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COMMITTEE AGAINST TORTURE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Periodic reports of States parties due in 1993

TOGO

[15 September 2004]

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CONTENTS

CONTENTS (*continued*)

Introduction

1. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which entered into force on 26 June 1987, was ratified by Togo on 18 November 1987.

2. Under article 19 of the Convention, Togo was required to submit an initial report followed by periodic reports every four years on legislative, regulatory and practical measures taken to give effect to the rights and freedoms set forth in the Convention, but until now had failed to do so.

3. The considerable delay in drafting this report is not due to any lack of will on the part of the competent authorities. Administrative and financial constraints have made it impossible for the Togolese Government to honour its commitment within the time limits.

4. Following a reminder from the Secretary-General of the United Nations in a communication dated 5 March 2003, the Togolese Government decided to do its utmost to fulfil its obligations under the Convention, despite the real problems it faced.

5. This report therefore contains in a single document Togo's initial report and its second, third, fourth and fifth periodic reports.

6. The combined report has two parts: the first provides general information on Togo and the second provides information on the substantive articles of the Convention.

Part One

I. INFORMATION OF A GENERAL NATURE

A. Geographical situation

7. Togo is a State situated in West Africa, bounded to the south by the Atlantic Ocean, to the north by Burkina Faso, to the east by Benin and to the west by Ghana. It covers an area of 56,000 square kilometres and is divided into five administrative regions covering 30 prefectures and 4 sub-prefectures.

B. Relief

8. The relief is very varied, featuring a 50-kilometre-long coastal plain separated from the sea by lagoons that gives way to an ancient plateau of hills and valleys. The Plateaux region includes the Kloto, Danyi and Akposso plateaux. These ancient and fertile plateaux are bordered by a mountain chain that cuts across the country from the south-west to the north-east. This mountain chain is a continuation of the Ghanaian Akuapu massif and ends at the Dahomean massifs and the Atakora mountains. It is never wider than 60 kilometres and its average height is about 800 metres. Its highest point is the Pic d'Agou (986 m). It includes the Défalé ridges, the Kabyè mountains, the Tchaoudjo massifs and the Malfakassa and Fazao mountains. To the north, the mountain chain descends to the Oti alluvial plain.

C. Climate and rainfall

9. Togo is situated between 6 and 11 degrees north and has two distinct climatic zones.

10. The south of the country is characterized by a southern equatorial climate, with two rainy seasons (March-July and September-November) and two dry seasons (November-March and August-September). The weather is dominated by the monsoon, which generally arrives in July, and the region has mild winters.

11. The north has a Sudanese-type climate, with a rainy season (April-September) and a dry season (October-March). In January, the harmattan, a warm, dry, sandy wind, blows across the whole country, most noticeably in the north. Temperatures range from 12º to 40º Celsius. The temperature range increases the further inland you go, but on the whole temperatures do not vary enormously, and the climate is always warm, without being excessively hot.

12. Annual rainfall ranges from 650 mm to 1,500 mm. The wettest areas are the Plateaux region, the Centrale region and the Kara region. The regions that have the least rain are the northern Savanes region and the coastal area.

D. Vegetation and watercourses

13. The vegetation is fairly dense and is characterized by grassy savannah in the north, wooded savannah with gallery forests on the plateaux and coconut plantations at the limits of the coastal plain.

14. The Oti, Kara and Mono rivers are the country's main watercourses. In the north, the Oti basin drains a number of tributaries towards the Volta in Ghana. In the south, the Mono, swollen with the waters of the Anié, Amou and Ogou, borders Benin and flows into the sea. The Haho and the Zio are coastal rivers of average discharge that flow into Lake Togo.

E. Population

15. Togo is quite densely populated, with an average density of 75 inhabitants per square kilometre. With a growth rate of about 3.1 per cent, the Togolese population was estimated at 4,269,500 in 1997 and 4,440,000 in 1988. The population has more women (51 per cent) than men, and is basically a young population:

- 48 per cent are under the age of 15;
- 48 per cent are aged between 15 and 64; and
- 4 per cent are over the age of 64.

16. The population is unevenly distributed. The Maritime region, which covers only 11 per cent of the total area of the country, holds over 40 per cent of the population, with a density of over 300 inhabitants per square kilometre.

17. Lomé, the capital, and its suburbs have over one million inhabitants, or one fifth of the total population. The rural exodus is at the root of urban population growth, particularly that in

Lomé (900,000 inhabitants in 1998), Sokodé (76,400 inhabitants), Kara (72,000 inhabitants), Kpalimé (54,000 inhabitants), Atakpamé (53,000 inhabitants) and Dapaong (37,500 inhabitants).

18. The average size of households is 5.4 persons, and varies slightly according to place of residence.

F. Languages and religions

19. The population consists of about 40 ethnic groups, which form 3 main groups:

- The Ewé-Adja, Ouatchi and Mina communities, linked mostly by the Ewé language and a village organizational structure based on assemblies of chiefs and worthies;
- The Akposso-Adélé, who live in the Plateaux region and nearby plains; and
- The Kabyè, Para-Gourma, Tem and Naoudéba, who live in the central and northern regions.

20. There are almost as many languages as ethnic groups. Ewé and Kabyè are the national languages used in primary and secondary education. The official language is French.

21. A majority of the population (60 per cent) follows one of the traditional religions. However, Christianity and Islam are widely practised (by, respectively, 28 and 12 per cent of the population).

G. The economy

22. The Togolese economy relies primarily on three sectors: agriculture, trade and industry.

23. Agriculture is the key to socio-economic development in Togo. It employs 70 per cent of the population and accounts for about 30 per cent of gross domestic product (GDP), as well as for over 20 per cent of export earnings.[1]

24. Cash crops (coffee, cocoa, cotton and oil palms) are grown for export. With the exception of cotton, which is grown throughout the country, the cash crops are grown mostly in the south (in the Plateaux region). Agriculture in Togo is still essentially subsistence farming.

25. Livestock (cattle, sheep, goats and pigs) are raised in every region of the country, though preponderantly in the north. However, as national production cannot meet consumer demand, Togo imports livestock, mostly from Burkina Faso and the Niger.

26. Fishing is an age-old activity in Togo, and is still basically a cottage industry. Most of the fishermen come from neighbouring countries, mainly from Ghana.

27. Industrial fishing is not very highly developed, even though there has been a fishing port since 1976. The low output of industrial fisheries is partly explained by outdated equipment.

28. The Togolese subsoil contains a variety of minerals, including iron, gold, chromite, titanium, nickel, diamonds, platinum, zinc, marble, limestone, phosphate, kaolinite and clay

schist.[2] They are largely unexploited, except for the limestone, which is used to make cement by Ciment de Togo and West African Cement, and phosphate, which is mined by the Togolese branch of the International Fertilizers Group. Most energy sources (oil, petrol and heating oil) are imported.

29. Two companies, Togo Electricité and the Société togolaise des eaux du Togo, supply the country's electricity and water, but they do not cover the whole country.

30. The manufacturing industry is not very highly developed in Togo, but there are food-processing, textile, chemical, metal and engineering industries. In order to revitalize the economy, an industrial export-processing zone was set up in 1989, and today it is home to several dozen companies working in various fields.

31. Togo has about 10 banks, a savings bank and several cooperative savings and loans institutions. The activities of banks and other financial institutions are regulated by the Central Bank of West African States (BCEAO).

32. Togo today has 10,000 kilometres of roads, of which about 3,000 are asphalted and 4,500 are upgraded rural roads. Investment in road construction has fallen since the CFA franc was devalued and European Union cooperation assistance to Togo was suspended.

33. Togo has two international airports, one in Lomé and one in Niamtougou. Now that Air Afrique no longer exists, only the national flag-carrier, Air Togo, and some international companies provide air services.

34. Port traffic is managed by the independent port of Lomé, which was set up in October 1967. The port is an efficient deep-water port with highly-developed transit facilities. It serves the countries of the Sahel, particularly Burkina Faso, the Niger and Mali.

35. Togo has a telecommunications network with two earth stations in Lomé and Kara.

36. Domestic trade is conducted through a combination of traditional markets and modern institutions. Distributors obtain food and crafts products from farming areas and deliver them to the large consumer centres such as Lomé and the big inland towns. Such trading activities are conducted largely by women, who account for 90 per cent of the working population in this sector. Domestic trade, which once flourished with, for example, the "Nana Benz",[3] has suffered from the devaluation of the CFA franc and the social and political crisis.

37. Foreign trade has risen noticeably. However, imports are almost always higher in value than exports, so that the trade balance has a chronic deficit.

38. GDP rose from 936.3 billion CFA francs in 1998 to 1,019.4 billion in 2002;

Gross national product (GNP) per capita was 202,808 CFA francs in 2001;[4]

The economic growth rate rose from -2.3 per cent in 1998 to 4 per cent in 2002;

The inflation rate was 3.1 per cent in 2002;

The poverty threshold was estimated at 100,800 CFA francs in 1999 and the extreme-poverty threshold at 78,400 CFA francs.[5]

The economic indicators, by year and sector, are as follows:

Table 1

Production indicators (real sector)

Basic aggregates	1998	1999	2000	2001	2002
GDP (current francs, in billions of CFA francs)	936.3	970.3	946.1	969.4	1 019.4
GDP primary sector	327.3	358.2	323.7	368.3	396.7
GDP secondary sector	157.9	157.3	168.8	163.2	178.1
GDP tertiary sector	232.1	250.0	261.0	262.8	269.5
Gross value added, non-market providers	163.6	155.5	147.4	121.6	121.0
Production attributed to banking services	-15.7	-16.5	-16.1	-17.0	-17.9
Value added tax (VAT)	41.7	39.2	37.3	42.2	42.3
Import duties and taxes (excl. VAT)	29.4	26.6	24.0	28.3	29.9
Imports of non-factor goods and services	414.4	381.7	428.6	473.5	515.3
Final consumption	905.9	954.4	927.4	971.2	1.027.0
Private consumption	597.7	681.1	666.8	749.5	811.3
Public consumption	308.2	273.3	260.6	221.8	215.7
Gross fixed capital formation (GFCF)	152.6	115.4	139.1	147.9	143.5
Private GFCF	114.4	82.6	105.0	119.6	123.4
Public GFCF	38.2	32.8	34.1	28.3	20.0
Inventory changes	-0.1	-0.1	0.7	0.9	0.7
Exports of non-factor goods and services	31.3	29.2	31.9	32.4	35.0
GDP deflator (base 100 = 1978)	341.6	345.7	339.7	349	352.8
Harmonized consumer price index (base 100 = 1978), African index	778.9	778.5	793.0	824	849.3
Population (in millions)	4.4	4.6	4.6	4.7	4.9
GDP per capita (in thousands of CFA francs)	212.5	211.1	204.3	204.5	210.0
Gross domestic savings	30.4	15.92	18.7	-1.9	-7.6

Source: National Economic Policy Committee, 12 June 2003.

