



**International covenant  
on civil and  
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HUMAN RIGHTS COMMITTEE

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

**BENIN\***

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\* This report is issued unedited in compliance with the wish expressed by the Human Rights Committee at its sixty-sixth session in July 1999.

## CONTENTS

|  | <i>Paragraphs</i> | <i>Page</i> |
|--|-------------------|-------------|
| CORE DOCUMENT .....  |                   | 4           |
| I. GENERAL LEGAL FRAMEWORK FOR THE PROMOTION<br>OF HUMAN RIGHTS (1997-2000) .....  | 1 - 16            | 4           |
| A. Legislation .....   | 2 - 8             | 4           |
| B. Regulations .....   | 9 - 16            | 8           |
| II. COMMENTS ON ARTICLES 1-27 OF THE COVENANT .....  | 17 - 172          | 11          |
| Article 1. Right of peoples to self-determination .....  | 17                | 11          |
| Article 2. Guarantee that all persons (nationals and<br>foreigners) enjoy the rights recognized in<br>the Covenant ..... | 18                | 11          |
| Article 3. Principle of non-discrimination on grounds<br>of sex .....  | 19 - 24           | 11          |
| Article 4. Public emergencies .....  | 25                | 12          |
| Article 5. Derogations or restrictions on human rights .....   | 26                | 12          |
| Article 6. Right to life .....   | 27 - 32           | 12          |
| Article 7. Prohibition of torture and cruel, inhuman or<br>degrading treatment or punishment .....                       | 33 - 35           | 13          |
| Article 8. Prohibition of slavery, the slave trade and<br>slavery-like institutions and practices .....                  | 36 - 37           | 13          |
| Article 9. Right to liberty and security of person<br>(detention/custody) .....  | 38 - 53           | 14          |
| Article 10. Treatment of detainees .....   | 54 - 58           | 15          |
| Article 11. Prohibition of imprisonment for debt .....   | 59                | 16          |
| Article 12. Liberty of movement .....  | 60 - 63           | 16          |
| Article 13. Expulsion of aliens .....  | 64                | 17          |
| Article 14. Equality of all before the courts .....  | 65 - 67           | 17          |
| Article 15. Non-retroactivity of the law .....   | 68                | 17          |

**CONTENTS (*continued*)**

|   | <i>Paragraphs</i> | <i>Page</i> |
|---|-------------------|-------------|
| Article 16. Recognition as a person before the law .....  | 69                | 17          |
| Article 17. Prohibition of arbitrary or unlawful interference<br>with a person's privacy .....                                    | 70 - 74           | 17          |
| Article 18. Freedom of thought, conscience and religion .....   | 75 - 83           | 18          |
| Article 19. Freedom of opinion and expression .....   | 84 - 91           | 19          |
| Article 20. Prohibition of any propaganda for war and<br>any advocacy of national, racial or religious<br>hatred .....            | 92 - 96           | 20          |
| Article 21. Right of peaceful assembly .....  | 97 - 102          | 20          |
| Article 22. Freedom of association .....  | 103 - 114         | 21          |
| Article 23. Protection of the family .....  | 115               | 22          |
| Article 24. Protection of children .....  | 116 - 148         | 22          |
| Article 25. Right to take part in the conduct of public affairs<br>and to have access to public service in one's<br>country ..... | 149 - 163         | 25          |
| Article 26. Equality of all before the law .....  | 164 - 167         | 28          |
| Article 27. Rights of ethnic, religious or linguistic minorities ....   | 168 - 172         | 29          |
| ANNEXES .....   |                   | 30          |

## **CORE DOCUMENT**

### **I. GENERAL LEGAL FRAMEWORK FOR THE PROMOTION OF HUMAN RIGHTS (1997-2000)**

1. The period covered in this periodic report (1997-2000) saw the adoption of a number of laws and regulations relating to human rights.

#### **A. Legislation**

2. The new legislation concerns information, work, elections, the Supreme Council of the Judiciary and the High Court of Justice.

3. Act No. 97-010 of 20 August 1997, on liberalization of the audio-visual media and special criminal provisions for offences related to the press and audio-visual communications in the Republic of Benin:

(a) The Act, which has 123 articles, sets out, among other things, the conditions for establishing and operating non-State radio and television broadcast facilities in Benin to be operated privately by the applicants or by third parties. It also sets out the conditions for establishing and operating private or public terrestrial television stations;

(b) The Audio-Visual and Telecommunications Authority (HAAC), a body established by the Constitution (arts. 142 and 143), is responsible for issuing, in accordance with Act No. 97-010 of 20 August 1997, the appropriate permits for establishing and operating private commercial radio stations (arts. 38-40), private non-commercial radio stations (arts. 41-47), private commercial television stations (arts. 48-52) and private non-commercial television stations (arts. 53 and 54);

(c) The right of reply in respect of audio-visual communications is governed by articles 63-77;

(d) The following offences under the press laws are dealt with under "Special criminal provisions" (arts. 78-123): incitement to commit a crime or an offence (arts. 78-80); offences against the public interest (arts. 81 and 82); offences against the person (arts. 83-90); offences against heads of State and foreign and diplomatic agents (arts. 91 and 92);

(e) It should be noted that the penalties incurred (arts. 81 and 82) for offences classed by the press laws as being against the public interest, which generally range from one to five years' imprisonment and/or a fine of 500,000-10,000,000 CFA francs are more severe than the penalties set out in the 1960 Press Act (Act No. 60-12 of 30 June 1960).

4. Act No. 98-004 of 27 January 1998, containing the Labour Code of the Republic of Benin:

(a) This law repeals and replaces the 1967 Labour Code contained in Ordinance No. 33/PR/MFPTT of 28 September 1967. It is applicable to workers and employers exercising a professional activity in Benin, as well as to apprentices (art. 1);

(b) The 317 articles of the 1998 Labour Code deal with general provisions (title I), employee/employer relations (title II), industrial relations (title III), working conditions (title IV), wages (title V), the settlement of individual and collective labour disputes (title VI), labour inspections and employment promotion (title VII), advisory bodies (title VIII), penalties (title IX) and transitional and final provisions (title X);

(c) Attention is drawn to the following points dealt with in various provisions of the Code:

- (i) “Employee” is defined without regard to gender or nationality (art. 2);
- (ii) Forced labour is absolutely prohibited (art. 3);
- (iii) It is prohibited to take into account gender, age, race or ethnic or family ties to other employees in matters relating to hiring policy, performance and division of labour, professional training, promotion, etc. (art. 4);
- (iv) It is prohibited to take into account the worker’s origin or social origin or his or her religious, political or other views in matters relating to hiring policy or performance and division of labour (art. 5);
- (v) All discrimination against disabled persons in the field of employment is prohibited (art. 31);
- (vi) Employees’ legal working hours are the same regardless of their sex (art. 142, sect. 1, and art. 143, sect. 1);
- (vii) Special provisions apply to working women and children (arts. 166-173);
- (viii) The principle of “equal pay for equal work” applies to all workers, regardless of their sex (art. 208).

