



# International Convention for the Protection of All Persons from Enforced Disappearance

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## Committee on Enforced Disappearances

### List of issues in relation to the report submitted by Togo under article 29 (1) of the Convention\*

#### I. General information

1. With reference to paragraph 20 of the State Party's report,<sup>1</sup> please indicate how the provisions of the Convention can be directly invoked before and applied by the courts or other relevant authorities. Please provide examples of case law, if available, in which any of the provisions of the Convention have been invoked before or applied by the courts or other relevant authorities.
2. Please indicate whether the State Party intends to make the declarations provided for in articles 31 and 32 of the Convention, which relate to the Committee's competence to receive and consider individual and inter-State communications.
3. Please provide further information on the participation and contribution of civil society, in particular of organizations of families of victims, human rights defenders working on the issue of enforced disappearance and non-governmental organizations, to the preparation of the State Party's report.
4. With reference to paragraphs 89, 104 and 114 of the State Party's report, please provide information on the activities carried out by the National Human Rights Commission in areas relevant to the Convention, giving specific examples. Please also indicate whether, since the entry into force of the Convention for the State Party, the Commission has received any complaints relating to disappearances, including enforced disappearances, and if so, please provide detailed information on the measures taken to examine these complaints and on the follow-up given to them. In addition, specify whether the decisions taken by the Commission in the various cases are binding, and describe the measures taken to ensure that the Commission has adequate and sufficient financial, technical and human resources to perform its duties properly.

#### II. Definition and criminalization of enforced disappearance (arts. 1–7)

5. With regard to paragraphs 22, 23 and 31 of the State Party's report, please describe the steps that have been taken or are planned to harmonize the definition of enforced disappearance in article 150 of the new Criminal Code with article 2 of the Convention, including in cases where the offence cannot be categorized as a crime against humanity. Please specify situations in which enforced disappearance constitutes a crime against humanity. Please provide information on the legal consequences of committing this offence and describe the penalties provided for (arts. 2 and 5).

\* Adopted by the Committee at its twenty-eighth session (17 March–4 April 2025).

<sup>1</sup> [CED/C/TGO/1](#).



6. In the light of paragraph 23 of the State Party's report, please specify the number of cases of enforced disappearance, as defined in article 2 of the Convention, that have been prosecuted under the provisions relating to violations of personal liberty, in particular articles 283 to 288 of the new Criminal Code, and how the authorities have ensured the application of appropriate penalties that take account of their extreme seriousness. Also specify the number of cases in which the State authorities have taken action to investigate acts defined in article 2 committed by persons or groups of persons acting without the authorization, support or acquiescence of the State and to bring those responsible to justice (arts. 2, 3, 7 and 12).

7. Please describe the databases on disappeared persons that currently exist and indicate the type of information that is entered into them. Please describe the measures taken to:

(a) Ascertain whether this information overlaps with that appearing in other databases, such as registers of persons deprived of liberty and registers of genetic data;

(b) Guarantee access for interested parties to these databases, specifying the conditions under which such access is permitted;

(c) Provide information shared with other States that may have a link with the disappearance in question;

(d) Provide information on the maintenance and updating of the existing databases (arts. 1–3, 12 and 24).

8. Please provide up-to-date statistical information, disaggregated by age, sex, sexual orientation, gender identity, nationality, place of origin and racial or ethnic origin of the victim, on the number of disappeared persons in the State Party, specifying the date and place of their disappearance, the number of persons who have been located and the number of cases in which there may have been some form of State participation within the meaning of article 2 of the Convention, including with regard to disappearances occurring in the context of migration or trafficking in persons (arts. 1, 2 and 24).

9. With reference to paragraph 40 of the State Party's report, please indicate whether the State Party intends to take steps to ensure that national legislation expressly prohibits the invocation of exceptional circumstances to justify enforced disappearances that do not constitute crimes against humanity. Please also indicate whether, during a state of war or a threat of war, internal political instability or any other public emergency, the national legal framework provides for the possibility of derogating from any of the rights and/or procedural guarantees, including judicial guarantees, that are embodied in domestic law or international human rights instruments to which Togo is a party and that might be relevant for preventing and/or combating enforced disappearances. If so, please enumerate the rights and/or procedural guarantees from which it is possible to derogate, specifying in which circumstances, under which legal provisions and for how long (art. 1).

### **III. Judicial procedure and cooperation in relation to enforced disappearance (arts. 8–15)**

10. With reference to paragraphs 32 and 47 of the State Party's report, please specify the nature of the offence, and indicate to what extent the statute of limitations applied by the State Party could be considered proportionate to the extreme seriousness of the crime. Please also provide information on the measures taken by the State Party to guarantee the right of victims of enforced disappearance to an effective remedy during the term of limitation (art. 8).

11. With reference to paragraphs 53 and 54 of the State Party's report, describe the procedures in place to ensure that the presumed perpetrator of an enforced disappearance is brought before the authorities and recorded in the official registers from the outset of his or her detention by the police authorities, and that his or her whereabouts and the status of the proceedings are kept up-to-date. Describe the legal, administrative or judicial measures in force to guarantee the accused or alleged offender the right to communicate immediately with the nearest appropriate representative of the State of which he or she is a national, or, if he or

she is a stateless person, with the representative of the State where he or she usually resides (arts. 10 and 22).