Table 2

Growth indicators (real sector)

Basic aggregates	1998	1999	2000	2001	2002
Real GDP growth rate (%)	-2.3	2.4	-0.8	-0.3	4.0
GDP per capita growth rate (in constant CFA francs) (%)	-5.3	-1.8	-1.5	-2.6	1.6
Average annual inflation rate (%)	1.0	-0.1	1.9	3.9	3.1
GDP deflator growth rate (%)	-2.8	1.2	-1.7	2.7	1.1
Investment rate (% of GDP at current prices)	16.2	11.8	15.4	16.2	14.8
Public investment rate (public GFCF as a percentage of GDP at current prices)	4.1	3.4	3.6	2.9	2.0
Savings rate (% of GDP at current prices)	3.2	1.6	2.0	-0.2	-0.7

Source: National Economic Policy Committee, 12 June 2003.

II. LEGAL FRAMEWORK FOR THE PROHIBITION AND ELIMINATION OF TORTURE

39. The Togolese legal system contains guarantees concerning the prohibition and elimination of torture. Firstly, the Constitution of 14 October 1992, as amended by Act No. 2002/029 of 31 December 2002, prohibits the practice of torture (arts. 16 and 21).

40. Secondly, the Criminal Code punishes all forms of violence (homicide: art. 44; wilful violence: arts. 46-49; unintentional violence: arts. 51-53; rape: arts. 84-87; verbal violence: art. 59) and the Code of Criminal Procedure establishes the procedure for dealing with such offences. Other legislation, such as the Labour Code (which penalizes violence in the workplace: art. 87) and the law prohibiting female genital mutilation (Act No. 98-16 of 17 November 1998, arts. 3-6), provides a legal basis for the prohibition and punishment of acts of torture.

41. Moreover, Togo is a party to virtually all the international human rights instruments and has formally incorporated them into its Constitution.

42. In addition to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Togo is a party to the:

- African Charter on Human and Peoples' Rights;
- International Convention on the Elimination of All Forms of Racial Discrimination;

- International Convention on the Suppression and Punishment of the Crime of Apartheid;

- International Covenant on Civil and Political Rights;

- International Convention against Apartheid in Sports;

- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography;

- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others; and

- International Labour Organization (ILO) Convention (No. 182) on the Worst Forms of Child Labour.

43. All these international instruments may be invoked before the courts or administrative authorities, which may apply them directly, insofar as article 50 of the Constitution provides that "the rights and duties enshrined in the Universal Declaration of Human Rights and in the international human rights instruments ratified by Togo shall be an integral part of this Constitution".

44. Similarly, article 140 of the Constitution stipulates that "duly ratified or adopted treaties and agreements take precedence, upon their publication, over laws".

A. Judicial, administrative or other authorities with jurisdiction over matters dealt with in the Convention

1. Judicial authorities

45. The ordinary courts, in this case the criminal courts, the indictments chamber of the court of appeal, the assize court and the judicial chamber of the Supreme Court, are empowered to hear cases involving offences related to torture or the consequences of acts of torture, depending on the status of the offender.

46. To date, there have been no cases of torture in the annals of Togolese justice. On the other hand, there have been many cases of wilful violence but, basically, these cannot be categorized as acts of torture or cruel, inhuman or degrading treatment according to the definition provided in article 1 of the Convention.

2. Administrative authorities

47. The main function of the National Human Rights Commission (CNDH), an independent institution that was established by the Constitution (art. 152) and that has legal personality, is to promote, protect and defend human rights in the Togolese Republic (Act No. 96-12 of 19 November 1996, concerning the structure, organization and functions of the National Human Rights Commission).

48. In its mission to protect the rights of citizens against arbitrary acts and abuses on the part of the administration, the Commission deals with petitions concerning human rights violations in general and cases of torture or other cruel, inhuman or degrading treatment or punishment. It verifies whether human rights violations have occurred and makes every effort to find remedies for them.

49. Although the procedure for verifying human rights violations is different from that used for considering petitions, its purpose is the same.

50. The verification procedure is set in motion when a case is referred by a sister organization or a diplomatic mission or when the Commission itself decides to take action to verify certain allegations.

51. The Commission then assigns one or more rapporteurs to carry out the necessary inquiries. If the alleged acts are found to have occurred, it takes all the measures which it deems appropriate to remedy the situation and to obtain redress.

52. The National Human Rights Commission has had occasion to deal with some cases of torture in which the perpetrators were punished (see explanation in the section on article 14 below).

3. The Ombudsman

53. The Togolese Constitution, as amended by Act No. 2002-029 of 31 December 2002, established, in article 154, the Office of the Ombudsman, which is responsible for settling non-judicial conflicts between citizens and the administration.

54. In its capacity as an independent administrative authority, the Office of the Ombudsman deals with complaints concerning relations between government departments and the people they serve and the functioning of public services, local authorities, public bodies and any other public service institutions.

B. Available remedies

55. Under article 2 of the Code of Criminal Procedure, victims or their family members have the right to bring an action before the courts in order to claim compensation for injury suffered. The article provides as follows: "A civil action to seek compensation for harm caused by a crime, a serious offence or a minor offence may be brought by anyone who has suffered personally from the harm directly caused by the offending act."

56. Claims for damages in civil proceedings are governed by articles 2 to 6 of the Code of Criminal Procedure (Act No. 83-1 of 2 March 1983). (This point will be developed further in Part Two, in the section on article 14.)

57. The infrequency of prosecutions for acts of torture and other cruel, inhuman or degrading treatment or punishment partly explains why there are no rehabilitation programmes and why the provisions of the Convention have not been incorporated into the Criminal Code.

C. Status of implementation of the Convention

58. Togo has taken steps at the international and domestic levels to implement the Convention.

59. Internationally, Togo has always cooperated with the United Nations human rights treaty-monitoring bodies and with the thematic and special procedures mechanisms of the Commission on Human Rights, including the Special Rapporteur on the question of torture.

60. We should like to recall, for example, the support and encouragement which the Togolese authorities gave to the Special Rapporteur on the question of torture in conformity with Commission on Human Rights resolution 2002/38 of 22 April 2002, in its response to note G/SO/214 (12/19), dated 3 June 2002, in which the Office of the United Nations High Commissioner for Human Rights asked the Togolese Government to supply the Special Rapporteur with all the information he needed to complete his study on the best ways to prohibit the trade and production of equipment which is specifically designed to inflict torture or other cruel, inhuman or degrading treatment, as well as on its origin, destination and forms and the legislative measures which Togo has taken to combat these practices.

61. On the domestic front, the Ministry for the Promotion of Democracy and the Rule of Law, the Ministry of Justice, the National Human Rights Commission and human rights associations and leagues have run human rights awareness programmes for law-enforcement officers, the security forces (the police and the gendarmerie) and prison officers.

62. In particular, since the beginning of the talks with the European Union, the Togolese Government has stepped up awareness and training activities. The Minister of the Interior, Security and Decentralization, the Minister of Justice and the Minister for the Promotion of Democracy and the Rule of Law have organized information sessions for security officials (the gendarmerie, the police and prefectural guards), judges and law officers, prefects and sub-prefects throughout the country on the subject of respect for human rights and fundamental freedoms. At these events, which are run on a regional basis, the three ministers urged law officers and members of the security forces to improve the quality of the services they provide by implementing constitutional and legal provisions effectively, particularly with regard to compliance with the time limits for police custody, the principle of the presumption of innocence, the subordination of the police to the prosecution authorities and allowing detainees free access to lawyers, non-governmental human rights organizations and doctors. They also reminded them of the Government's determination and real desire to guarantee, at all times, that no one is subjected to extrajudicial execution, torture or other inhuman or degrading acts. (For details of the measures taken to implement the 22 commitments entered into by the Togolese Government in Brussels on 14 April 2004, see the section on article 10 below.)

63. Measures will be taken to provide training on the Convention for judges, lawyers and court officials in particular, in order to ensure that the Convention's provisions are applied correctly whenever they are invoked before the courts.

64. The Government is aware that the awareness-raising campaigns conducted hitherto are inadequate, given the seriousness of the problem of torture, which is one of the worst kinds, if not the most abhorrent kind, of human rights violation.

65. It is for that reason that the Government is seeking the support of the international community for, and more active participation by non-governmental human rights organizations in, the governmental capacity-building programme aimed at improving the implementation of legislation.

Part Two

COMMENTS ON ARTICLES OF THE CONVENTION

Article 2

Article 2 of the Convention requires States to take effective measures to prevent acts of torture

66. Articles 16 and 21 of the Togolese Constitution prohibit the practice of torture. According to article 16: "All defendants and detainees must be given treatment that preserves their dignity and their physical and mental health and that assists in their social reintegration. No one shall have the right to prevent defendants or detainees from being examined by a physician of their choosing. Every defendant on remand shall be entitled to the assistance of counsel during the preliminary investigation."

67. Article 21 provides that: "The human person is sacred and inviolable. No one may be subjected to torture or other forms of cruel, inhuman or degrading treatment. No one may avoid a sentence for such violations by referring to the order of a superior or a public authority. Any individual or agent of the State guilty of carrying out such acts either on his own initiative or under orders shall be punished in accordance with the law. Any individual or agent of the State shall be relieved of the duty to obey orders when the order in question is a serious and clear violation of respect for human rights and public freedoms."

68. While Togolese legislation contains no specific provisions on torture, the provisions dealing with practices causing bodily harm which are classified as wilful violence or assault are regarded as fulfilling the same function. These provisions can be found in the following legislation:

- The Criminal Code (arts. 46, 47, 48 and 61);
- Act No. 98-16 of 17 November 1998, prohibiting female genital mutilation in Togo (art. 4);
- Act No. 63-07 of 17 July 1963, establishing general regulations for military personnel of the Togolese national army (art. 7);
- Act No. 91-14 of 9 July 1991, establishing special regulations for the Togolese police (art. 14); and
- The Individuals and Family Code of 31 January 1980 (arts. 43, 44 and 397).

The Criminal Code

69. Article 46 of the Criminal Code reads as follows:

"Anyone who wilfully commits violence against others shall be liable to a penalty of two months' and two years' imprisonment, if the violence leaves the victim incapacitated for work for a period of between 10 days and three months."