5. Act No. 98-034 of 15 January 1999, containing the general rules for elections in the Republic of Benin:

(a) The Act confirms the establishment of the National Independent Electoral Commission provided for in article 36 of Act No. 94-013 of 17 January 1995, containing the general rules for the election of the President of the Republic and members of the National Assembly;

(b) Title V of Act No. 98-034 of 15 January 1999, on the “Organization of elections” (arts. 40-49), is particularly noteworthy:

- (i) Article 40 of the Act provides as follows:

“The elections shall be organized by an administrative body called the National Independent Electoral Commission (CENA).

The National Independent Electoral Commission shall be independent of government, ministerial departments, parliament and the Constitutional Court, subject to the provisions contained in article 49, article 81, paragraph 2, and the first two items listed in article 117 of the Constitution of 11 December 1990 and the provisions contained in articles 42, 52 and 54 of Act No. 91-009 of 4 March 1991, containing the Constitutional Court Organization Act.

It shall also be independent in the management of its budget.

It shall have a permanent secretariat.

It shall formulate and adopt its own rules of procedure and elect its own officers”;

- (ii) The Commission has 23 members (art. 41), and is represented in every department by a 9-member departmental electoral commission (art. 43);
- (iii) It is represented in each commune by local electoral commissions that have 7 members in ordinary communes and 15 members in communes with special status (art. 44);
- (iv) The Commission is responsible for preparing, organizing, conducting and supervising voting and collating the results (art. 46);
- (v) The Commission is set up for each election on a temporary basis, for a period of a little over three months (art. 41, paras. 5 and 6, and art. 46, para. 5);
- (vi) In order to build on past experience and maintain electoral equipment, the Act provides for a permanent secretariat to manage the administrative records, national electoral assets, national electoral roll and local equipment (art. 47).

(c) Lastly, articles 60 and 62 of Act No. 98-034 of 15 January 1999, containing the general rules for elections in the Republic of Benin, provide for the possibility of using a single ballot paper to vote. The National Independent Electoral Commission has declared itself in favour of the use of the single ballot paper.

6. Act No. 98-036 of 15 January 1999, establishing the specific rules for electing members of the National Assembly:

(a) The main thing to notice is that the Act retains the list-based voting method and system of proportional representation used in the parliamentary elections in 1991 and 1995;

(b) In addition, the number of electoral districts has been raised to 24, as compared with 6 in 1991 and 18 in 1995;

(c) Making the electoral districts smaller reflects the legislature's desire to bring deputies closer to the electorate.

7. Organization Act No. 94-027 of 15 June 1999, on the Supreme Council of the Judiciary:

(a) The establishment of the Supreme Council of the Judiciary is provided for in article 127, paragraph 2, of the Constitution of 11 December 1990. Organization Act No. 94-027 of 15 June 1999 sets out its composition, remit, structure and operations (Constitution, art. 128);

(b) The Supreme Council of the Judiciary consists of 10 members, 7 of them ex officio and 3 of them appointed by decree of the President of the Republic, who chairs the Council (art. 1). The three appointed members consist of two judges (one of whom is from the prosecution service and is nominated by the General Assembly of the Judiciary) and one eminent person from outside the judiciary;

(c) The Council assists the President of the Republic in his role as guarantor of the independence of the judiciary (Constitution, art. 127, and Organization Act, art. 11, sect. 1). It also acts as a disciplinary panel for judges (Constitution, art. 128, and Organization Act, art. 17), approves the appointment of judges (Organization Act, art. 15), and examines requests for pardons and transmits them with its considered opinion to the President of the Republic (Organization Act, art. 11, sect. 3);

(d) The Supreme Council of the Judiciary has a secretariat headed by a judge who is not a member of the Council and whose deputy is also a judge.

8. Act No. 93-013 of 10 August 1999, containing the High Court of Justice Organization Act:

(a) The High Court of Justice, which is provided for in the Constitution (arts. 135-138), consists of 13 members (Constitution, art. 135, and Organization Act, art. 7), as follows:

(i) Six of the seven members of the Constitutional Council (excluding the President of the Council);

(ii) Six deputies elected by the National Assembly;

(iii) The President of the Supreme Court;

(b) The Public Prosecutor's Office at the High Court of Justice consists of three judges selected by the full bench of the Supreme Court from among its irremovable members, with the judge with the most seniority acting as prosecutor-general and the two others as advocates-general (Organization Act, art. 10);

(c) The High Court of Justice has the authority to try the President of the Republic and members of the Government for high treason, insulting the National Assembly, attacks on honour or integrity and offences committed in the exercise or in the course of their duties. It also has the authority to try their accomplices in cases of treasonable conspiracy (Constitution, art. 136, and Organization Act No. 93-013 of 10 August 1999, art. 2);

(d) High treason, attacks on honour and integrity and insulting the National Assembly are defined in, respectively, articles 74, 75 and 76 of the Constitution and articles 3, 4 and 5 of the Organization Act;

(e) Any decision to prosecute and press charges against the President of the Republic or members of the Government is taken by the National Assembly alone, and requires a two-thirds majority of its members (Constitution, art. 137, para. 2, and Organization Act, arts. 15.1 and 16.1);

(f) The accused are suspended from their duties and, if found guilty, stripped of their responsibilities (Constitution, art. 138, and Organization Act, art. 17.4).

## **B. Regulations**

9. Attention is drawn to the following regulations in particular:

Decree No. 97-30 of 29 January 1997;

Decree No. 97-150 of 26 March 1997;

Decree No. 97-169 of 7 April 1997;

Decree No. 97-503 of 16 October 1997;

Decree No. 97-569 of 11 December 1997;

Decree No. 98-155 of 27 April 1998;

Decree No. 99-559 of 22 November 1999.

10. Paragraph 7 of Decree No. 97-30 of 29 January 1997, concerning the remit, organization and functioning of the Ministry of Justice, Legislation and Human Rights, reads as follows:

### **Paragraph 7: Department of Human Rights**

Article 35: The Department of Human Rights has the following tasks:

#### **A. In respect of the promotion and dissemination of human rights**

- Provide education, raise awareness and offer training in the field of human rights;
- Implement and coordinate Beninese human rights policy throughout national territory;
- Prepare the periodic reports on the implementation of international human rights instruments and submit them to the international bodies concerned;



- Organize workshops and carry out awareness and information campaigns during tours to promote human rights;
- Ensure that suitable publications on human rights and democracy are available to the population;
- Take all necessary measures to promote and protect the human rights principles set forth in the Universal Declaration of Human Rights, the African Charter on Human and Peoples' Rights and other instruments designed to promote and protect human rights;
- Mobilize intellectual and institutional capacity to implement national human rights policy;
- Cooperate with human rights associations and non-governmental organizations (NGOs) working in Benin or abroad;
- Make further suggestions for the promotion of human rights.

