adult victims.

140. In addition to strengthening the legal framework, efforts continue to be made to raise public awareness, including through the media, of the harmful effects of trafficking and the

sanctions imposed on perpetrators. The World Bank has helped the Government to produce poster boards illustrating the harm caused by child trafficking that serve as visual aids for awareness-raising sessions among communities in areas with high prevalence rates.

141. In order to reduce the vulnerability to trafficking of children from poor families, a cash transfer programme, with one of the conditions being the prevention of trafficking by enrolling and maintaining the children in the recipient household in school, is being implemented in areas where trafficking in children is most prevalent.

142. A number of specific measures have been taken to combat the cross-border trafficking of children.

143. Among them is improving coordination between actors and the effectiveness of actions taken by establishing networks of national and subregional actors involved in the fight against child trafficking in order to facilitate the exchange of information on traffickers and their accomplices and improve the protection of victims intercepted in a particular country.

144. On the initiative of Togo, a discussion workshop involving around 100 participants from five countries, including Ghana and Benin, was held in Lomé in 2015 with the aim of consolidating cooperation between police forces and courts at the regional level and encouraging participants to exchange experiences and good practices. Improvements have been made in the exchange of information between actors and the care provided to child victims in these five countries.

(c) Legislative measures prohibiting the forced labour and forced prostitution of adults

Protection against sexual exploitation

145. Steps have been taken to protect 100 girls against commercial sexual exploitation and provide assistance to 60 girl victims of exploitation in the municipality of Lomé.

146. This action programme, which was implemented by the association La Providence, has benefited 165 children.

147. A number of other measures have been taken to tackle this problem:

- Dissemination of laws on combating child labour, including Order No. 1464 MTEFP/DGTLS of 12 November 2007 establishing the kinds of work that children are not allowed to perform under article 151 (4) of Act No. 2006-010 of 13 December 2006 containing the Labour Code, the Children's Code, the Labour Code itself and others.
- Government launch in 2014 of an inclusive finance initiative for poor families for carrying out income-generating activities, with the aim of such initiatives being the empowerment of the most vulnerable families to ensure that they can take care of their children.

Statistics, disaggregated by sex, age group, and country of origin

(a) Trafficked persons (children)

148. The following data is taken from tables of indicators on the protection of children in Togo in 2011, 2012 and 2013.

Years	Cross-border trafficking			National trafficking		
	Girls	Boys	Total	Girls	Boys	Total
2011	1 644	2 386	4 030	1 018	1 528	2 546
2012	1 273	1 336	2 609	1 252	617	1 869
2013	146	153	299	53	35	88
Total	3 063	3 875	6 938	2 323	2 180	4 503

(b) *Number of reported cases of trafficking*

149. According to the tables of indicators on the protection of children in Togo, the following figures were recorded:

- 2011: 290 arrests of alleged traffickers and 140 cases tried
- 2012: 169 arrests (111 men and 58 women)
- 2013: 129 arrests (76 men and 53 women)

150. According to the report on the “Allo 1011” helpline, 99 cases of children in trafficking situations (21 boys and 78 girls) were identified and given support in 2016. In 2017, 213 children were given support.

(c) *Investigations and prosecutions initiated and convictions obtained and sentences handed down*

151. In 2011, 140 of the 290 persons arrested were brought to trial. Of those brought to trial, 79.8 per cent were men and 20.2 per cent were women. Data for 2012 and 2013 are not available.

(d) *The availability of support services for victims, including legal aid and reintegration services, and the occupancy rate of shelters*

152. The following assistance is provided to child victims of trafficking:

- Detection of victims at borders, in transit countries or in host countries
- Identification of victims:
 - Organization of the repatriation of children to their respective countries
 - Reception, shelter, food, health care and psychosocial support
 - Searches for parents
 - Rehabilitation of victims
 - Organization of family reintegration
 - Follow-up after reintegration

153. With regard to the occupation of shelters, it should be noted that, in 2015, approximately 30 per cent (1,820) of the 6,080 children counted in centres during an assessment of shelters for vulnerable children in Togo were victims of trafficking in transit or in the process of learning a trade at the centre.

154. The following forms of legal assistance are provided:

- Issuance of travel documents
- Issuance of orders for placement in residential centres or foster families
- Assistance for victims in legal proceedings through the provision of a lawyer
- Support for late registration for persons who do not have birth certificates

155. Little support is available for socioeconomic reintegration, as the financial resources of the various relevant organizations are limited.