Article 47 (supplemented by Act No. 98-16 of 17 November 1998 with regard to female genital mutilation) reads as follows:

"The penalty may be increased to up to five years' imprisonment:

(a) If the violence committed causes mutilation, a serious disability or incapacity for work lasting more than three months;

(b) If the violence is committed with weapons or with sharp or blunt instruments used as weapons;

(c) If the violence is committed by several persons acting together against a single victim;

(d) If the violence is committed against a child under the age of 15, a person with disabilities or an older person."

Article 48 (supplemented by Act No. 98-16 of 17 November 1998 with regard to female genital mutilation) reads as follows:

"If wilful violence perpetrated without intent to kill nevertheless results in death, the guilty party shall be punished by 5 to 10 years' imprisonment.

"The penalty may be increased to 20 years if the fatal blows were delivered with a weapon or by several persons acting together against a single victim."

Article 61 of the Anti-Riot Act (Act No. 90-23 of 23 November 1990) reads as follows:

"Anyone who lends or provides a place for the detention or unlawful imprisonment of a person shall be liable to the same penalties as the person who carries out the detention or unlawful imprisonment."

Act No. 98-16 of 17 November 1998 prohibiting female genital mutilation

70. Article 4 reads as follows:

"Anyone guilty of wilful violence within the meaning of article 3 shall be liable to a penalty of between two months' and five years' imprisonment and/or a fine of 100,000 to 1,000,000 francs.

The penalty shall be doubled in cases of recidivism."

Act No. 63-07 of 17 July 1963, establishing general regulations for military personnel of the Togolese national army

71. Article 7 establishes the principle that every member of the military is personally liable for offences committed during the performance of their duties.

Act No. 91-14 of 9 July 1991, establishing special regulations for the Togolese police

72. Article 14 (paras. 5 and 6) of this Act provides as follows:

> "Police personnel are subject at all times to the following rules:
>
> ...
>
> Any culpable act committed in or in connection with the performance of their duties shall lay them open to disciplinary action and, where appropriate, to the penalties set forth in the Criminal Code.
>
> However, where third parties bring actions against the police for administrative errors, the State must, to the extent that no error not intrinsically connected with the performance of their duties has been committed, protect them from judgements against them in civil proceedings.
>
> The police incur financial and disciplinary liability:
>
> (a) Whenever they are entrusted with the management of financial resources, materials and foodstuffs;
>
> (b) Whenever, outside the performance of their duties, they destroy, lose or render unusable items of clothing or equipment that have been placed in their care and materials entrusted to them." (para. 5)
>
> "They must abide by the individual rules of conduct and dress imposed on them by virtue of their status as police officers." (para. 6)

Individuals and Family Code of 31 January 1980

73. Articles 43 and 44 prohibit early and forced marriages and article 397 recognizes a woman's right to refuse to submit to rites of widowhood which cause her bodily harm or offend against her sensibilities.

Article 3

Article 3 of the Convention prohibits the expulsion, refoulement or extradition of a person to a State where that person would be in danger of being subjected to torture, and lists the criteria for assessing such danger

74. Togo adheres to the philosophy underpinning the principle of non-refoulement and the prohibition on the expulsion of foreigners, particularly to States where they would be in danger

of being subjected to torture. No foreigner may be expelled or extradited without due process. The principle of the legality of extradition is addressed in article 23 of the Constitution, which provides as follows: "No foreigner may be expelled or extradited from Togolese territory other than pursuant to a decision issued in accordance with the law. Foreigners shall have the right to defend themselves before the competent judicial authority."

75. Togo is a party to several subregional extradition conventions, including the Quadripartite Agreements,[6] the Economic Community of West African States (ECOWAS), Convention on Extradition and the Convention on Mutual Assistance in Criminal Matters concluded by the States members of the Entente Council.

76. Of the three treaties included in the Quadripartite Agreements signed by Benin, Ghana, Nigeria and Togo on 10 December 1984, the Extradition Treaty allows the administrative authority, in this case the Ministry of the Interior, Security and Decentralization, to authorize the extradition of a person accused of a criminal offence to a requesting State which is a party to the Agreements. The extradition itself is handled by the police forces of the States concerned. The judicial authority, in the person of the State prosecutor, is kept informed about the extradition.

77. Although the Extradition Treaty does not refer to the risk of torture as a ground for refusing to extradite a person, it does make the political nature of an offence or crime a sufficient reason for refusing to extradite.

78. Article 4 of the Treaty provides that: "extradition shall not be granted for a political crime or offence or if it is shown that the extradition application is made with a view to prosecuting or punishing an individual for a political crime or offence or if its purpose is to prosecute or punish a person because of his or her race, religion, nationality or political opinions".

79. We cite article 4 of the Treaty here because acts of torture or cruel, inhuman or degrading treatment can occur when a person is detained after extradition.

Article 4

Article 4 of the Convention requires each State Party to ensure that all acts of torture, attempts to commit torture and complicity in torture are offences under its criminal law, and that the applicable penalties take into account the grave nature of these offences

80. With regard to ensuring that attempts to commit torture and complicity in torture are offences, reference should be made to the general rules set out in the Togolese Criminal Code of 13 August 1980, particularly in article 4 and articles 12 to 14.

81. Article 4 of the Criminal Code establishes the general rules on the criminalization and punishment of attempted crimes or offences: "An attempted crime or offence shall be punished as a completed crime or offence once its execution has been initiated, if it is only suspended or fails to achieve its effect for reasons beyond the perpetrator's control."

82. Articles 12 to 14 of the Criminal Code deal with participation and complicity in an offence.

83. On the subject of complicity, article 13 provides as follows: "Accomplices to a crime or offence are liable to the same penalty as the principal, unless the law provides otherwise."

84. Article 14 declares as accomplices to the offence anyone who knowingly:

- Incites the deed by providing information or instructions;
- Procures instruments, weapons, vehicles or any other means to prepare or carry out the deed or to help the perpetrators escape punishment;
- Aids or abets the actual perpetrators of the offence in preparing, facilitating or carrying it out.

85. Thus, taking the provisions of articles 13 and 14 of the Criminal Code together, one can surmise that accomplices are persons guilty of aiding or abetting the principal and that they are therefore liable to the same penalty as that person.

86. The Criminal Code does not explicitly define acts of torture as offences under criminal law, but articles 46 to 48 define acts of wilful violence, which must be regarded as assaults causing bodily harm in the same way as acts of torture, as criminal offences.

87. With regard to penalties that take into account the grave nature of the offence, in the absence of specific legislation, reference should be made to the penalties laid down in articles 46 to 48 mentioned above.

88. Article 46 of the Criminal Code prescribes a penalty of between two months' and two years' imprisonment when the violence committed renders the victim incapacitated for work for a period of between 10 days and three months.

89. According to article 47 of the same Code, the penalty may be increased to up to five years' imprisonment:

- If the violence committed causes mutilation, a serious disability or incapacity for work lasting more than three months (para. (a));
- If the violence is committed with weapons or with sharp or blunt instruments used as weapons (para. (b));
- If the violence is committed by several persons acting together against a single victim (para. (c));
- If the violence is committed against a child under the age of 15, a person with disabilities or an older person (para. (d)).

90. Article 48 prescribes criminal penalties of 5 to 10 years' imprisonment if the victim dies (para. 1) and 20 years' imprisonment "if the fatal blows were delivered with weapons or by several persons acting together against a single victim" (para. 2).

91. The legislature's determination to suppress torture is asserted in article 21 of the Constitution of October 1992, which declares that torture or other forms of cruel, inhuman or degrading treatment are to be punished in accordance with the law. Thus, with regard to the definition of offences and the applicable penalties, articles 4, 12 to 14 and 46 to 48 of the Criminal Code may be considered as being generally applicable in accordance with the provisions of article 4 of the Convention.

92. In other words, the obligation to ensure that torture is a punishable offence under criminal law would appear to be satisfied by combining articles 46 to 48 of the Criminal Code and article 21 of the Constitution, which rules out impunity for persons who commit acts of torture.

93. With regard to the effective implementation of article 4 of the Convention, some rare acts of torture or ill-treatment have been committed by law-enforcement officers acting independently of their superiors. The officers in question received exemplary punishments, including suspension without pay and expulsion from the Togolese armed forces and the security forces.

94. Following a number of complaints filed in May 1999, the National Gendarmerie revealed details of a case involving two gendarmes and an officer of the gendarmerie who were punished under the regulations governing military personnel of the Togolese armed forces for committing acts of gratuitous violence against a member of the opposition, Cornélius Aïdam of the Union of Socialist Democrats of Togo (UDS-Togo).

95. Following these allegations, the Government established a national commission of inquiry on 19 March 2001, pursuant to decree No. 2001-096 signed by the President of the Republic after consultations with the Council of Ministers. The commission's task is to investigate allegations of extrajudicial executions, enforced or involuntary disappearances, torture and ill-treatment and, where necessary, to initiate proceedings against the persons who commit these violations.

96. With regard more particularly to torture and ill-treatment, the commission's report, published in June 2001 under the title "National commission of inquiry into allegations by Amnesty International and statements by the International Commission of Inquiry for Togo", dealt with two cases of ill-treatment against persons in police custody, namely, Germain Palanga and Kéléou, otherwise known as Pele.

97. The officers implicated in the case (staff sergeant Madohona Vitondji and auxiliary gendarme Gbati Nakpane) were temporarily excluded from the Togolese armed forces. (See also the information in the section on articles 12 and 13 below.)

Article 5

Article 5 of the Convention deals with the territorial and extraterritorial jurisdiction of national criminal law in relation to the offences referred to in article 4

98. With regard to the territorial jurisdiction of national criminal law in relation to the offences referred to in article 4 of the Convention, article 5, paragraph 1, of the Convention provides for three cases.

99. The first case concerns offences committed in any territory under the jurisdiction of the State party to the Convention or on board a ship or aircraft registered in that State. Article 6, paragraph 1, of the Criminal Code is in keeping with article 5 of the Convention in providing that: "The Togolese courts are competent to try any offence committed on Togolese territory, including maritime and air space and ships or aircraft recognized by law, treaties or international custom as having national sovereignty."

100. According to article 6, paragraph 3, of the Criminal Code, an offence is deemed to have been committed in Togo "if at least part of the actus reus or acts of complicity in the principal action took place in Togo".

101. The Criminal Code stipulates, however, in article 6, paragraph 2, that the Togolese courts do not have jurisdiction when the offence is committed on board foreign military vessels sailing or berthing in Togolese territorial waters. (This rule does not contradict the rules set out in articles 2 and 17 of the United Nations Convention on the Law of the Sea, which has been ratified by Togo and which defines the territorial sea as an area of State sovereignty where the coastal State has wide-ranging powers, subject to respecting innocent free passage by foreign ships.)