**B. In respect of the protection and defence of human rights**

- Make Benin's domestic legislation more consistent with the provisions of international instruments;
- Prepare action plans for vulnerable social groups with a view to improving the promotion and protection of their rights;
- Visit detention facilities in cooperation with the Prison Service Department in order to assess prisoners' living conditions and prevent cases of wrongful and arbitrary detention;
- Verify allegations of human rights violations and investigate complaints of such violations;
- Work to protect and defend the rights and freedoms of citizens, persons deprived of liberty, foreigners and refugees;
- Enforce the principle of non-discrimination against the most vulnerable groups in society;
- Promote and guarantee all women's and children's rights recognized by the various international human rights instruments.

Article 36: The Department of Human Rights comprises:

- The Office for the Promotion and Dissemination of Human Rights; and
- The Office for the Protection and Defence of Human Rights.

11. Decree No. 97-150 of 26 March 1997, on the establishment, remit and functioning of the National Commission on Legislation and Codification:

(a) The Commission brings together representatives of the State, the National Union of Beninese Judges, the Bar Association, the National Society of Bailiffs, the National Law Society, trade union federations, the Beninese Chamber of Trade and Industry, human rights NGOs and journalists' associations (art. 4). Three subcommissions have been set up to deal with economic affairs, social and cultural affairs and general affairs (art. 5);

(b) According to article 2, the Commission's tasks are to:

- (i) Draw up a list of existing laws, identify their shortcomings and propose updates or revisions;
- (ii) Draw up a list of bills that have already been drafted;
- (iii) Ascertain in which other areas legislation is needed;
- (iv) Prepare draft legislation and regulations where necessary;
- (v) Make proposals for speeding up the procedures for adopting legislation;
- (vi) Codify legislation;
- (vii) Prepare a digest of Beninese positive law.

12. Decree No. 97-169 of 7 April 1997, on the establishment, remit and functioning of the Special Fund for the Rehabilitation of the Justice System:

(a) The main aims of the Special Fund, a financially independent body that reports to the Minister of Justice, are to overhaul and build up the judicial infrastructure, purchase the materials and equipment needed for the smooth operation of courts and short-stay prisons, ensure that prison conditions are fit for human beings and help prisoners become reintegrated in society (art. 2);

(b) The Special Fund's resources come from State subsidies, gifts and bequests (art. 3).

13. Decree No. 97-503 of 16 October 1997, on the establishment of the National Human Rights Advisory Board:

"The Board is a forum for consultations on consolidating the rule of law in daily life between the authorities and the human rights NGOs that are officially established in Benin (art. 2). Its role is fundamentally an advisory one (art. 3). The Board consists of State representatives and duly appointed representatives of human rights NGOs (art. 5)."

14. Decree No. 97-569 of 11 December 1997, establishing a national day of civic rights and duties. The day is held each year on 11 December, when various events are organized to inform citizens and make them more aware of their rights and duties.

15. Decree No. 98-155 of 27 April 1998, establishing the National Commission for the Implementation of International Humanitarian Law:

(a) This Commission is responsible for the effective implementation and observance of international humanitarian law, the promotion and defence of international humanitarian law, the coordination of activities in this sphere in Benin and the widespread dissemination and teaching of international humanitarian law;

(b) The Commission consists of representatives of the Government, the Bar Association, the regional office of the International Committee of the Red Cross and the Beninese Red Cross.

16. Decree No. 99-559 of 22 November 1999, establishing the National Commission on the Rights of the Child:

(a) This Commission, which reports to the Ministry of Justice, Legislation and Human Rights, is responsible for coordinating efforts to protect and promote children's rights (art. 2);

(b) As such, its task is to promote children's rights and safeguard their interests, particularly through the implementation of the Convention on the Rights of the Child, to monitor the implementation of this Convention and to prepare and oversee national policy on the judicial protection of children and young people;

(c) The Commission consists of representatives of the ministries of justice, social protection and the family, the civil service, public health, the interior and planning and representatives of civil society and NGOs.

## **II. COMMENTS ON ARTICLES 1-27 OF THE COVENANT**

### **Article 1. Right of peoples to self-determination**

17. Nothing new to report.

### **Article 2. Guarantee that all persons (nationals and foreigners) enjoy the rights recognized in the Covenant**

18. Nothing new to report.

### **Article 3. Principle of non-discrimination on grounds of sex**

19. The general principle of non-discrimination on grounds of sex, as set forth in article 3 of the International Covenant on Civil and Political Rights, is taken up in the Beninese Constitution of 1990 (arts. 6 and 26).

20. Of the legislation adopted during the period in question, special attention is drawn to Act No. 98-004 of 14 January 1998, containing the Labour Code of the Republic of Benin.

21. The 1998 Labour Code incorporates the principle of non-discrimination on grounds of sex in a number of its provisions (arts. 2, 3, 4 and 5; cf. para. 4 (c) above).

22. However, it should be pointed out that the principle of gender equality is not generally reflected in reality.

23. With regard to women's representation in Benin's national political institutions for instance, the following points can be made:

(a) In 1997, only 1 of the 18 members of the Government was a woman. This figure rose to 3 out of 19 members in 1998 but fell to 2 out of 20 in 1999 and 2000;

(b) Of the 83 deputies in the third legislature of the National Assembly (1999-2003), only 5 were women;

(c) Of the seven members of the Constitutional Court, two were women, one of whom was its President;

(d) Of the 30 members of the Economic and Social Council, 2 were women during the period in question;

(e) Lastly, only one of the nine members of the Audio-Visual and Telecommunications Authority was a woman.

24. The reasons for this low level of representation of women in national State institutions are still the same as those mentioned in the initial report.

#### **Article 4. Public emergencies**

25. Nothing new to report.

#### **Article 5. Derogations or restrictions on human rights**

26. Nothing new to report.

#### **Article 6. Right to life**

27. No death penalty was executed during the period in question (1997-2000).

28. The situation of minors is governed by Ordinance No. 69-23 PR/MJL of 10 July 1969, on the trial of offences committed by minors under the age of 18.

29. Pursuant to article 2, paragraph 2, of this Ordinance, a minor who incurs the death penalty or a sentence of life imprisonment shall be sentenced to between 10 and 20 years' imprisonment in a suitable institution.

30. It should be mentioned that extrajudicial executions still take place, when public condemnation leads to the summary execution of criminals, or alleged criminals, by groups of

local people taking the law into their own hands. In order to curb such expressions of public condemnation, the government authorities have, among other things, organized information and awareness sessions for the populace. NGOs have also taken action along these lines.

31. In connection with article 6, it should be recalled that article 36 of the Beninese Constitution provides that: “Each Beninese citizen has the duty to respect his fellow men without any discrimination and to maintain such relations with others as are conducive to safeguarding, strengthening and promoting respect, dialogue and mutual tolerance in the interests of peace and national cohesion.”

32. Moreover, article 10 of Act No. 97-010 of 20 August 1997, on liberalization of the audio-visual media and special criminal provisions for offences related to the press and audio-visual communications in the Republic of Benin, prohibits any person from “using the press or audio-visual means of communication to incite hatred, violence, xenophobia, gender-based discrimination, tribalism and regionalism or to jeopardize national territorial integrity or imperil national harmony and unity”.