156. Thus, according to data from the tables of indicators on child protection, from 2011 to 2013, a total of 1,988 child victims (894 girls and 1,094 boys) received assistance to facilitate their reintegration into society and prepare them for the world of work.

157. It should be noted that, since 2011, approximately 180 judges and other serving legal professionals have undertaken a number of training courses on child protection, including child trafficking. Modules on the law and child protection have been developed and included in the training curricula of specialized schools, including the National School of Social Training, the Training Centre for Legal Professionals and the Gendarmerie Training School.

158. The various child protection actors in general, and those involved in the fight against trafficking in persons in particular, are offering increasing numbers of training courses aimed at judges, police officers, gendarmes, social workers, journalists and children themselves on different topics related to child trafficking.

(e) *Information on the steps taken to grant residence permits to victims of trafficking*

159. With regard to the measures taken to grant residence permits to victims of trafficking, it should be noted that child victims of trafficking identified in Togo are treated in accordance with bilateral and multilateral agreements to which Togo is a party.

160. In most cases, the State is supported in its efforts by civil society organizations, including the Forum of Organizations for the Defence of Children's Rights in Togo, Plan International and Save the Children.

Protection against arbitrary arrest and security of person (arts. 2, 9 and 10)

Paragraph 16

Taking into account the Committee's previous recommendations (para. 19) and the adoption on 27 May 2013 of the Legal Aid Act, please provide information on the measures taken to effectively implement the Act by allocating the necessary financial resources. Please also give information on measures taken to ensure that the population is aware of the automatic legal assistance guaranteed by the Act of 10 July 1991. Please indicate the legislative measures taken or envisaged to guarantee the right to legal counsel as soon as a person is deprived of his or her liberty.

Replies to the issues raised in paragraph 16

161. With regard to the implementation of the Legal Aid Act of 24 May 2013, a budget line for legal aid is provided for in the general State budget every year. Immersion study trips have been organized to African countries with solid experience in this field with a view to enriching and amending the draft implementing decrees already prepared, particularly with regard to the mandate, functioning and composition of the National Legal Aid Council. These trips have led to a proposal to amend the law of 24 May 2013 to facilitate its implementation.

162. Automatic legal assistance is provided for perpetrators of serious offences who are to be tried by the Assize Court. Before the indictments chamber, all accused persons are informed that, if they cannot afford a lawyer, one will be officially appointed to ensure their defence.

163. It must be acknowledged that such appointments come late in the proceedings and do not allow the lawyers to raise procedural irregularities, as any irregularity is dealt with by the order of committal for trial for which counsel is appointed. Nor is provision made for counsel to defend the suspect during the course of the investigation. This situation will be rectified as soon as the Legal Aid Act enters into force. The Legal Aid Act of 10 July 1991 is a French law. In Togo, the basic instrument governing such matters is the Code of Criminal Procedure established pursuant to the Act of 2 March 1983.

164. The principle that accused persons should receive the assistance of a lawyer from the moment of their arrest is enshrined in the Constitution. The role and obligations of the lawyer during this period will be set out in the Code of Criminal Procedure.

Right to a fair trial and independence of the judiciary

Paragraph 17

Please indicate whether the National Justice Sector Policy provides for a review of Ordinance No. 78-35 concerning the organization of the judicial system, in order to ensure the separation of judges and prosecutors' functions in all jurisdictions. Please also indicate

the legislative measures taken to ensure that the right of appeal is respected in procedures against judicial officers, criminal police officers, prefects and sub-prefects, mayors and cantonal and village leaders. Please respond to allegations of interference by influential people or the Minister of Justice in “sensitive” court cases, and of so-called punitive assignments or transfers of judges that have no basis in law. Please provide information on measures taken or envisaged to guarantee the right to real and effective access to a court, and to allocate financial and human resources to the judiciary. Please provide information on measures taken to guarantee the independence of the Supreme Council of Justice from the executive branch.

Replies to the issues raised in paragraph 17

165. The national justice sector policy, in common with the national programme to modernize the justice system before it, recognizes that it is necessary to revise Ordinance No. 78-35 of 7 September 1978 establishing the organization of the judiciary. A bill on the revision of this ordinance is being drafted. The adoption of this bill will pave the way for the adoption of the Code of Criminal Procedure. Although Ordinance No. 78-35 also provides for the separation of functions of judges and prosecutors, it allows these functions to be carried out by a single judge in certain circumstances. Irrespective of whether this ordinance is amended, the increase in the number of judges will make it possible to respect this separation of functions.