102. The second case provided for by article 5 of the Convention concerns the alleged offender, who must be a national of the State party.

103. Article 6, paragraph 3, of the Criminal Code makes express provision for this case when it stipulates that "the offence is deemed to have been committed in Togo if at least part of the actus reus or acts of complicity in the principal action took place in Togo". The advantage of this wording is that it includes not only Togolese nationals but also foreigners among the offenders and their accomplices.

104. The third case concerns victims, who are nationals of the State party (in this case, Togo), if the State party deems action appropriate.

105. This case is expressly provided for in articles 32, 68 and 71 of the Code of Criminal Procedure.

106. Under article 32 of this Code, "the State prosecutor receives complaints and allegations and decides on the follow-up to be given to them. In the event of a decision not to prosecute, he or she shall notify the complainant, giving the grounds for the decision".

107. Articles 68 and 71 of the Code concern complaints in which criminal indemnification proceedings are brought before the examining magistrate. Article 68 provides as follows: "Any person who claims to have suffered injury as a result of a crime or an offence may, when filing a complaint, bring criminal indemnification proceedings before the competent investigating judge". Article 71 requires the complainant to deposit in the court registry a sum established by order of the investigating judge on penalty of non-admissibility of the complaint, unless the complainant has obtained legal aid.

108. The extraterritorial jurisdiction of Togolese criminal law is governed by article 7 of the Criminal Code, which stipulates in paragraph 1 that "the Togolese courts are competent to try any act classified as a crime under Togolese law that is committed by a Togolese national abroad".

109. Article 7, paragraph 2, sets out the dual criminal liability principle with reference to the extraterritorial application of criminal law to Togolese nationals who have allegedly committed offences abroad; the Togolese courts "are also competent to try any offence committed by a Togolese national abroad if the act is also punishable under the law of the country in which it was committed".

110. Article 7, paragraph 3, also provides for the extraterritorial application of Togolese criminal law "if the accused has acquired Togolese nationality only after the act for which he is being prosecuted was committed".

111. Article 7, paragraph 4, which concerns bringing a prosecution, requires a complaint by the victim or notification of the acts by the authority of the country in which they were committed.

112. With regard to the implementation of article 5 of the Convention, the Togolese courts have not yet handed down any decisions in this area.

Article 6

Article 6 of the Convention makes it obligatory for all States parties to establish appropriate procedures enabling any person alleged to have committed an act of torture to be taken into custody for such time as is necessary to enable any criminal or extradition proceedings to be instituted

113. The legislative measures taken in this regard are those prescribed by the Constitution, the Code of Criminal Procedure of 2 March 1983 and the Criminal Code of 13 August 1980.

114. The measures prescribed in the Constitution are contained in its articles 15 and 16.

115. Article 15, paragraph 1, of the Constitution prohibits arbitrary arrest or arbitrary detention while permitting anyone held beyond the prescribed period of police custody to have the matter referred to the competent judicial authority, in this case the criminal judge, either at their own request or at the request of any interested party. The article provides as follows: "No one shall be arbitrarily arrested or detained. Anyone who is arrested without legal basis or detained beyond the prescribed period of police custody may, at their own request or at the request of any interested party, have the matter referred to the judicial authority designated by law for that purpose. The judicial authority shall rule promptly on the lawfulness or validity of their detention."

116. Article 15, paragraph 2, requires the criminal judge to rule promptly on the lawfulness or validity of arbitrary detention ordered by the investigating judge or by the prosecution (the State prosecutor and his or her deputies, for example).

117. The Code of Criminal Procedure, in articles 194 and 195, determines which judicial authority is competent to give a ruling on custody that lasts longer that the legally prescribed period on police or gendarmerie premises.

118. According to article 194 of the Code of Criminal Procedure, "the indictments chamber shall monitor the activity of civilian and military officials, and senior police officers acting in that capacity".

119. Article 195 sets out the manner in which cases are referred to the indictments chamber as follows: "Cases are brought before it by the Director of Public Prosecutions or by its president. It may by virtue of its office undertake an examination of the case submitted to it."

120. Article 16 of the Constitution contains three paragraphs, the first of which embodies the right of all defendants or detainees "to be given treatment that preserves their dignity and their physical and mental health and that assists in their social reintegration".

121. Article 16, paragraph 2, refers to the right of defendants or detainees to be examined by a physician of their choice and paragraph 3 of the same article establishes the right of all defendants to be assisted by counsel during the preliminary investigation. Although the presence of a lawyer is a constitutional right once the preliminary investigation has been initiated, police officers and senior law-enforcement officers used to refuse to permit it on the grounds that the Code of Criminal Procedure did not make express provision for the lawyer's presence. Circular No. 0222/MISD-CAB of 17 May 2004 fills this gap in the law.

122. According to the circular, "when there is reliable and consistent evidence that the commission of an offence can be imputed to an individual and this individual is taken into police custody, he or she may request the assistance of a lawyer from the moment he or she is taken into custody".

123. Lawyers may, if they so request, have a 15-minute interview with the defendant as from the twenty-fourth hour of police custody.

124. Following this interview, the lawyer enters any comments in a register known as the "Register of Lawyers' Comments".

125. Concurrently with the lawyer's interview with the defendant, the senior police officer must provide grounds for the latter's arrest and the legal framework within which the investigation is being carried out (flagrante delicto, a request for judicial assistance, investigation by or referral to the prosecution authorities, etc.).

126. The investigation is conducted without the presence of the lawyer. When the period of police custody and the procedure are nearly complete, the senior police officer may allow the lawyer to interview the defendant for a second time, at the lawyer's request.

127. If the period of police custody is extended, the lawyer must be so informed during the second interview. The lawyer's comments will be recorded in the Register of Lawyers' Comments.

128. Article 92, paragraph 3, of the Code of Criminal Procedure requires the investigating judge to notify suspects of their right to choose a lawyer. Failing this, an official defence lawyer will be appointed, either by the examining magistrate or by the chairman of the Bar Association. This notification must be mentioned in the record of the defendant's first examination.

129. Article 95, paragraph 3, of the Code also requires the investigating judge "to notify counsel and to inform him that the case file is at his disposal", provided that he reside in the district covered by the examining magistrate.

130. In addition, and in accordance with article 96, paragraphs 1 and 2, of the Code of Criminal Procedure, counsel is duly convened to the suspect's examination at least two days in advance.

131. Article 61 of the Code of Criminal Procedure stipulates that the preliminary investigation is governed by article 44, paragraphs 2 and 3, of the Code.

132. With regard to police custody, article 52, paragraph 1, of the Code of Criminal Procedure sets the legal time limit to be observed by the senior police officer for the purposes of the investigation at 48 hours. This time limit may be extended by 48 hours if the State prosecutor or the prosecuting judge so authorizes (para. 2). However, if the provisional arrest took place outside the public prosecutor's office, the 48-hour period must be increased by 24 hours - the time needed to bring the individual being held in police custody before the competent judge (para. 3).

133. In all cases, detention is considered arbitrary when officers and non-commissioned officers of the gendarmerie, brigade commanders and gendarmerie chiefs, the director and deputy director of the Department of National Security, police superintendents and station chiefs, police officers or auxiliary police officers hold any individual suspected of having committed a crime or offence in custody beyond the legal time limit.

Code of Criminal Procedure

134. Article 100 of the Code of Criminal Procedure reads as follows:

> "The investigating judge shall immediately examine suspects who have been served a summons.
>
> The examination of suspects arrested under a warrant to bring them before the judge shall be conducted under the same conditions; however, if suspects cannot be questioned immediately, they shall be taken to a short-stay prison, where they may be held for not more than 48 hours. This period is extended by 24 hours if it lapses on a Sunday or a holiday.
>
> On expiry of this period, the chief warder shall bring the suspect before the State prosecutor, who shall request the investigating judge or, in his or her absence, the president of the court or a judge appointed by the latter, to examine the suspect immediately, failing which the suspect shall be released.

In small courts, suspects shall be brought before the prosecuting judge, who is required to hear them within the same time period."

135. Article 101 reads as follows:

"All suspects arrested under a warrant to bring them before the judge and held beyond the period established in the previous article in a short-stay prison without being questioned shall be deemed to have been arbitrarily detained.

All magistrates or officials who have ordered or knowingly tolerated such arbitrary detention shall be punished by the penalties for arbitrary detention."

136. Article 97 reads as follows:

"The investigating judge may, depending on the case, issue a summons, a warrant to bring the suspect before him or her, a detention order or an arrest warrant.

The purpose of a summons is to order the suspect to appear before the judge on the date and at the time indicated in it.

A warrant to bring the suspect before the judge is the order given by the judge to the law-enforcement agencies to bring the suspect before him or her immediately.

Any individual who has already been detained for another reason shall be notified as indicated in the previous paragraph or, on the instructions of the State prosecutor or the prosecuting judge, by the chief warder of the short-stay prison, who shall also issue a copy of the notification.

A detention order is the order given by the judge to the chief warder of the short-stay prison to admit and detain the suspect.

An arrest warrant is the order given to the law-enforcement agencies to find the suspect and take him or her to the short-stay prison indicated in the warrant, where the suspect will be admitted and detained."

137. Article 108 reads as follows:

"Within 48 hours of being imprisoned, the suspect shall be questioned. Otherwise, on expiry of this period, articles 100 and 101 shall apply.

If the suspect is arrested outside the jurisdiction of the investigating judge who issued the warrant, the suspect shall be immediately taken before the State prosecutor or the prosecuting judge in the place of arrest, who shall take a statement after notifying the suspect that he or she is free not to make one. This notification shall be mentioned in the record.

> The State prosecutor or the prosecuting judge shall immediately inform the judge who issued the warrant and shall request the transfer of the prisoner. If the transfer cannot be made immediately, the State prosecutor or the prosecuting judge shall refer the matter to the issuing judge."

138. As a search document, the arrest warrant only concerns a suspect who absconds or who has no known residence or is living abroad. Accordingly, an arrest warrant issued for a suspect with a confirmed address is invalid, since place of residence is taken into consideration when the arrest warrant is issued, not when it is executed.

139. As a detention order, the arrest warrant can only be executed when the following two conditions are met:

- The suspect must have committed an offence punishable by more than three months' imprisonment; and

- The prosecution service must give its opinion.

140. The original of the arrest warrant, which is delivered to the officer responsible for executing it as rapidly as possible, must give:

- The identity of the suspect;

- The nature of the charge; and

- The name and position of the issuing judge.