#### **Article 7. Prohibition of torture and cruel, inhuman or degrading treatment or punishment**

33. The Constitutional Court heard eight cases in this connection during the period in question - five in 1998 and three in 1999.

34. In the case of Mr. Ferdinand Kounasso and six others, the Court decided that “the treatment inflicted by the National Gendarmerie on Messrs. Ferdinand Kounasso, Maxime Aguida, Géraldo Gbaguidi, Maurice Aguidi, Herman Nobime and Paul Gbetoho and Ms. Chantal Mehoul was cruel, inhuman and degrading treatment and constitutes a violation [of art. 18, para. 1] of the Constitution” (decision DCC 98-101 of 23 December 1998, *Recueil 1998*, pp. 493-496).

35. In the case of Mr. Jacques Ahinon, the Court considered that treatment could not be classed as cruel, inhuman or degrading solely on the basis of its effect on an individual’s physical or mental state; account must also be taken of its duration, its deliberate nature and the circumstances in which it was inflicted. The Court found that “detention for 15 days in an unventilated, barely lit locale reeking of urine and even at times of faeces does indeed constitute inhuman and degrading treatment” (decision DCC 99-011 of 4 February 1999, *Recueil 1999*, pp. 35-38).

#### **Article 8. Prohibition of slavery, the slave trade and slavery-like institutions and practices**

36. Article 3 of Act No. 98-004 of 27 January 1998, containing the Labour Code, provides that: “Forced labour is absolutely prohibited. Forced labour is work or a service demanded of an individual under threat of punishment and which the said individual has not volunteered to perform.”

37. Benin is a party to International Labour Organization (ILO) Convention (No. 29) concerning Forced or Compulsory Labour of 28 June 1930 and ILO Convention (No. 105) concerning the Abolition of Forced Labour of 25 June 1957.

**Article 9. Right to liberty and security of person (detention/custody)**

38. Cases concerning liberty and security of person top the list of cases submitted to the Constitutional Court concerning violations of human rights and civil liberties.

39. From 1997 to 2000, the Court ruled on 58 cases (15 in 1997, 18 in 1998, 6 in 1999 and 19 in 2000).

40. In its decision DCC 97-053 of 7 October 1997, in the case of Mr. Blaise Francisco, the Court found that the week-long detention of individuals by the crime squad in the central police station in Cotonou without taking them before a judge within the legal time limit was arbitrary, wrongful and in breach of the Constitution (*Recueil 1997*, pp. 227-230).

41. The Court reached a similar conclusion in its decision DCC 99-025 of 11 March 1999. On this occasion, the Court took up the case of Mr. Jérémie Hounga of its own motion. Mr. Hounga was suspected of theft and was kept in the central police station in Cotonou from 6 November 1998 to 18 November 1998, when he was taken before a judge. The Court found that the detention of Mr. Hounga for over 48 hours was in breach of the Constitution (*Recueil 1999*, pp. 89-91).

42. In an effort to prevent the recurrence of such wrongful detentions, the administrative and political authorities are placing great emphasis on human rights training and education and on the correct application of the law.

43. As far as training and education are concerned, the measures taken include the inclusion of citizenship education in training courses for the military in general, the inclusion of international humanitarian law in staff-training courses for civilians and the military and the participation of military officers in various national and international meetings on human rights and democracy.

44. The National Gendarmerie has been organizing human rights training courses on a yearly basis.

45. For example, in order to raise the level of professionalism among prison staff, it organized a course in the Police Training College from 14 to 18 December 1998 on security techniques used in the surveillance of individuals and prison premises. The question of respect for human dignity was also examined at the course.

46. Two refresher courses for gendarmes were also organized in 1999, one from 11 to 22 January and one from 14 to 29 February. These courses enabled officers and non-commissioned officers qualified as criminal investigation police to delve further into human rights issues.

47. Again as part of its staff-training efforts, the National Gendarmerie organized a conference on “The Constitution of 11 December 1990 and human rights” for 76 non-commissioned trainee officers already qualified as criminal investigation officers. The conference was held in Porto-Novo on 28 April 2000.
48. All such conferences were run by the Institute for Human Rights, a Beninese NGO.
49. The correct application of the laws on custody is monitored both externally and internally.
50. External monitoring is mostly assured by judicial bodies, which carry out unannounced spot checks in gendarmerie units and police stations to ensure that the laws on custody and on the treatment of individuals are properly observed.
51. Representatives of certain NGOs (including the Association of Women Lawyers of Benin, the Institute for Human Rights and the Human Rights Defence League) periodically visit detention facilities.
52. Internal monitoring is carried out by a number of bodies: the General Inspectorate of the Armed Forces, the Technical Inspectorate of the National Gendarmerie (the top monitoring body in the Office of the National Gendarmerie) and bodies higher up in the chain of command.
53. Some internal checks lead to disciplinary action and/or prosecution, particularly in cases involving physical abuse or serious corruption.

#### **Article 10. Treatment of detainees**

54. There have been real problems in implementing article 10 of the Covenant satisfactorily. These problems are related primarily to the dilapidated nature and inadequacy of detention facilities throughout the country and the consequent overcrowding in prisons. Another factor is the inadequate training of prison staff.
55. In 1999, in order to raise awareness among prison staff, the Ministry of Justice published a booklet entitled “Collection of basic instruments” for their benefit.
56. As well as the five instruments that constitute the International Bill of Human Rights, the booklet contains the following United Nations instruments that are applicable to the treatment of detainees: the Standard Minimum Rules for the Treatment of Prisoners (1957), the Basic Principles for the Treatment of Prisoners (1990), the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (1988), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty (1990) and the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1975).
57. Moreover, the protection of persons who have been detained or imprisoned has always been among the issues dealt with on the training courses for gendarmes mentioned earlier.

58. As far as juveniles are concerned, Ordinance No. 69-23 PR/MJL of 10 July 1969, on the trial of offences committed by juveniles under the age of 18, stipulates that a juvenile court can order protection, assistance, monitoring or education measures as it sees fit in a given case (art. 2):

(a) Juveniles sentenced to a term of imprisonment shall be detained in an appropriate institution (art. 32, sect. 2);

(b) Under article 38, the juvenile court may order one of the following monitoring or rehabilitation measures:

- (i) The child may be handed over to his or her mother and father or to other relatives after being reprimanded;
- (ii) The child may be handed over to a trustworthy person or charitable institution;
- (iii) The child may be placed in a private home or in a State-run or private vocational school to learn a trade;
- (iv) The child may be placed in a State-run or private boarding school;
- (v) The child may be placed in a juvenile rehabilitation centre.

#### **Article 11. Prohibition of imprisonment for debt**

59. Nothing new to report.

#### **Article 12. Liberty of movement**

60. On the whole, the right to move around freely was properly respected during the period 1997-2000.

61. It should be noted that the Constitutional Court heard only one case in this connection during the above-mentioned period - the case of Mr. Sven Pedersen.