166. In accordance with Togolese legal tradition, the Minister of Justice is the chief prosecutor. As such, he or she guides the actions of the public prosecutor’s office and has the right to have a say in what the office is doing. The Minister is authorized by law to give instructions to prosecutors. Such instructions do not constitute interference.

167. Judges do not account for their decisions to the Minister of Justice. They must make decisions in accordance with the law and their conscience. In order to ensure that they are protected, their careers are managed by the Supreme Council of Justice, which has sole authority for proposing that they be transferred. Unlike prosecutors, who may be transferred on the recommendation of the Minister of Justice, they are also protected by the principle of irremovability.

168. Ignorance of the relationship between the Minister of Justice and prosecutors leads citizens to claim that the Minister interferes in sensitive cases.

169. In all cases, the Minister of Justice may give instructions to prosecutors, as the law prescribes.

170. With regard to persons considered influential, it is up to judges to assert their independence by skilful handling of their cases and their knowledge of the law. Their careers are not managed by so-called influential people. If a judge falls under the control of an influential person, this cannot be interpreted as a practice. Furthermore, the positions that judges can occupy depend on their rank. The term “punitive assignment” suggests that the judges concerned are occupying positions lower than that provided for in the regulations for their rank. However, it is not currently possible to find any judge in that situation. As for positions of responsibility, it must be recognized that not everyone may hold the position of president of the court or prosecutor at the same time. Appointments are made in accordance with seniority and, when two persons have the same rank, competence.

171. Judges and prosecutors may be sanctioned only by the Supreme Council of Justice after they have been given the opportunity to defend themselves. The Supreme Council is chaired by the President of the Supreme Court and is mainly composed of judges. This composition attests to the independence granted to this institution, whose decisions are not held to account by anyone.

Refugees and asylum seekers (arts. 7, 12–14, 24 and 26)

Paragraph 18

In view of the adoption on 3 March 2016 of the new Refugee Status Act, please provide information on the timetable for the effective implementation of the Act and for the establishment of the appeals board envisaged therein. Please also indicate measures taken to avoid discrimination against refugees in the application of the Togolese Nationality Code.

Replies to the issues raised in paragraph 18

172. There is no timetable for the implementation of the Act. Such a timetable will not be established until the Act enters into force.

173. The process of establishing the appeals board is under way. It is led by the Ministry of Justice.

174. The current Nationality Code does not provide for a special regime for refugees.

175. The forum on the search for durable solutions for refugees in Togo, held on 13–15 November 2017, recommended that the issue of refugees be taken into account in the revision of the Nationality Code.

Freedom of religion and association (arts. 18 and 22)

Paragraph 19

Please describe the content of the draft law on freedom of association, adopted on 7 April 2016 by the Council of Ministers, and explain its compatibility with article 22 of the Covenant. Please indicate the number of organizations of a religious character that have applied to be registered with the Ministry of the Interior during the past five years, the number of cases in which registration has been refused and the grounds for refusal.

Replies to the issues raised in paragraph 19

176. The bill on freedom of association adopted by the Council of Ministers was withdrawn in order to improve it in conjunction with civil society organizations.

177. Some 150 religious associations have applied to be registered with the Ministry's Department of Religion in the past five years (2011–2016). Of these 150 associations, 25 have received acknowledgements of their applications.

178. Reasons for rejection include the moral standards of the leadership following an inquiry and the location of churches in prohibited areas (e.g. next to a school or a hospital).

Freedom of expression and peaceful assembly (arts. 19 and 20)

Paragraph 20

Taking into account the revised Criminal Code adopted in 2015, which provides for prison sentences for offences such as defamation, insulting a representative of the Government and insulting the representatives of public authority, and the introduction of a new offence whereby the publication, dissemination and reproduction of "false news" is punishable by up to 5 years' imprisonment, please explain the compatibility of these offences with article 19 of the Covenant and give examples of cases in which such infractions were identified. Please also explain whether the new offences relating to "seditious cries and songs uttered in public places or at public meetings", the financing of terrorism, the publication of messages inciting terrorism and participation in the commission of a terrorist act are precisely defined so as to ensure that they do not lead to unwarranted or disproportionate interference with the freedom of expression of dissenting individuals.