141. The arrest warrant is relevant to extradition procedures because it involves an absconding suspect or a suspect residing in a foreign country. Togo is bound by the Extradition Treaty of 10 December 1984 with Benin, Ghana and Nigeria. Togo is also a party to the ECOWAS Convention on Extradition of 6 August 1994.

142. The purpose of the ECOWAS Convention on Extradition is to punish crimes and offences committed by offenders who have fled the territory of a member State and taken refuge in the territory of another member State in order to escape prosecution, trial and punishment.

143. Among the grounds for refusing extradition, the Convention mentions torture and other cruel, inhuman or degrading treatment or punishment. Extradition may also be refused if the individual for whom extradition is requested has not benefited or is unlikely to benefit from minimum guarantees during criminal proceedings, as provided for in article 7 of the African Charter on Human and Peoples' Rights and in article 5 of the Convention.

144. Pre-trial detention may be the direct result of a detention order or an arrest warrant, in which case the judge is required to comply with the formalities prescribed in articles 112 to 124 of the Code of Criminal Procedure. It may not exceed 10 days for ordinary offences (art. 113). Pre-trial detention provides some satisfaction to the people whose lives have been disrupted as a

result of the offence. It protects the offender as well as any victims and also helps guarantee the success of the investigation, for example, by preventing the suspect from destroying the evidence.

145. Article 150 of the Criminal Code provides for sanctions in cases of malfeasance in public office. For example, the death penalty may be handed down for such malfeasance if the offence is classified as a crime punishable by rigorous imprisonment. In addition, judges or officials exercising some aspect of public authority may be disqualified from holding public office and held personally liable.

146. When, the offences consist of attacks on the liberty or property of private individuals, or sexual abuse or violence against individuals, the punishment incurred is twice that applied to private individuals.

147. With regard to the implementation of article 6 of the Convention, where extradition is concerned there is no machinery for implementation and no established practice under the ECOWAS Convention on Extradition. However, the ECOWAS response to the phenomenon of people-trafficking, particularly that involving women and children, should enable extradition practices to be introduced in the near future.

Article 7

Article 7 requires States parties which do not extradite a person alleged to have committed acts of torture to submit the case to its competent authorities for the purpose of prosecution

148. In the situation envisaged in article 7, paragraph 1, of the Convention, Togo, as a requested State, would refuse to extradite an alien who was wanted for allegedly committing acts of torture in his or her country of origin and who had taken refuge in Togo to escape prosecution, sentencing and punishment.

149. In a case of this nature, the extraterritorial jurisdiction of the Togolese courts is justified only by article 7, paragraph 2, of the Togolese Criminal Code, which sets out the dual criminal liability principle for acts classified as offences as follows: the Togolese courts "are also competent to try any offence committed by a Togolese national abroad if the act is also punishable under the law of the country in which it was committed".

150. It follows from this provision that the dual criminal liability principle should be set aside for acts classified as crimes by Togolese criminal law. Article 7, paragraph 1, of the Criminal Code states that the Togolese courts have exclusive jurisdiction over acts classified as crimes by Togolese criminal law.

151. The situation envisaged in article 7, paragraph 2, of the Convention is one in which the competent Togolese courts, that is, the criminal courts, would take their decisions in conformity with the provisions of Togolese criminal law governing any ordinary offence of a serious nature.

152. On the one hand, the penalties provided for in articles 46 and 47 of the Criminal Code, which class wilful violence as a crime subject to the penalties applicable to offences defined in

general as of average seriousness, should be applied: that is, prison sentences of between two months and two years, which may be extended to five years in the event of daily demonstrated aggravating circumstances.

153. On the other hand, article 48 of the Criminal Code applies, providing for penalties in the following two situations:

- If wilful violence perpetrated without intent to kill nevertheless results in death, the guilty party shall be punished by 5 to 10 years' imprisonment (para. 1);

- The punishment may be increased to 20 years if the fatal blows were delivered with a weapon or by several persons acting together against a single victim (para. 2).

154. The situation envisaged in article 7, paragraph 3, of the Convention concerns the right of any person against whom proceedings are brought to be guaranteed fair treatment at all stages of the proceedings. In this case, the guarantees contained in the aforementioned texts of the Code of Criminal Procedure (arts. 52, 92 and 100-113) should be supplemented by those of articles 16 to 19 of the Constitution.

155. According to article 16, paragraph 1, of the Constitution, "all defendants or detainees must be given treatment that preserves their dignity and their physical and mental health and that assists in their social reintegration".

156. Article 17 of the Constitution prescribes a rule already embodied in the Code of Criminal Procedure (art. 92, para. 1) whereby "all individuals arrested or detained have the right to be informed immediately of the charges against them".

157. Article 18, paragraph 1, of the Constitution sets out the principle of the presumption of innocence of the defendant and the accused as follows: "All defendants are presumed innocent until proved guilty following a trial providing them with the guarantees necessary for their defence."

158. Article 19 of the Constitution guarantees the right of every individual to a fair trial within a reasonable period (para. 1), and the right of every individual to be protected by the principle whereby offences and punishments must be strictly defined by law (para. 2) and by the principle of the personal nature of the punishment (para. 3).

159. With regard to the implementation of article 7 of the Convention, several cases of extraditions carried out in 2002 and 2003 may be mentioned.

160. In 2002, the Interpol National Central Bureau in Lomé received a total of 11 criminals from other central bureaux in the West African subregion and handed over 7 to those bureaux (in Cotonou, Accra and Lagos).

161. In 2003, the National Central Bureau received a total of 6 criminals from the other central bureaux and handed over 10 (in Cotonou, Accra and Lagos).

162. It should be explained that the majority of these extraditions were made possible by the Agreement on Police Cooperation signed by Benin, Ghana, Nigeria and Togo in Lagos

on 10 December 1984 and by the ECOWAS Convention on Extradition, signed by member States in Abuja on 6 August 1994. The offences with which the individuals concerned were charged were often offences under ordinary law. The criminals extradited were frequently wanted for armed robbery, various types of fraud, breach of trust, misappropriation of funds, etc.

Article 8

Article 8 is aimed at facilitating the extradition of persons suspected of having committed any act of torture

163. On 2 July 2004, Togo ratified the United Nations Convention against Transnational Organized Crime, which deals with extradition in its article 16, paragraphs 13 and 14.

164. Furthermore, on 10 December 2003, Togo signed the United Nations Convention against Corruption, which, in the same terms as the United Nations Convention against Transnational Organized Crime, allows, under its article 44, paragraphs 14 and 15, the requested State party to refuse extradition.

165. By signing these two conventions, Togo accepts that, in the absence of any domestic legal provisions, these conventions may be used as a legal basis for directly or indirectly combating, at the international level and within the framework of mutual judicial assistance, the practice of torture and other cruel, inhuman or degrading treatment or punishment.

Article 9

Article 9 requires States parties to afford one another the greatest measure of assistance in connection with criminal proceedings involving cases of torture: this obligation is met when States parties are mutually bound by a treaty on judicial assistance

166. Togo is a party to the ECOWAS Convention on Mutual Assistance in Criminal Matters of 29 July 1992, which it ratified on 24 August 2003. This Convention, like the ECOWAS Convention on Extradition of 6 August 1994 strengthens subregional cooperation in criminal justice matters.

167. The aim of the ECOWAS Convention on Mutual Assistance in Criminal Matters is to combat criminal activity in all its forms, new and old. To this end, it establishes some common rules for the prosecution of criminal offences specifically to enhance mutual assistance in criminal matters in the ECOWAS region.

168. In this connection, the ECOWAS Convention addresses the following issues:

- Mutual judicial assistance (arts. 5-16);
- The forfeiture or confiscation of the proceeds of crime (arts. 18-20);
- The transfer of proceedings in criminal matters (arts. 21-32); and
- Validation and costs (arts. 33 and 34).

169. The issue of judicial assistance is addressed in chapter II of the ECOWAS Convention, which comprises 16 articles, divided up as follows:

- Scope of application (arts. 2-4);
- Content of requests and execution of requests for mutual judicial assistance (arts. 5 and 6);
- Return of the material to the requested member State and service of judicial documents and decisions (arts. 7-10);
- Obtaining evidence and the availability of detained or other persons to give evidence or assist in investigations (arts. 11-14); and
- Provision of publicly available documents, and search and seizure (arts. 16 and 17).

170. The ECOWAS Convention makes a distinction between mutual assistance that is excluded and mutual assistance that may be refused on reasoned grounds.

171. On the one hand, mutual judicial assistance does not apply to:

- The arrest or detention of any person with a view to the extradition of that person (art. 2, para. 3 (a));
- The enforcement in the requested member State of criminal judgements handed down in the requesting member State except to the extent permitted by the laws of the requested State (para. 3 (b));
- The transfer of prisoners to serve sentences (para. 3 (c)).

172. On the other hand, judicial assistance may be refused on reasoned grounds, if:

- The requested member State is of the opinion that the request, if granted, would prejudice its sovereignty, security or public order (art. 4, para. 1 (a));
- The request relates to an offence regarded by the requested member State as being of a political nature (para. 1 (b));
- There are substantial grounds for believing that the request for judicial assistance has been made for the purpose of prosecuting a person on account of that person's race, sex, religion, nationality, ethnic origin or political opinions, or that that person's position may be prejudiced for any of those reasons (para. 1 (c));
- The request relates to an offence that is subject to investigation or prosecution in the requested member State or to an offence the prosecution of which in the requesting member State would be incompatible with the requested member State's law on double jeopardy (para. 1 (d));

- The assistance requested requires the requested member State to carry out compulsory measures that would be contrary to its laws and practice had the offence been the subject of investigation or prosecution under its own jurisdiction (para 1 (e));

- The request is in respect of offences related to military law which do not constitute offences under ordinary criminal law (para. 1 (f)).

173. In the absence of domestic legal provisions, legislation in this field that post-dates the ECOWAS Convention on Mutual Assistance in Criminal Matters will have to conform to the provisions of this Convention in accordance with article 140 of the Constitution, which provides that: "Duly ratified or adopted treaties and agreements take precedence, upon their publication, over laws, provided that each agreement or treaty is implemented by the other party also."

Article 10

Article 10 calls on States parties to incorporate education and information regarding the prohibition of torture and other cruel, inhuman or degrading treatment or punishment into the training programmes of civil or military law-enforcement personnel (judges, gendarmes, police officers, prison staff and medical personnel)

174. For decades, information, education and training have been a government priority in the promotion of human rights and a democratic culture. Accordingly, it has launched and implemented several human rights education programmes, including training and awareness-raising seminars aimed at all sectors of society.