62. Mr. Sven Pedersen, a Danish citizen and company director, had his passport confiscated without explanation on 18 January 1997 by the border police officer in charge of the crossing at Hilla-Condji. An investigation revealed that the passport had been withheld purely on the grounds of article 1145, paragraph 3, of the General Tax Code, which stipulates that: "No one may leave, even temporarily, the territory without providing evidence that their tax situation is in order with regard to both the tax assessment service and the tax collection service. A decree shall set out the conditions for implementing this provision."

63. In its decision, the Court found that article 1145, paragraph 3, of the General Tax Code did indeed restrict liberty of movement, noting that the Code referred to a decree that would implement the restriction whereas liberty of movement is a matter for the law itself, and thus



that the withdrawal and withholding of Mr. Pedersen's passport on the basis of the aforesaid article was arbitrary and in breach of the Constitution (decision DCC 97-045 of 13 August 1997, *Recueil 1997*, pp. 191-195).

### **Article 13. Expulsion of aliens**

64. Nothing new to report.

### **Article 14. Equality of all before the courts**

65. On the whole, the provisions of this article are properly observed.

66. Between 1997 and 2000, the Constitutional Court handed down 24 decisions relating to article 14 of the Covenant, most of which concerned paragraph 3, on the right to a defence.

67. These decisions dealt with the following guarantees in particular:

(a) The right of everyone charged with an offence to be informed of the nature and cause of the charge against them (decision DCC 98-018 of 20 February 1998, in the case of Aristide Anago Akouta, *Recueil 1998*, pp. 87-89; decision DCC 98-095 of 11 December 1998, in the case of Hounménou Aïzoun, *Recueil 1998*, pp. 461-467);

(b) The adversarial principle (decision DCC 00-055 of 10 October 2000, in the case of Germain Akowanou, *Recueil 2000*, pp. 201-203; decision DCC 00-056 of 10 October 2000, in the case of Mohamed Gourma et al., *Recueil 2000*, pp. 205-208);

(c) The right of every person to be tried without undue delay (decision DCC 97-011 of 6 March 1997, in the case of Jean-Marie Houmenou, *Recueil 1997*, pp. 49-51; decision DCC 98-059 of 4 June 1999, in the case of Vincent Ekpagouda, *Recueil 1999*, pp. 291-293; decision DCC 00-041 of 29 June 2000, in the case of Raymond Issa Ali Kpara, *Recueil 2000*, pp. 151-153).

### **Article 15. Non-retroactivity of the law**

68. Nothing new to report.

### **Article 16. Recognition as a person before the law**

69. Nothing new to report.

### **Article 17. Prohibition of arbitrary or unlawful interference with a person's privacy**

70. Article 20 of the 1990 Constitution proclaims the inviolability of the home and prohibits arbitrary or unlawful house searches, while article 21 requires the law to uphold the secrecy of correspondence and communications.

71. Attention is also drawn here to Act No. 97-010 of 20 August 1997, on liberalization of the audio-visual media and special criminal provisions for offences related to the press and audio-visual communications in the Republic of Benin.

72. Title III of the above-mentioned Act, on the right of reply in respect of audio-visual communications (arts. 63-77), sets out the conditions in which any individual or legal entity whose honour or reputation has been damaged by accusations broadcast on audio-visual communications media can exercise their right of reply.

73. Part Two of the Act, entitled “Special criminal provisions relating to offences under the press laws”, sets out, among other things, the penalties for defamation (arts. 83-90).

74. The Constitutional Court has heard only one case relating to article 17 of the Covenant. In its decision DCC 97-059 of 8 October 1997, it found that the search of Mr. Isidore Agbokou’s home had been carried out in accordance with the provisions of the Code of Criminal Procedure (*Recueil 1997*, pp. 253-255).

### **Article 18. Freedom of thought, conscience and religion**

75. Article 10 of the Beninese Constitution provides that: “Every person has the right to culture. The State has the duty to safeguard and promote the national values of civilization, both material and spiritual, as well as cultural traditions.”

76. According to article 23:

“Every person has the right to freedom of thought, conscience, religion, worship, opinion and expression with due respect for public order as defined in the law and regulations. Acts of worship and the expression of beliefs shall be carried out with due respect for the secularism of the State.

Institutions and religious or philosophical communities shall have the right to pursue their activities without hindrance. They shall not be subject to State supervision. They shall organize and administer their affairs in an autonomous manner.”

77. In practice, the principle of State secularism proclaimed in article 2 of the Constitution obliges the political authorities to be strictly neutral towards religions and faiths.

78. Act No. 97-031 of 20 August 1997, establishing an annual holiday for traditional religions, made 10 January the date for this holiday. Like the official holidays defined and fixed by Act No. 90-019 of 27 July 1990, the national holiday for traditional religions is a “public holiday, a day off with pay throughout the national territory”.

79. The State’s strict observance of freedom of conscience and religion is tacitly recognized by the religious and cultural communities themselves, as they often call on the State to act as a mediator in internal crises.

80. Moreover, the authorities are officially represented at the major events in the calendars of the various religions.

81. The Constitutional Court has had six cases involving freedom of religion and worship referred to it in four years.

82. In its decision DCC 97-019 of 6 May 1997, in the case of Mr. Etienne Adognon, the Court pointed out that “no religious or philosophical community has the right to impose its religious beliefs and practices on others; in the case in point, practitioners of voodoo must not subject Christians from the Union Renaissance d’Hommes en Christ (Union of the Rebirth of Men in Christ, or UHRC) to practices based on voodoo beliefs; in supporting the stance of the voodoo practitioners, the brigade commander in Zè failed to observe the rule on State secularism; such conduct is therefore contrary to the Constitution”. The Court consequently ruled that “the ban applied to UHRC Christians by the brigade commander in Zè is contrary to the Constitution” (*Recueil 1997*, pp. 83-85).

83. Similarly, in its decision DCC 97-039 of 7 July 1997, in the case of Mr. W. Gilbert Egbo, the Court found that the physical attack on Mr. Egbo, the ban on his fetish worship and the destruction of the building made available to his cult by a group of individuals constituted a violation of article 23 of the Constitution (*Recueil 1997*, pp. 163-165).

### **Article 19. Freedom of opinion and expression**

84. Freedom of opinion and freedom of expression in their various forms have been widely respected, as shown by, for example, the establishment of around 10 political parties.

85. More specifically, freedom of the press is recognized and guaranteed by the State, as well as being protected by the Audio-Visual and Telecommunications Authority under article 24 of the Constitution.

86. It is governed by Act No. 97-010 of 20 August 1997, on liberalization of the audio-visual media and special criminal provisions for offences related to the press and audio-visual communications in the Republic of Benin.

87. Following the liberalization of the audio-visual media, the Authority granted about 20 licences to establish and operate private radio stations and 4 similar licences for television stations during the period in question.

88. In the same period, over 20 newspapers (dailies and periodicals) were launched, although it should be added that some of them had an ephemeral or obscure existence.