12. Please describe the measures taken to ensure in practice: (a) that all persons tried for enforced disappearance receive a fair trial; and (b) that the principles of the independence and the impartiality of the courts are respected. With regard to paragraph 62 and 63 of the State Party's report, please indicate whether there are plans to preclude the military authorities from having jurisdiction to investigate or prosecute persons accused of enforced disappearance, even when the defendant is a member of the armed forces (art. 11).

13. With reference to paragraph 67 of the State Party's report and the information that "the law provides for the possibility of the public prosecutor's office to investigate cases on its own motion", please explain how it is ensured in practice that all cases of enforced disappearance known to or brought to the attention of the authorities are investigated promptly, thoroughly and impartially, even when no formal complaint has been lodged. Please describe the measures taken to ensure that a search is launched immediately when a case of enforced disappearance is brought to the attention of the authorities (art. 12).

14. Please describe the measures taken to prevent and combat corruption in the handling of cases of enforced disappearance, and their results (arts. 11 and 12).

15. Please indicate the legal and administrative measures taken or planned by the State Party to ensure that persons suspected of having committed enforced disappearance are not in a position to influence the progress of an investigation. In particular, please indicate the following:

(a) Whether domestic law provides for suspension from duties from the start and for the duration of an investigation when the alleged offender is a public official;

(b) Whether there is any mechanism that makes it possible to exclude a member of law enforcement or security forces or any other public official, whether civilian or military, from the investigation into an enforced disappearance when he or she is suspected of having been involved in the commission of the offence (art. 12).

16. Please indicate whether the authorities of the State Party have received any allegations of enforced disappearance since the submission of the report. If they have, please report on the investigations conducted and their results. Provide information on the authorities responsible for investigating cases of alleged enforced disappearance, including the budget and the human resources at their disposal, and indicate what restrictions, if any:

(a) Can be placed on their access to places of deprivation of liberty when there are grounds for believing that a disappeared person may be present;

(b) Limit their access to the documentation and other information relevant to their investigations;

(c) With reference to articles 245 to 247 of the new Criminal Code, please describe the mechanisms available in the national legal framework to protect complainants, witnesses, relatives of the disappeared person and their defence counsel, and persons participating in the investigation of an enforced disappearance, against any ill-treatment or intimidation on account of the complaint or any evidence provided, and provide examples of these mechanisms (arts. 1, 2, 12 and 17).

17. In the absence of a separate crime of enforced disappearance, please indicate:

(a) Whether, under the provisions of the legislation in force governing extradition that may be invoked for the purposes of seeking an extradition in cases of enforced disappearance, enforced disappearance is considered as a political offence or as an offence connected with a political offence or as an offence inspired by political motives;

(b) Whether agreements have been concluded on extradition, international cooperation and/or mutual legal assistance with other States Parties since the entry into force of the Convention, indicating whether enforced disappearances are included in these agreements, as well as any applicable time limits and protocols;

(c) Whether restrictions or conditions apply to requests for mutual legal assistance or cooperation;

(d) Whether the State Party has submitted or received any requests for international cooperation concerning cases of enforced disappearance since the submission of its report and, if so, what measures have been taken (arts. 13–15 and 25).

#### **IV. Measures to prevent enforced disappearances (arts. 16–23)**

18. In relation to paragraphs 78–81 of the State Party’s report, please indicate:

(a) Whether the State Party is planning to adopt an explicit prohibition on carrying out an expulsion, return (“refoulement”), surrender or extradition where there are substantial grounds for believing that the person would be in danger of being subjected to enforced disappearance;

(b) What mechanisms and criteria are applied prior to an extradition to determine whether there is a risk that a person may be subjected to enforced disappearance or serious human rights violations and to assess that risk;

(c) Whether it is possible to appeal a decision on expulsion, return (“refoulement”), surrender or extradition and, if so, before which legal and administrative authorities, what the applicable procedures are and whether the appeal has a suspensive effect (arts. 13 and 16);

(d) Whether the State Party accepts diplomatic assurances when there are substantial grounds for believing that the person concerned would be in danger of being subjected to enforced disappearance (art. 16).

19. With reference to paragraph 82 of the State Party’s report, please describe the measures the State Party intends to take to ensure that national legislation prohibits secret detention or detention in unofficial places and that national legislation and the practice of the competent authorities are in conformity with the Convention (arts. 17, 18 and 20).

20. While noting the information provided in paragraph 86 of the State Party’s report and the provisions of article 94 (1) of the Code of Criminal Procedure, according to which “an accused person held in detention may, immediately after the preliminary hearing, communicate freely with his or her counsel”, the Committee would welcome further information on the measures taken to ensure that any person deprived of liberty, particularly in the case of arrest followed by police custody, is able, from the outset of the deprivation of liberty, regardless of the offence with which he or she is charged, to communicate with a lawyer and to inform his or her family or any other person of his or her choice of the deprivation of liberty (art. 17).