175. Several ministerial departments are involved in these educational activities, which are supported by the National Human Rights Commission and civil society.

Training and awareness-raising activities of ministerial departments

176. The Ministry for the Promotion of Democracy and the Rule of Law, through awareness-raising campaigns, seminars and visits to detention centres, has always encouraged citizens to respect human rights and emphasized that torture and all types of violence are prohibited. It is worth mentioning the visits to: the civil prison in Lomé on 30 June 1992; the central police station in Lomé and the Department of National Security on 3 July 1992; and, on 12 March 1996, the Directorate-General of the National Police, the Criminal Investigation Department, the Juvenile Division, the central police station in Lomé and the police stations in Lomé's first and sixth arrondissements.

177. Furthermore, an initial awareness-raising campaign on the subject of "Democracy and tolerance", carried out in 21 prefectures, and a second on the subject of "Democracy, peace and justice", carried out in 20 towns and villages, gave officials from the Ministry the chance to invite people to reject violence in all its forms.

178. In terms of training certain specific groups, a five-day seminar (from 7 to 11 October 1996) on “The role of the armed forces in the promotion and protection of human rights” was organized for some 50 officers of the Togolese armed forces.

179. It should be noted that specialist training is also provided for forensic doctors with the aim of enhancing their capacity to recognize cases of torture. When called upon to do so, doctors who have received training offer an expert opinion on whether or not a particular defendant or prisoner has been tortured.

180. Moreover, since 1996, the Togolese Ministry of Education and the Ministry of Technical Education have introduced courses on civic and moral education, with the support of the Embassy of the United States of America in Togo.

181. These new courses are aimed at instilling democratic values and respect for human rights in young learners. This is important because it is these young people who will be responsible for applying the law when they are trained as law-enforcement officers, judges, doctors or members of the prison service.

182. The periodic judicial workshops organized by the Ministry of Justice give experts from the Ministry an opportunity to make judicial officials and prison staff aware of the importance of following and applying principles on the treatment of detainees. (For an explanation of the activities of the Ministry of Justice, see the section on article 11 below.)

183. Within the framework of the implementation of the 22 commitments entered into by Togo in Brussels on 14 April 2004, the Minister of the Interior, Security and Decentralization, the Minister of Justice and the Minister for the Promotion of Democracy and the Rule of Law organized a series of awareness-raising and training activities, beginning with workshops held on 8 and 11 May 2004 for 241 participants, of whom 32 were judges, 82 were officers and non-commissioned officers in the gendarmerie and 127 were police superintendents, officers, sergeants and constables.

184. The discussions in these workshops covered ways and means of improving police performance and the need to do everything possible to uphold public order while scrupulously respecting the law and fundamental freedoms.

185. In this connection, attention was drawn to the provisions of the Universal Declaration of Human Rights and the Togolese Constitution, which require respect for human dignity in all circumstances.

186. The ministers emphasized the need to establish harmonious cooperation between senior police officers and State prosecutors and to improve detention conditions, as well as the importance of scrupulous adherence to criminal procedure, particularly with regard to the time limit for police custody. They also underlined the usefulness of requests for judicial assistance and certain fundamental principles such as the presumption of innocence and the subordination of the police to the prosecution authorities.

187. Moreover, in order to provide greater protection for remand prisoners, article 16 of the Constitution has been put into effect, so that remand prisoners' lawyers can be present from the very beginning of the preliminary investigation.

188. To this end, the following circulars were signed on 17 May 2004 by the Minister of the Interior, Security and Decentralization:

- No. 0220/MISD-CAB, containing a reminder of the general principles of law enforcement, addressed to the Commander of the National Gendarmerie, the Director-General of the National Police and the chiefs of law-enforcement units;

- No. 0221/MISD-CAB, containing a reminder of the conditions for placing someone in police custody, addressed to the Commander of the National Gendarmerie and the Director-General of the National Police; and

- No. 0222/MISD-CAB, defining the conditions for giving remand prisoners access to counsel during the preliminary investigation, addressed to the Commander of the National Gendarmerie and the Director-General of the National Police.

189. Attention should also be drawn to a seminar held in Sokodé, the administrative centre of the Centrale region, from 23 to 25 April 2004 for State prosecutors, prison wardens from every prison in Togo, prison guards, social workers and representatives of associations and non-governmental organizations concerned with problems related to prison life.

190. The aims of this seminar were to:

- Ensure that participants were aware of the correct attitude to take towards prisoners;

- Establish a responsible partnership between the prison service and outside parties;

- Set out clearly the conditions for visits to prisons by associations, non-governmental organizations, family members, friends and counsel for the accused; and

- Study possible solutions to deal with the situation of juveniles in detention outside Lomé.

191. In order to further publicize the content of article 16 of the Constitution and the above-mentioned circulars, the Minister of the Interior, Security and Decentralization organized seminars to raise awareness of human rights and fundamental freedoms among police officials. These seminars, which were held in the five regional administrative centres, took place as follows:

- In Lomé on 11 June 2004, for 101 officials, and on 14 June 2004, for 67 officials;

- In Atakpamé, administrative centre of the Plateaux region, on 10 June 2004, for 56 participants;

- In Sokodé, administrative centre of the Centrale region, on 12 June 2004, for 34 participants;

- In Kara, administrative centre of the Kara region, on 12 June 2004, for 38 officials; and

- In Dapaong, administrative centre of the Savanes region, on 12 June 2004, for 35 officers.

192. The following issues were examined at these seminars:

- *Conditions for placing a person in police custody*: the presentation on this issue focused closely on article 16 of the Constitution, complying with the time limits for custody and keeping the registers in police stations up to date;

- *Conditions for access to suspects by legal counsel*: the emphasis was placed on the content and practical implications of the above-mentioned circulars of the Minister of the Interior, Security and Decentralization of 17 May 2004;

- *General principles of law-enforcement*: the presentation highlighted the definition of law-enforcement and the general principles governing it, while stressing the need to combine respect for human rights with the professionalism required in law-enforcement tasks.

Information and training provided by the National Human Rights Commission and non-governmental organizations

193. Since it was set up in 1987, the National Human Rights Commission has been running a huge information campaign to raise awareness and teach people of all social classes about human rights.

194. Seminars and workshops have been held to ensure that officers of the Togolese armed forces know about the ban on torture. In March 1998, for example, the 17 members of the National Human Rights Commission split into 5 groups and toured 29 prefectures, 4 sub-prefectures and 14 cantons to raise awareness of human rights among all social and occupational classes. The theme of the campaign was “Human rights: a factor in social harmony”. The aim of the information campaign was to raise awareness among all classes of the Togolese population (administrative officials, traditional and religious leaders, the security forces, political activists, trade unionists, women’s and young people’s associations, activists from non-governmental human rights organizations, apprentices, traders, farmers and teachers) about the need to protect and promote human rights, which are a factor in development and social harmony.

195. In the villages they visited, the delegations from the National Human Rights Commission were asked numerous questions by people who wanted to know more about the human rights situation in Togo.

196. The questions mostly dealt with methods of arrest, detention, detention conditions, ill-treatment, etc.

197. In addition, at the seminar for traditional leaders, judges, the police, the gendarmerie, senior officials and political leaders held from 3 to 7 August 1998 by the National Human Rights Commission on the subject of "International, regional and national human rights mechanisms", lengthy discussions took place on the sub-topic of "Torture and other cruel, inhuman or degrading treatment or punishment: definitions and types of punishment".

198. The National Human Rights Commission has also published articles on the prohibition of torture, including in the magazine *Echos CNDH* (No. 6, 1990).

199. Raising awareness of the ban on torture is one aspect of the checks and visits to detention centres carried out by the Commission.

200. During its visits to prisons and detention centres between 21 and 29 December 1999, the delegation from the Commission reminded the various officials and individuals dealing with detainees and remand prisoners of the need to follow the rules on procedure, detention and the treatment of prisoners, as set out in the Constitution and in the international conventions ratified by Togo.

201. The message of the National Human Rights Commission concentrated basically on subjects such as police custody, the presumption of innocence, unlawful or arbitrary arrests and detention, the prohibition of the detention of juveniles, the treatment of prisoners and the separation of female and male prisoners.

202. On the basis of national legislation and treaties, the delegation from the Commission castigated the use of torture and other forms of violence and called on officers to respect the principle of the presumption of innocence and to avoid police brutality regardless of the grounds on which a person is held for questioning.

203. During every visit, the delegation distributed literature containing the National Human Rights Commission's own core documents, the Convention, the Standard Minimum Rules for the Treatment of Prisoners and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules").

204. Moreover, during a visit to the civil prison in Kara on 25 July 2000 to investigate allegations concerning poor detention conditions, the delegation from the National Human Rights Commission took the opportunity to organize a workshop to ensure that all prison staff were aware of the ban on torture and ill-treatment.

205. Finally, the Commission made recommendations on how to incorporate the principles contained in conventions against torture and other instruments on the treatment of detainees in courses at the gendarmerie and police academies.[7] At the time of writing, the Minister of the Interior, Security and Decentralization has accepted the Commission's recommendations and asked it to help him obtain outside help to develop human rights courses at the National Police Academy. The two institutions are still looking for the necessary financial and technical support.

206. The Government realizes that more needs to be done to provide information on torture and to prevent it. The material difficulties facing Togo are a considerable constraint on its efforts to provide formal human rights education in general. So far, only the National Gendarmerie Academy and the Faculty of Medicine have introduced international humanitarian law into their curricula. These curricula cover international humanitarian law and some topics related to human rights, namely, the prohibition of torture and other degrading treatment during questioning by law-enforcement agencies, investigation procedures and the protection of civil rights.

207. It should be pointed out that human rights associations and, more particularly, women's associations are running campaigns on violence of all kinds, especially violence against women.

208. The actions of civil society are broadly welcomed by the Government, which is glad to see that not only is civil society involved in education and awareness-raising but also that some non-governmental organizations have set up reception centres to advise and offer legal assistance to women beaten by their husbands or by the police.

209. In these reception centres, the women learn about their rights, the legal procedures for claiming these rights and the redress available if these rights are violated.

210. One example of the thousands of activities carried out by non-governmental organizations in their efforts to prevent torture and ill-treatment would be the visits made by the Togolese Human Rights League from October 1994 to December 1995 to the country's eight prisons.

211. Everywhere it visited, the delegation from the League held information and awareness-raising sessions for court and prison officials. Its presentations dealt in particular with the manner in which prison staff should treat detainees, strict observance of the time limit for custody and human rights. The delegation also provided prison services with illustrated extracts from the Universal Declaration of Human Rights.[8]

Article 11

Article 11 of the Convention requires all States parties to keep under systematic review interrogation rules, instructions, methods and practices

212. The legislative measures taken in this domain pertain to supervision of police custody, supervision of pre-trial detention by the indictments chamber and the right of access of counsel for the accused and for the defendants.