89. Mention should be made of the code of ethics of the Beninese press, which dates from 24 September 1999, even though it was a private initiative.

90. This code, which is the work of national associations of information and communications professionals, sets out journalists’ fundamental duties (arts. 1-20) and rights (arts. 21-26).

91. The Constitutional Court has not had to deal with any cases concerning freedom of opinion or freedom of expression.

**Article 20. Prohibition of any propaganda for war and any advocacy of national, racial or religious hatred**

92. Articles 86 and 87 of Act No. 87-010 of 20 August 1997, on liberalization of the audio-visual media and special criminal provisions for offences related to the press and audio-visual communications in the Republic of Benin, contain provisions to punish offences against the person.

93. Article 86, paragraph 2, provides for a penalty of one to three years' imprisonment and a fine of between 1 and 10 million CFA francs for "defamation of a group of persons belonging to a particular race or religion or to one of the philosophical movements or communities protected by article 23, paragraph 2, of the Constitution, when the purpose of such defamation is to incite hatred among citizens or residents".

94. Article 87, paragraph 2, provides for a penalty of two years' imprisonment and a fine of 10 million CFA francs for "insults aimed at a group of persons belonging to a race or region by virtue of their origin or to a given religion or to one of the philosophical movements or communities protected by article 23, paragraph 2, of the Constitution for the purpose of inciting hatred among citizens or residents".

95. Lastly, it is worth pointing out that the Charter of Political Parties, which was established by Act No. 90-023 of 13 August 1990, requires political parties, among others, "to prohibit, in their programme and activities, intolerance, regionalism, ethnocentrism, fanaticism, racism and xenophobia and the incitement to or use of violence in all its forms" (art. 4, para. 1).

96. Moreover, political parties must not use their resources to set up military or paramilitary organizations (art. 5, para. 2).

**Article 21. Right of peaceful assembly**

97. The Public Meetings Act of 30 June 1881 states, in its article 1, that such meetings may be held freely. However, articles 6 and 7 prohibit the holding of such meetings on the public highway.

98. The 1990 Constitution proclaims the principle of freedom of assembly under conditions laid down by law (art. 25).

99. Article 31 of Act No. 98-034 of 15 January 1999, containing the general rules for elections in the Republic of Benin, stipulates that electoral meetings may be held freely. However, they may not be held on the public highway and are prohibited between 11 p.m. and 7 a.m.

100. At least four hours' notice must be given in writing to the mayor or head of the arrondissement, village or urban district.

101. It is the responsibility of the meeting's executive committee (which must have at least three members) to maintain order, prevent any law-breaking and prohibit any speeches likely to undermine public order and morals or containing an incitement to commit acts classed as crimes or offences (art. 32).

102. The Constitutional Court has twice ruled on cases concerning freedom of assembly, in 1998 and 2000:

(a) Decision DCC 98-030 of 27 March 1998, in the case of Mr. Michel Dah Lande (*Recueil 1998*, pp. 145-149);

(b) Decision DCC 00-003 of 20 January 2000, in the case of the board of the Wanignon de Toffo development association (ADWAT) (*Recueil 2000*, pp. 19-22).

## **Article 22. Freedom of association**

103. Freedom of association is recognized by article 25 of the 1990 Constitution, and applies to NGOs, workers' associations and political parties, among others.

104. The establishment of associations is governed by a French law dating from 1 July 1901 and applicable in Benin.

105. Associations are set up by sending a simple written statement to the Ministry of the Interior, together with copies of statutes, rules of procedure and lists of founder members and board members. Associations are free to carry out their activities before publication of their registration by the Ministry of the Interior.

106. There has been a remarkable surge in the number of NGOs in Benin: as at 18 November 1999, 2,719 NGOs were registered with the Ministry of the Interior (see the document "Etat des lieux des relations entre l'État et la société civile" ("Appraisal of relations between the State and civil society") by Rebecca Dossou-Gbete and Parfait Agbidinokou, paragraph 9, Conference on Self-Governance of Civil-Society Organizations and Their Role in Governance in Benin, Cotonou, April 2000).

107. It is worth pointing out that Act No. 86-013 of 26 February 1986, containing the general regulations for permanent State employees (civil servants), recognizes civil servants' trade union rights (art. 47, para. 1).

108. Workers' associations are expressly recognized by the 1998 Labour Code (art. 79), which also sets out the legal requirements they must meet (art. 83).

109. Trade unions have freely set up the following five trade union federations: the Federation of Autonomous Trade Unions (CSA), the National Union of Employees' Trade Unions of Benin (UNSTB), the General Confederation of Beninese Workers (CGTB), the Trade Union Federation of Beninese Workers (CSTB) and the Coordinating Committee of Independent Trade Union Organizations (COSI).

110. As regards political parties, whose right to exist is recognized by the Constitution, "they shall be formed and shall freely exercise their activities under conditions determined by the Charter of Political Parties" (art. 5).

111. The Charter of Political Parties is contained in Act No. 90-023 of 13 August 1990.

112. As at 30 March 1999, 103 political parties were registered with the Ministry of the Interior, and 35 parties or alliances of parties presented candidates in the parliamentary elections in March 1999.

113. The Constitutional Court has heard only three cases relating to freedom of association.

114. In the case of Mr. Alphonse Hounsougbo, the Court ruled that an order issued by the Ministry of the Interior that allowed only drivers' representatives who were members of a trade union to sit on the joint management committees responsible for coach stations was contrary to the Constitution (decision DCC 98-043 of 14 May 1998, *Recueil*, pp. 219-222).

### **Article 23. Protection of the family**

115. Nothing new to report.

### **Article 24. Protection of children**

116. The special protection to which children are entitled is the responsibility of several ministerial departments, including those for public health, justice, education, labour, social protection and the status of women, the interior and youth, all of which are responsible for specific aspects of such protection in various areas.

117. The following technical bodies have been set up in some of these ministerial departments to handle issues concerning children and young people: the National Centre for the Protection of Children and Young Persons (Ministry of Justice), the Department of Family Health (Ministry of Health), the Department for the Status of Women and the Department of Social Protection (Ministry of Social Protection and the Status of Women).

#### **Infant mortality**

118. In the period 1996-2001, 89 out of 1,000 children died before their first birthday; of these, 38 died before they were one month old and 51 between the ages of 1 and 12 months. Benin thus failed to reach the target set in its 1992 National Programme of Action on behalf of Women and Children, of reducing the infant mortality rate from 88 to 69 deaths per 1,000 live births by 2000.

119. Moreover, 78 out of 1,000 children who reach their first birthday die before reaching their fifth birthday; the under-five mortality rate is 160 per 1,000 live births (see Ministry of Planning and Economic Restructuring, ("Bénin: enquête démographique et de santé 2001" ("Benin: demographic and health survey 2001"), p. 116).

#### **Child immunization**

120. The Expanded Programme of Immunization (EPI) has been at the heart of preventive strategies in the field of children's health for the past two decades.

121. In 2000, 7 per cent of children aged 12-13 months had not been vaccinated against any disease, while 52 per cent of children who had been vaccinated had been fully vaccinated.