Replies to the issues raised in paragraph 20

179. The meaning of article 497 is clear. Contrary to the widespread idea that this article constitutes an obstacle to the freedom of the press, it is targeted at non-journalists who, through social media and other means of communication, deliberately tarnish or insult the image of the authorities. The proof of this is that all the provisions concerning the Press and Broadcasting Code, which applies to journalists, have been retained. This article is therefore aimed at non-journalists, who cannot be subject to the Press and Broadcasting Code.

180. With regard to seditious cries and songs uttered in public places, the intent that is punishable is clear from the section that refers to them, which is entitled “Incitement and justification of felonies and misdemeanours”. The definition of these terms is not confusing and it is easy to assess the resulting offence without any risk of unjustified or disproportionate interference in the freedom of expression of dissident persons. Calling for a serious or ordinary offence to be committed has nothing in common with the expression of a dissenting idea. The same applies to the financing of terrorism, since terrorism is clearly and unequivocally defined in the Criminal Code.

181. The amendments to the Criminal Code relating to the publication of “false news” also address the concerns raised in paragraph 3 of article 19. To date, no Togolese journalist has been tried on the basis of these new provisions of the Criminal Code. Articles 82–85 and 88–95 of the Press and Broadcasting Code already provide for sanctions for the offences of defamation, insult and abuse of a government official or representative of the public authorities.

Paragraph 21

With reference to the Committee’s previous recommendations (para. 20), please comment on reports that the authorities continue to limit the freedom of expression of journalists, human rights defenders and political activists who express opinions against the Government. In this regard, please provide information on the measures taken to provide effective protection against intimidation and arbitrary arrest for journalists who raise issues of public interest – as in the cases of Zeus Aziadouvo, Carlos Ketohou and Abi-Alfa, Noël Tadegnon, Younglove Egbéboua Amavi, Fredo Attipou, Aimée Gbotso, Luc Abaki and Justin Anani – or of human rights defenders reporting on issues in that sphere, such as Amah Olivier, President of the Association des victimes de la torture au Togo and Koffi Kounté, President of the National Human Rights Commission, both of whom left the country because of fears for their safety. Please provide information on the number of complaints filed since 2011 and the results of investigations into these complaints, as well as information on convictions and sentences handed down in cases of aggression, threats, harassment and arbitrary detention of persons engaged in journalistic activities or denouncing human rights violations.

Replies to the issues raised in paragraph 21

182. Following the submission of court order No. 5387/ST/PR/TP-LOM/015, which transmitted complaints made by certain ministers against Zeus Aziadouvo, Carlos Ketohou and Abi Alfa for offence against honour, dissemination of false news and defamation, the police summoned these local newspaper editors and took down their statements. It should be noted that they were not placed in police custody. The police report was sent to the prosecutor’s office according to report No. 345/01/DGPN/DCPJ of 30 September 2015.

183. The safety of journalists has improved significantly in recent years. The journalists mentioned in paragraph 21 are no longer subjected to threats or intimidation. No complaints have been filed in respect of these cases since 2011. Furthermore, no journalists are in detention in Togo.

184. Neither the judiciary nor the National Human Rights Commission has received any complaints concerning cases of assault, threats, harassment or arbitrary detention of journalists or persons reporting human rights violations.

Paragraph 22

In the light of the Committee's previous concluding observations (para. 20) and taking into account the adoption in February 2013 of the Act on the High Audio-visual and Communications Authority and the Constitutional Court decision which deemed six articles of that Act to be unconstitutional, please provide information on measures taken to ensure the independence of the Authority from the executive branch.

Replies to the issues raised in paragraph 22

185. Following the issuance of Opinion No. C-003/11 of 22 June 2011 by the Constitutional Court, which declared certain provisions of the Organic Act of February 2013 on the Audio-Visual and Communication Regulatory Authority to be unconstitutional, the National Assembly reviewed this Act in conjunction with media representatives.

186. The new organic law adopted by the National Assembly was found to be in conformity with the Constitution by the Constitutional Court before it was promulgated by the Head of State on 8 July 2013. Since then, it has been this consensus law that has governed the functioning of the Authority.

Paragraph 23

Taking into account the Committee's previous concluding observations (para. 20), please provide information on measures taken to ensure the conformity of Act No. 2011-010, setting the conditions for the exercise of freedom of assembly and the right to peaceful public demonstrations, with article 21 of the Covenant. Please also explain whether the new offences set forth in the Criminal Code of 2015, criminalizing the organization of and participation in meetings that have not met the necessary administrative requirements and making the organizers criminally liable for any violent behaviour by other demonstrators, constitute justified and proportionate restrictions on the freedom of peaceful assembly. Please comment on allegations that peaceful assemblies organized by political parties and human rights defenders are often prohibited arbitrarily.