213. Supervision of police custody is regulated by article 53 of the Code of Criminal Procedure, which consists of three paragraphs.

214. Paragraph 1 of article 53 stipulates that a special register must be kept in which the surname and first name of the person in police custody and the dates and times of their admission and release are recorded; these details should be initialled by the individuals concerned and a note made in the register if they refuse or are unable to sign.

215. Paragraph 2 stipulates that the special register must be produced if requisitioned by the State prosecutor or the prosecuting judge.

216. Paragraph 3 establishes the right of persons in police custody to have a medical examination, at their own request or at that of a member of their family, subject to the agreement of the prosecution authorities.

217. Supervision of pre-trial detention by the indictments chamber is regulated by article 191 of the Code of Criminal Procedure, which provides as follows: "Each month, each investigating judge's office shall post a notice of all cases under investigation with a note, for each case, of the date on which the most recent investigative measure was taken."

218. This provision allows the president of the indictments chamber to verify that investigating judges' offices under the jurisdiction of the court of appeal are working properly and, in particular, that there have been no cases of unnecessary detention or unlawful extensions of detention.

219. Supervision also extends to pre-trial detention ordered by the State prosecutor via an "official circular" - a written document in which the State prosecutor asks the warden of a short-stay prison to keep a defendant at his or her disposal.

220. The right of access by counsel to the accused or the defendant is regulated by the following articles of the Code of Criminal Procedure:

- Article 92 (para. 3) stipulates that the investigating judge must inform accused persons, during their first examination, of their right to engage a lawyer of their own choosing; otherwise, the examining magistrate or the chairman of the Bar Association will make the decision ex officio;

- The principle that counsel must be invited to attend the examination is established in article 96 (para. 1) as follows: "Unless they explicitly forgo this right, the accused and the civil party can only be heard or convened in the presence of their counsel or of persons who have been duly summoned";

- Article 96 (para. 3) requires the investigating judge to make the case file available to counsel 24 hours before the examination;

- Article 139 (para. 2) stipulates that an investigating judge who questions the accused in the presence of experts must observe the formalities prescribed in the above-mentioned article 96;

- Article 159 recognizes the right of the accused to appeal against orders of the investigating judge ruling, inter alia, on applications for release filed by the accused or on expert opinions and second opinions, whenever these measures are turned down (paras. 2 and 3), subject to the proviso (para. 3) that the appeal must be lodged within three days from the date on which notice of orders issued pursuant to paragraph 2 of the article is given.

221. Article 11 also concerns the custody and treatment of persons who are arrested, detained or imprisoned, as well as prison inspections or systematic reviews carried out with a view to preventing any cases of torture.

222. Prison inspections are carried out by:

- The Judicial Services Inspectorate;

- The public prosecutor's office, which is required to visit detainees in prison periodically, to free anyone being held in arbitrary detention and to report these cases to the Ministry of Justice (Code of Criminal Procedure, article 500);

- Investigating judges, who must visit untried prisoners in institutions within their jurisdiction at least once every three months (art. 501) and must report their findings, through official channels, to the Director of Public Prosecutions.

223. Prisons are supervised by:

- The management team set up by the Director of the Prison Service, who has taken over this responsibility from prefects;

- The warden, who is responsible for providing prisoners with food, clothing, bedding and transport;

- The accountant, who is responsible for the financial and operational management of prisons; and

- The medical staff.

224. The Prison Service, which until the 1990s reported to the Ministry of the Interior, was reassigned to the Ministry of Justice pursuant to a decree of 12 February 1992. As for the guarding of prisons, the *gardes de cercle* (police auxiliaries), who were under the command of the chief warder, used to perform this function in accordance with the decree of 1 September 1933 on the reorganization of the prison system. Today, the *gardes de cercle*, who in colonial times were appointed by the commander of the *cercle* (a unit of French political administration), have been replaced by members of the security forces; in other words, military personnel are responsible for guarding prisons and detainees.

225. Supervisory boards were established by an order dated 9 January 1961 to improve prison supervision. Their activities came to an end on 24 April 1970, when the supervisory board of Lomé civil prison held its last meeting. An order dated 24 January 1972 establishing a working group on prison reform has remained a dead letter.

226. The rights and guarantees accorded to prisoners are regulated by article 16, paragraph 1, of the Constitution and by the decree of 1 September 1933.

227. Article 16, paragraph 1, of the Constitution provides as follows: "All defendants or detainees must be given treatment that preserves their dignity and their physical and mental health and that assists in their social reintegration."

228. The provisions of the order of 1 September 1933 recognize the right of every defendant or detainee to:

- Food (art. 26);
- Bedding (art. 27);
- Hygiene (art. 30); and
- Medical care (arts. 28 and 29).

229. It should be noted that all kinds of difficulties impede the realization of these rights.

230. The right to food runs up against the problem of food shortages; the right to bedding is severely tested by the overcrowding in cells, particularly at Lomé civil prison; the right to hygiene is undermined by the absence of buckets, soap and disinfectant, giving rise to diseases such as tuberculosis, chicken pox, ringworm and scabies; the right to medical care is compromised in cases of serious illness, since prisons only stock first-aid medicines. Hence, prisoners who are seriously ill have to be evacuated to regional hospitals or to Lomé University Hospital.

231. Poor hygiene is the cause of the skin diseases that afflict many prisoners. Malaria, among other diseases, is endemic in prisons. The cramped quarters built during the colonial period, the lack of ventilation in cells and the overcrowding in prisons create ideal conditions for the spread of infectious, parasitic and other diseases.

232. Although prisoners' food is adequate in terms of quantity, it is not sufficiently varied to guarantee the desired nutritional quality. The single daily meal, often consisting of cornmeal or millet-paste balls served with a thin peanut sauce or dried okra powder and a few vegetable leaves, is served at lunchtime.

233. Prisons basically house and feed inmates, but they still lack the necessary financial resources to embark on the re-education, rehabilitation and social reintegration of prisoners, which are the primary purpose of a prison sentence. Only Lomé prison has a library.

234. Disciplinary measures, consisting of sweeping the floor and cleaning, are often imposed on prisoners.

235. Some well-informed observers claim that prisoners are subjected to mental torture in Togolese prisons, although they accept that no physical torture takes place in them.

236. Prisoners' complaints are submitted to the prison warden, who either deals with them personally or refers them to the Director of the Prison Service. Only complaints for which no solution has been found or that are particularly serious are passed on to the State prosecutor.

237. In practice, there are two main reasons why the conditions in which untried and convicted prisoners live and the kind of preparation they receive for their return to society do not come up to standard: the lack of training of prison guards in fundamental human rights concepts and a lack of funding.

238. The first reason has to do with the lack of training of prison guards in fundamental human rights concepts. To remedy this, the National Human Rights Commission and the Ministry for the Promotion of Democracy and the Rule of Law have distributed the texts of human rights instruments to police stations, gendarmerie stations, prisons and other places of detention.

239. The Ministry of Justice and the Embassy of the United States of America in Togo jointly ran training seminars on the subject of "Justice and prison life" for Togolese prison management staff in Lomé on 12 and 13 October 1995 and in Kara on 18 and 19 October 1995. The seminars, designed for prison wardens, prison governors, security force chiefs, judges, lawyers, chaplains, officials from the Department of Social Affairs and representatives of the Ministry of Human Rights and Rehabilitation, provided participants with an opportunity to share their experiences about various matters, including:

- The responsibilities of prison staff;
- The relationship between investigating judges and the prison service; and
- The rights and duties of prisoners.

240. The second reason has to do with the lack of funding for the installation in short-stay prisons of appropriate infrastructure that complies with international norms. In these circumstances, convicted and untried prisoners, youngsters and adults alike, live side by side in overcrowded conditions that are harmful to the most vulnerable inmates.

241. In 1997, the French Cooperation and Cultural Action Service in Togo agreed to finance a project to improve living conditions in detention centres in Lomé (the Lomé civil prison and the Juvenile Division), placing a fund of 50 million CFA francs at the disposal of the Ministry of Justice and the Ministry of Human Rights and Rehabilitation.

242. Similarly, an emergency programme to support the prison sector (PAUSEP) has been developed by the Government with financial support from the European Union.

243. The PAUSEP project defines a coherent prison policy which distinguishes between short-stay prisons and prisons with a mandate for reintegrating prisoners into society.

244. The programme was launched on 1 October 2003 and is designed to improve prison conditions by renovating prison infrastructure, increasing the living space in prisons and preparing adult prisoners for their reintegration into society by teaching them a trade.

245. The PAUSEP project, which is expected to last two years, will soon be up and running, once the prison renovation work, for which tenders have just been issued, has been completed.

246. However, the most dynamic phase of this ambitious programme should see a new prison being built in the Maritime region to ease the pressure on Lomé prison, which has long since exceeded its accommodation capacity and which was really only designed as a short-stay prison.

247. The PAUSEP programme will pave the way for the launching of a proper prison policy, provided that the European Union approves the release of funds for the second institutional phase of the programme.

Article 12

Article 12 stipulates that States must proceed to a prompt and impartial investigation wherever there is reasonable ground to believe that an act of torture has been committed

248. The authorities to which article 12 of the Convention refers are the senior law-enforcement officers, gendarmes and police officers who receive complaints or launch preliminary investigations on their own initiative.

249. In some cases, these officers' superiors intervene to advise them about situations in which article 12 of the Convention is being violated.

250. Here, State prosecutors, who instruct the police on the action to be taken, play a decisive role within their jurisdiction, guiding law-enforcement officers on the actions to be taken in any case of torture referred to them.

251. The investigation consists of gathering evidence of the acts of torture, backed up by the requisite forensic medical report.

252. The persons suspected of committing these acts are brought before the State prosecutor to face the full rigour of the law.

253. Victims of acts of torture perpetrated by the police or gendarmerie are often reluctant to file an official complaint, usually out of fear. This attitude on the part of potential complainants might suggest that law-enforcement officers enjoy some form of impunity or protection, but this is absolutely not the case.

254. In most cases, whenever their superiors are notified, the authorities waste no time in taking severe disciplinary measures against these officers.

255. There are many examples of police officers who have been dismissed as a result of disciplinary proceedings or who have been prosecuted for committing acts referred to in article 12 of the Convention.

256. Mention could be made of the case of an auxiliary police officer called Kodabika who was in charge of the Kanté police station and who was dismissed and prosecuted together with three of his men, who had beaten a person in police custody to death on 26 October 1993.