122. An analysis of immunization coverage nationwide showed a slight difference by sex both for children not vaccinated against any disease (8 per cent of boys, as compared with 7 per cent of girls) and for children vaccinated against at least one disease (60 per cent of boys and 58 per cent of girls out of all children who had been vaccinated) (see Republic of Benin/United Nations Children's Fund (UNICEF), "Pauvreté et disparités chez l'enfant et la femme: contribution aux études diagnostics de la pauvreté et de santé au Bénin, 1996 et 2001" ("Poverty and disparities among children and women: contribution to analytical studies of poverty and health in Benin, 1996 and 2001"), Cotonou, August 2003, para. 25).

123. In order to reduce the incidence of malnutrition and disorders caused by nutrient deficiencies and in the interests of efficiency, the Government decided that from 1995 onwards the distribution of vitamin A and delivery of the Expanded Programme of Immunization would be linked throughout the country: the advantage of this linkage is that it allows more of the people concerned to be reached at the same time.

### Education

124. During the period in question, only half (53 per cent) of the children aged between 6 and 11 attended primary school. Three out of five boys (60 per cent) went to school, as compared with one out of two girls (46 per cent) ("Bénin: enquête démographique et de santé 2001" ("Benin: demographic and health survey 2001"), p. 23).

125. The gross enrolment rate for girls increased, but it is still lower than that for boys, as shown in the table below:

**Gross enrolment rate by sex (1997–2000)**

| Year | Boys   | Girls  | National figure |
|------|--------|--------|-----------------|
| 1997 | 88.35% | 55.71% | 72.53%          |
| 1998 | 91.03% | 59.71% | 75.78%          |
| 1999 | 91.27% | 61.15% | 76.51%          |
| 2000 | 94.43% | 65.16% | 79.99%          |

*Source:* Statistics and Information Management Office (SSGI) of the Programming and Planning Department of the Ministry of Primary and Secondary Education; *La Nation* (daily newspaper), 12 September 2003, p. 6.

126. Although the dropout rate is higher for girls than for boys, girls achieve better results.

127. The increase in the enrolment rate for girls has been achieved in the face of not only cultural reticence and a lack of financial resources but also the opportunity cost to parents (see Benin's national report on follow-up to the World Summit for Children, December 2002).

128. In 1996, in order to improve school attendance by girls, the Beninese Government set up the National Network for the Promotion of School Attendance by Girls (RNPSF).

129. This network operates nationwide, but focuses on the 13 communes that had the lowest enrolment rates for girls in 1995, namely, Allada, Sô-Ava, Zè, Matéri, Boukoumbé, Kalalé, Gogounou, Lalo, Toviklin, Dangbo, Kétou, Djidja and Za-Kpota.

130. The network's main task is to carry out and coordinate activities to encourage girls to start school and to stay and do well at school. In this way, it hopes to narrow the gap between girls and boys in terms of school attendance.

### **Work**

131. The 1998 Labour Code contains provisions that give special protection to young workers in certain areas.

132. Night work is prohibited for youngsters under the age of 18 (art. 153). However, derogations from this provision may be granted by decree of the Council of Ministers on the advice of the National Labour Council.

133. Young workers under the age of 18 must have a minimum of 12 consecutive hours of rest per day, including the period overnight (art. 155).

134. Under article 166, children may not be employed in any company before the age of 14.

135. Young workers may not be kept in jobs considered by an approved physician as being beyond their capacity, and must be redeployed to more suitable tasks (art. 169).

### **Violence against children**

136. In recent years, trafficking in children has been one of the banes of Beninese society.

137. Trafficking of this sort is now a regional phenomenon, with children being illegally transported to, among other places, Côte d'Ivoire and Nigeria in West Africa and Gabon in Central Africa.

138. Between February 1994 and December 2000, the Brigade for the Protection of Minors (BPM) intercepted 3,972 children who were victims of trafficking.

139. The legal arsenal aimed at curbing and suppressing this evil includes Act No. 61-20 of 5 July 1961, on conveying minors aged under 18 outside the territory of the Republic of Dahomey, Decree No. 95-191 of 24 June 1995, setting out the conditions for the issuance of exit permits for minors aged under 18, and Ordinance No. 73-37 of 17 April 1973, on the trafficking and kidnapping of minors.

140. The State has set up local community-based organizations, such as village committees, to combat trafficking in children on their doorstep.

141. However, it has to be admitted that trafficking in children still goes on despite the Government's efforts.



142. The practice of placing children in homes (commonly known as “vidomegon”, or, in the past, as “institutional” solidarity) has been subverted into trafficking in exploited, abused and ill-treated child domestic servants.

143. In order to deal with this situation, a committee was established by Decree No. 94-314 of 30 September 1994 to coordinate and follow up the National Plan of Action on behalf of Women and Children.

144. The national office set up to monitor the “Children in difficult situations” project has received support from UNICEF.

145. The areas supplying the children have been identified and activities have been organized to raise awareness of the vidomegon phenomenon and other aspects of child abuse.

146. The practice of female genital mutilation concerns girls aged between 5 and 11 and affects 17 per cent of adult women aged 15-49. It varies from one department to another, and it has been observed that in the departments where it is most common (Atacora and Borgou) the vast majority of people questioned would like to see it eradicated.

147. The practical work done by various ministerial departments in the areas of prevention and the provision of immediate protection for children in difficult situations is supplemented by the work of NGOs and other civil-society organizations (the press, churches and local development associations).

148. More than 150 child-protection organizations were identified in Benin in 2001 (“Répertoire des structures de protection de l’enfant au Bénin” (“List of child-protection organizations in Benin”), 2001 edition, p. 4).

#### **Article 25. Right to take part in the conduct of public affairs and to have access to public service in one’s country**

149. The 1990 Beninese Constitution contains provisions that guarantee all citizens the right to take part in the conduct of public affairs and to have access to public service in their country.

150. The African Charter on Human and Peoples’ Rights, which is an integral part of the Constitution, provides, in its article 13, that: “Every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law ... Every citizen shall have the right of equal access to the public service of his country.”

#### **Right to vote**

151. Article 6 of the Constitution provides as follows: “Suffrage shall be universal, equal and secret. All Beninese nationals of either sex aged 18 or over and in possession of their civil and political rights are entitled to vote under the conditions determined by law.”

152. The precise conditions are set out in Act No. 98-034 of 15 January 1999, containing the general rules for elections in the Republic of Benin.

153. Under articles 4 and 5 of the Act, electors must be:

(a) A Beninese national aged 18 or over on election day and in full possession of their civil and political rights;

(b) Registered on the electoral roll in their domicile or place of residence.

154. The following may not be registered on the electoral roll:

(a) Convicted criminals;

(b) Persons sentenced to prison terms, suspended or not, of three months or more, with or without a fine, for theft, fraud, embezzlement, misappropriation of public funds, forgery and use of forgery with intent to defraud, corruption and influence-peddling or sexual offences or any other acts that are covered by the provisions of the Criminal Code and that constitute offences;

(c) Persons held in contempt of court;

(d) Undischarged bankrupts whose bankruptcy has been declared by the ordinary law courts or in a judgement by a foreign court that is enforceable in Benin;

(e) Persons deprived of legal capacity.