Replies to the issues raised in paragraph 23

187. Act No. 2011-010 of 16 May 2011, setting the conditions for the exercise of freedom of assembly and the right to peaceful demonstrations, clearly defines the rules governing the exercise of freedom of assembly. The provisions of this Act are compatible with article 21 of the Covenant. The Act provides for a system of prior notification or declaration to the competent administrative authority.

188. The Act stipulates the criminal sanctions to be imposed on persons who perpetrate offences during demonstrations (arts. 18–22).

189. Under articles 496, 539 and 540 of the new Criminal Code, sanctions are imposed on organizers of demonstrations who do not comply with the law.

Paragraph 24

Please respond to allegations that demonstrations are often broken up by law enforcement or security forces, including the military, while using excessive force. Please also provide information on the events that occurred: (a) in Mango in November 2015, when 7 people were killed and at least 117 others were injured following the intervention of the security forces; (b) in the town of Gleï on 25 March 2016, during which gendarmes allegedly fired live ammunition at protesters, injuring at least 30 people; and (c) in Dapaong in April 2013, when 2 students died following the intervention of the police during a peaceful demonstration in support of a teachers' strike. Please indicate the measures taken to prosecute the perpetrators and to prevent such events from recurring in the future. Please elaborate on the compatibility of Decree No. 2013-013, on maintaining and restoring law and order, with international standards.

Replies to the issues raised in paragraph 24

190. The security services carry out their mission of maintaining and restoring public order in accordance with the laws and regulations in force in this area. They act in compliance with the Constitution of 14 October 1992, Act No. 2011-010 setting the conditions for the exercise of freedom of assembly and the right to peaceful public demonstrations and Decree No. 2013-013/PR of 6 March 2013 on maintaining and restoring law and order, while bearing in mind the universally accepted international principles and standards in this field.

(a) **See the reply to the issues raised in paragraph 8 (a).**

(b)

191. Where Gleï is concerned, the five-day strike started on 25 March 2015 by the Togo Workers' Synergy trade union was aimed at ensuring the fulfilment of their list of demands and the dismissal of the Minister of Primary and Secondary Education. The extreme violence that characterized this demonstration in Gleï, coupled with the obstruction of traffic, made it particularly difficult to maintain order in this rural area. The military was required to protect private property against looting and vandalism and the police and gendarmerie were responsible for restoring law and order.

192. The management of this demonstration resulted in injuries to 23 demonstrators and 29 members of the security forces, 3 of whom were seriously injured (a lieutenant in the gendarmerie lost most of his teeth). Three gendarmerie vehicles suffered significant material damage.

(c)

193. In Dapaong, students spontaneously held a demonstration in support of a teachers' strike. The demonstrators quickly descended on the town's police station, which they tried to ransack. Unfortunately, the management of this situation resulted in the death of two students, one of whom was shot.

194. With regard to the measures taken, whether in Mango and Dapaong, where lives were lost, or in Gleï, where people were injured, investigations were carried out and members of the military, gendarmerie and police (officers, superintendents and staff of all ranks below the rank of officer) who were found guilty of misconduct were subjected to disciplinary and criminal penalties in accordance with the law in force. These penalties are intended to serve as examples and to prevent such events from happening again in the future.

195. The following concerns the compatibility of Decree No. 2013-013/PR of 6 March 2013 on maintaining and restoring law and order with international standards.

196. This decree was drafted by conducting a cross-reading of the laws of a number of African and European countries while taking into account international standards and rules in this field.

197. As in most countries, there are three categories of forces that may help to maintain and restore law and order:

- Category 1: the forces of the first category consist of the local units of the national police, including police stations, and the local units of the national gendarmerie, such as local squads, companies and regional groups
- Category 2: these are the mobile units or republican security companies of the national police and the response units of the national gendarmerie, in particular the squads, platoons and rapid response units
- Category 3: this includes the response units of the Togolese armed forces, in particular the army, air force and navy

198. These categories have been established in accordance with the principles of proportionality and necessity with respect to the use of force. The deployment of these forces in order to maintain order is subject to a request from the competent civil authority.