21. With reference to paragraph 104 of the State Party’s report, please indicate whether the State Party has taken or intends to take measures to ensure that the content of official registers of persons deprived of liberty is fully consistent with the information listed in article 17 (3) of the Convention (art. 17).

22. With regard to paragraph 87 of the State Party’s report, please indicate what measures have been taken to ensure that registers are promptly and duly completed for all types of deprivation of liberty and that they are systematically updated (art. 17).

23. With reference to paragraph 88 of the State Party’s report, specify any measures and steps taken to include in domestic law the right of foreign nationals to consular assistance in the event of deprivation of liberty. Please also indicate whether any conditions and/or restrictions could be applied to the right of persons deprived of liberty, including persons suspected of terrorism, to communicate with and be visited by family members; counsel; consular representatives, in the case of foreign nationals; or any other person of their choice (art. 17).

24. Please provide additional information on the legislation adopted and the practices followed to verify the release of persons deprived of liberty in all places of deprivation of liberty, and information on the authorities responsible for monitoring their release and for

informing the families of the persons concerned, including on the practices followed (arts. 17 and 21).

25. With reference to paragraphs 111 and 114 of the State Party's report, please provide information on the measures taken to ensure that any person with a legitimate interest, such as relatives of the person deprived of liberty, their representatives or their lawyer, has access to the information referred to in article 18 (1) of the Convention, regardless of the nature of the place of deprivation of liberty, including prisons, police stations, migrant detention centres, military detention centres and psychiatric hospitals. Also specify whether access by any person with a legitimate interest to the information listed in article 18 (1) of the Convention may be restricted and, if so, on what grounds and for how long (arts. 18 and 20).

26. With reference to paragraph 104 of the State Party's report, please indicate how often unannounced checks of the registration of deprivations of liberty are carried out by members of the judicial service, the National Human Rights Commission and human rights organizations, and explain what the possible consequences of such checks are (art. 22).

27. With regard to paragraphs 109 and 110 of the State Party's report, please indicate whether the State Party plans to provide training on the Convention for law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody or treatment of any person deprived of liberty, including members of the judicial service and other officials responsible for the administration of justice (art. 23).

## **V. Measures to protect and ensure the rights of victims of enforced disappearance (art. 24)**

28. With reference to paragraph 111 of the State Party's report, please indicate whether the State Party distinguishes between "direct" and "indirect" victims of enforced disappearance and, furthermore, whether domestic law provides for the adoption of a definition of "victim" in line with that set out in article 24 (1) of the Convention (art. 24).

29. Please provide further information about the measures taken to ensure that any person who has suffered harm as the direct result of an enforced disappearance has the right to obtain prompt, fair and adequate compensation and all forms of reparation listed in article 24 (5) of the Convention. Specify who would be responsible for the compensation and/or reparation in the event of enforced disappearance, indicating whether access to compensation and/or reparation is subject to a criminal conviction; and indicate whether there is a time limit for victims of enforced disappearance to have access to compensation and/or reparation (art. 24).

30. With reference to paragraphs 116 and 117 of the State Party's report, please indicate the proportion of victims of enforced disappearance who have obtained reparation since the entry into force of the Convention for the State Party, the type of reparation obtained and the number of persons who have benefited from the rehabilitation programmes mentioned. Please also specify whether there is a time limit on claiming compensation and/or reparation (art. 24).

31. Please provide information about applicable law with regard to the legal situation of disappeared persons whose fate has not been clarified and that of their relatives, in fields such as social welfare, financial matters, family law and property rights. Also describe the procedures in place for issuing a declaration of absence or of death of the disappeared person, and their impact on the State Party's obligation to continue the search and investigation into an enforced disappearance until the fate of the disappeared person has been clarified (art. 24).

32. Please provide information on measures taken to guarantee in practice the right to form and freely participate in organizations and associations concerned with attempting to establish the circumstances of enforced disappearances and the fate of disappeared persons, and to assist victims of enforced disappearances, including in the context of plans to reform the 1901 Act on Freedom of Association. If available, please provide examples of such organizations (art. 24).

## **VI. Measures to protect children against enforced disappearance (art. 25)**

33. In the light of paragraphs 119 and 122 of the State Party's report, please indicate whether domestic law specifically criminalizes the conduct described in article 25 (1) of the Convention and, if not, whether the State Party intends to adopt legislation to that effect. Please also indicate whether there have been any complaints of wrongful removal of children within the meaning of article 25 (1) (a) of the Convention. Describe what has been done to locate children who have been victims of wrongful removal or enforced disappearance, including measures adopted to cooperate with other States Parties, and to prosecute those responsible, and the results of those efforts (arts. 14, 15 and 25).

34. Please describe the system of adoption or other forms of placement of children in force in the State Party and indicate whether domestic legislation establishes any legal procedures to review and, where appropriate, annul any adoption, placement or guardianship arrangement that originated in an enforced disappearance. If no such procedures have yet been put in place, please indicate whether steps have been taken to bring national legislation into line with article 25 (4) of the Convention (art. 25).

35. Please provide information on measures taken to improve birth registration in order to prevent any risk of wrongful removal or disappearance of children, and the results of those efforts (art. 25).

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