155. Persons declared by a court to be ineligible to vote or be elected under the laws in force may also not be registered on the electoral roll.

### **Eligibility**

156. The requirements for candidates vary according to whether the elections are presidential, parliamentary, communal or municipal elections.

#### *Presidential election*

157. The requirements to be met by every candidate are set out in article 44 of the Constitution. Candidates must be:

(a) A Beninese national by birth or in possession of that nationality for at least 10 years;

(b) Morally upstanding and of high integrity;

(c) In full possession of their civil and political rights;

(d) Aged 40 at least and 70 at most on the day they submit their candidacy;

(e) A resident of the Republic of Benin at the time of the election;

(f) In sound physical and mental health, as duly certified under oath by a panel of three doctors appointed by the Constitutional Court.

158. Lastly, article 11 of Act No. 95-015 of 23 January 1996, establishing the specific rules for the election of the President of the Republic, requires a deposit of 5 million CFA francs to be lodged with the Treasury.

*Parliamentary elections*

159. Act No. 98-036 of 15 January 1999, amending Act No. 94-015 of 27 January 1995 establishing the specific rules for the election of members of the National Assembly, sets out the following requirements for parliamentary candidates:

- (a) Candidates must be at least 25 years of age in the year of the ballot;
- (b) They must be a Beninese national by birth and a resident of Benin who has lived there uninterruptedly for at least 10 years;
- (c) Any person in a position of authority (prefect, head of an urban district, sub-prefect, secretary-general of a prefecture) must resign from their post at least 12 months before the date of the ballot if they are a candidate in an electoral district that is within the administrative district in which they hold a position of authority;
- (d) They must lodge a deposit of 50,000 CFA francs with the Treasury.

160. The following persons are ineligible:

- (a) Persons stripped of their civil and political rights;
- (b) Persons declared ineligible by a court of law under the legislation in force;
- (c) Persons convicted of electoral graft;
- (d) Persons assigned a judicial guardian.

*Communal and municipal elections*

161. Articles 20 and 21 of Act No. 98-006 of 9 March 2000, containing the rules governing communal and municipal elections in the Republic of Benin, provide as follows:

“Article 20. A declaration of candidacy is compulsory for each candidate or for each list of candidates comprising as many names as there are seats to be filled.

In the case of a single-member voting system, the declaration must include the names of the person making the declaration and that person’s alternate.

Article 21. The declaration of candidacy shall be deposited with the National Independent Electoral Commission (CENA) or one of its subdivisions (Departmental Electoral Commission (CED) or Local Electoral Commission (CEL)).

It shall contain the signature of each candidate, and shall expressly indicate:

- (a) The name of the list;
- (b) The candidate's surnames, first names, any other names used, date and place of birth, domicile and profession;
- (c) The electoral district concerned;
- (d) A sworn declaration by each candidate that none of the conditions for ineligibility provided for in this Act apply to them;
- (e) An authenticated copy of the candidate's electoral card or a certificate certifying that the candidate is on the electoral roll of the electoral district in which they are standing for election;
- (f) The candidate's application must mention the colour, emblem or symbol selected for inclusion on the printed ballot paper, excluding the following symbols of the State: the national anthem, flag, seal, coat of arms and motto.

It must be accompanied by a nationality certificate, a copy of the person's judicial record, a copy of their birth certificate or equivalent, and a residence certificate.

The declaration can also be made by an agent bearing a proxy form signed by the candidate or by the person heading the list of candidates or by the representative of each political party concerned."

### **Equal access for all citizens to public service**

162. This is enshrined in Act No. 86-013 of 26 February 1986, containing the general regulations for permanent State employees (civil servants). Article 12 of the Act sets out the principle and lays down the requirements for appointment to State employment (art. 12, para. 1).

163. No distinction is made between the sexes. However, the regulations specific to certain branches of the service may, because of the constraints of the particular job, restrict access to candidates of one sex or the other (art. 12, para. 2).

### **Article 26. Equality of all before the law**

164. The Constitutional Court has dealt with seven cases in which this principle was invoked.

165. In the case of Claude Gnaho, Léopold Alimagnidokpo and Pascal Sodokin, the applicants challenged an order of the Ministry of the Interior repealing an earlier decision to reinstate them in the State security forces. According to the applicants, the order deprived them of rights granted to them by the earlier decision and enjoyed by some of their colleagues, and was a violation of article 26 of the Constitution, on the equality of all before the law.

166. The Court rejected the applicants' appeal, ruling that "this equality is to be viewed as a rule requiring persons belonging to the same category to be given the same treatment without discrimination and in accordance with the law" (decision DCC 98-023 of 11 March 1998, *Recueil* 1998, pp. 109-113).

167. In the case of Séfou Fagbohoun, Dieudonné Lokossou and others, concerning the denationalization and transfer of company ownership from the public sector to the private sector and an international call for tenders, the Court ruled that “the fact that the legislature based the distribution of (a company’s) capital on investors’ *origin* is a breach of the Constitutional rules mentioned below”. The reference is to articles 26 and 39, on the equality of all before the law and on the right of foreigners living in Benin to enjoy the same rights and freedoms as Beninese citizens under the conditions laid down by law (decision DCC 98-047 of 15 May 1998, *Recueil*, pp. 235-240).

### **Article 27. Rights of ethnic, religious or linguistic minorities**

168. The Constitution grants ethnic, religious or linguistic minorities a number of rights intended to safeguard their identity.

169. For example, all the communities that make up the Beninese nation are free to use their own spoken and written languages and to develop their own culture while respecting those of others. Also, the State has a duty to promote the development of the national languages for the purposes of communication (art. 11).

170. The exercise of one’s religion or faith must be carried out “with due respect for public order as defined in the law and regulations” and “with due respect for the secularism of the State” (art. 23).

171. The Constitutional Court decided that the request made by the head of the urban district of Parakou and the Minister of the Interior to the imam of the Madina mosque in Parakou not to pray in his mosque, which was where he lived during the Ramadan and Tabaski (Eid al-Adha) public holidays, was not in breach of the Constitution in the light of the threat to public order (decision DCC 98-048 of 15 May 1998, in the case of the Madine Muslim community in Parakou, *Recueil 1998*, pp. 241-244).

172. In practice, the rights of ethnic, religious or linguistic minorities are generally respected.

## **ANNEXES**

1. Act No. 97-010 of 20 August 1997, on liberalization of the audio-visual media and special criminal provisions for offences related to the press and audio-visual communications in the Republic of Benin.
2. Act No. 98-004 of 27 January 1998, containing the Labour Code of the Republic of Benin.
3. Organization Act No. 94-027 of 15 June 1999, on the Supreme Council of the Judiciary.
4. Act No. 93-013 of 10 August 1999, containing the High Court of Justice Organization Act.

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