257. In another notorious case, disciplinary action was taken against military personnel who had inflicted cruel and degrading treatment on a person in the suburbs to the east of Lomé in 2000. (For more examples, see the section on article 13 below.)

258. In general, one can conclude that acts of torture and inhuman or degrading treatment are the exception.

Article 13

Article 13 guarantees to anyone who alleges that he has been subjected to torture the right to complain and requires the State to have his case promptly and impartially examined

259. According to article 19 of the Constitution, "everyone is entitled to a fair and prompt hearing before an independent and impartial court". The right of appeal guaranteed by the Constitution is regulated, inter alia, by the Code of Criminal Procedure, the Code of Civil Procedure, the Civil Service Regulations and the Criminal Code. It is exercised either before the courts or before bodies with quasi-judicial powers.

Judicial remedies

260. Acts of torture constitute criminal offences that are prosecuted before a judicial body by judges or officials from the public prosecutor's office. Proceedings may be brought by one or more of the injured parties (Code of Criminal Procedure, arts. 1-9).

261. As soon as an allegation of torture or violence of any kind is referred to the State prosecutor, the latter assesses the complaint and decides on the action to be taken and, if necessary, launches an immediate investigation. Pursuant to article 15 of the Code of Criminal Procedure, the investigation is carried out by the following law officers:

- The State prosecutor and his or her deputies;
- Prosecuting judges;
- Investigating judges;
- Officers of the gendarmerie, brigade commanders and gendarmerie station chiefs;
- The director and deputy-director of the Department of National Security;
- Prefects and sub-prefects;
- Mayors;
- Police commissioners and police station chiefs; and
- Non-commissioned gendarmes, police officers and auxiliary police officers.

262. Once the facts have been established, the case is registered with the competent court, which holds its sessions in public and provides all the guarantees required for a fair trial.

263. In civil or criminal matters, anyone who can shed light on the facts can testify on behalf of the prosecution or the defence. Witness protection is guaranteed by the fact that law officers are bound by a duty of confidentiality and professional secrecy and by the penalties for violating this duty, which can be either criminal or disciplinary in nature.

264. For example, article 14 of Act No. 91-14 of 9 July 1991, establishing special regulations for the Togolese police, provides as follows: "Above and beyond the provisions of the Criminal Code relating to violations of professional secrecy, the police are bound by the duty of confidentiality with respect to all the facts and information that come to their attention in or in connection with the performance of their duties. Any wrongful act they commit in or in connection with the performance of their duties makes them liable to disciplinary sanctions and, where appropriate, to the penalties prescribed by criminal law." The criminal law penalizes anyone who threatens or violates the rights or physical integrity of a witness.

Extrajudicial remedies

265. These remedies are available to individuals who appeal to the National Human Rights Commission or the authority with responsibility for disciplining the perpetrator of the torture.

266. Since the Commission is a conciliation body, it does not impose criminal penalties. However, it may advise and help the victim to bring an action before the courts, which are the only bodies with the power to impose criminal penalties. (On the usefulness of appealing to the Commission, see the information in the section on article 14, below.)

267. An appeal to the authority vested with the disciplinary power can result in disciplinary measures being imposed on the perpetrator of the acts of violence or torture, as the following examples show.

Example No. 1: case of N'Guissan Ahote, gendarme

268. Punishment report No. 130/4-GRC dated 28 November 1997:

Surname: Ahote

First name: N'Guissan

Grade: auxiliary gendarme

Service No.: 2050, serving with the Golf Sokodé platoon

Military status: volunteer

Punishment imposed by: Lieutenant Colonel Ali Bediadadja

Punishment: eight days' imprisonment, with a request for the penalty to be increased

Reason for punishment: undisciplined and reckless behaviour

Circumstances of the wrongdoing: "A young, undisciplined, reckless, and aggressive gendarme who ordered a drink in a restaurant with no intention of paying for it and then assaulted the person who asked him to pay for the drink he had consumed. Apart from his disgraceful behaviour, he has brought grave dishonour upon the army."

Transmitted by the chief of staff of the National Gendarmerie to the colonel, chief of general staff of the Togolese armed forces, for a decision: "... to inform you that, with regard to the punishment imposed on auxiliary gendarme N'Guissan Ahote, service No. 2050, serving with the Sokodé platoon of the National Gendarmerie, the chief of staff of the gendarmerie has increased the penalty to 30 days' imprisonment with a request that a much higher penalty be inflicted and that he be brought before a disciplinary panel with a view to discharging him from the service."

Decision registered in Lomé as decision No. 241/4-GN/P dated 30 December 1997.

Example No. 2: case of Bouti Boulougoudjo, gendarme

269. Punishment report No. 044/4-GRC dated 2 May 1997:

Surname: Boulougoudjo

First name: Bouti

Grade: auxiliary gendarme, first class

Service No.: 1489

Military status: volunteer

Punishment: eight days' imprisonment, with a request that a much higher penalty be imposed

Reason for punishment: assaulted two civilians and his superior officer

Circumstances of the wrongdoing: "An undisciplined and reckless auxiliary gendarme, first class, with an alcohol problem, he carried out a serious and unjustified assault on two civilians and on his superior officer, who was remonstrating with him about his behaviour."

Transmitted by the chief of staff of the National Gendarmerie to the colonel, chief of general staff of the Togolese armed forces, for a decision: "... to inform you that, with regard to the punishment imposed on auxiliary gendarme Bouti Boulougoudjo, service No. 1489, the penalty has been increased to 30 days' imprisonment, with a request that a much higher penalty be imposed and that he be brought before a disciplinary panel with a view to suspending him for six months without pay."

Decision registered as decision No. 085/4-GN/CFL dated 13 May 1997.

Example No. 3: case of Kao Bagna, gendarme

270. Punishment report No. 125/4-GRE dated 25 November 1997:

Surname: Bagna

First name: Kao

Grade: auxiliary gendarme

Service No.: 1839

Military status: volunteer

Punishment imposed by: Captain Atti Abi

Punishment: eight days' imprisonment, with a request that a much higher penalty be imposed

Reason for punishment: abandonment of post and robbery

Circumstances of the wrongdoing: "An undisciplined, reckless and disobedient auxiliary gendarme driven by greed, he abandoned his post to commit robberies in town with his civilian friends. Apart from these acts, he seriously wounded his victim, bringing grave discredit upon the army."

Transmitted by the chief of staff of the National Gendarmerie to the colonel, chief of general staff of the Togolese armed forces, for a decision: "... to inform you that, with regard to the punishment imposed on auxiliary gendarme Kao Bagna, service No. 1839, serving with the Foxtrot platoon of the National Gendarmerie in Lomé, the chief of staff of the National Gendarmerie has increased the penalty to 30 days' imprisonment, with a request that a higher penalty be imposed and that the person concerned be brought before a disciplinary panel with a view to suspending him for six months without pay."

Decision registered as decision No. 218/4-GN/P dated 28 November 1997.

Example No. 4: case of Kpatcha Atcha, gendarme

271. Punishment report No. 114/PM/SS dated 30 January 1998:

Surname: Atcha

First name: Kpatcha

Grade: auxiliary gendarme

Service No.: 1822

Military status: volunteer

Punishment imposed by: Sub Lieutenant Awade Wela

Punishment: eight days' imprisonment, with a request for the penalty to be increased

Reason for punishment: wilful violence

Circumstances of the wrongdoing: "An irascible and very impulsive gendarme who flouted disciplinary rules by beating a woman with a belt on the pretext that she had been responsible for an accident in which he was a victim."

Transmitted by the chief of staff of the National Gendarmerie to the brigadier, chief of general staff of the Togolese armed forces, for a decision: "... to inform you that, with regard to the punishment imposed on auxiliary gendarme Kpatcha Atcha, service No. 1822, on secondment to the Prime Minister's office, the colonel, chief of staff of the National Gendarmerie has increased the penalty to 30 days' imprisonment, with a request that a higher penalty be imposed and that the person concerned be brought before a disciplinary panel with a view to suspending him for six months without pay."

Decision registered as decision No. 063/4-GN/P dated 3 March 1998.

Example No. 5: case of Madohona Vitondji, gendarme

272. Punishment report No. 70/4-GRK dated 17 May 1998:

Surname: Vitondji

First name: Madohona

Grade: staff sergeant

Service No.: 1433

Military status: volunteer

Punishment imposed by: Platoon Commander Dotto Gowoé

Punishment: eight days of close arrest, with a request that a much higher penalty be imposed

Reason for punishment: professional misconduct, recklessness and failure to obey instructions

Circumstances of the wrongdoing: "An undisciplined and reckless young non-commissioned officer assisting the brigade commander, [Vitondji], in collusion with two members of his unit and in spite of the many instructions which forbid gendarmes from reacting to provocation, allowed a person to be held in police custody on false charges, as a result of which arbitrary measure the person died, after being taken ill."

Transmitted by the chief of staff of the National Gendarmerie to the chief of general staff of the Togolese armed forces for a decision: "... to inform you that, with regard to the punishment imposed on Staff Sergeant Madohona Vitondji, service No. 1433, an auxiliary in the investigations brigade of the National Gendarmerie in Kara, the chief of staff of the National Gendarmerie has increased the penalty to 30 days of close arrest, with a request that the penalty be increased and that the person concerned be brought before a disciplinary panel with a view to suspending him for six months without pay."

Decision registered as decision No. 123/4-GN/CEM dated 19 May 1998.

Example No. 6: case of Timbata Agbangba, gendarme

273. Punishment report No. 107/4-GRM dated 31 August 1995:

Surname: Agbangba

First name: Timbata

Grade: staff sergeant

Service No.: 1134

Military status: volunteer

Punishment: eight days of close arrest and payment of hospitalization costs

Reason for punishment: professional misconduct

Circumstances of the wrongdoing: "The staff sergeant, a unit commander and an impulsive person unable to control his reaction to a particular act, ordered the beating of a remand prisoner which left the victim with physical injuries and brought discredit upon the army."

274. These examples are far from exhaustive. They have been chosen simply to illustrate the type of offence (violence against civilians, aggravated robbery, arbitrary detention in breach of the rules, physical abuse of untried prisoners) and the type of penalty imposed (imprisonment, close arrest, suspension of pay, payment of medical costs incurred as a result of the violence). Contrary to allegations from some quarters that Togo is a country where impunity rules, these examples show that no one, be they a civilian or a member of the military, is exempt from punishment.

275. We should like to point out that an appeal to the offender's superiors or to the National Human Rights Commission does not preclude the victim from bringing legal action. Moreover, the fact that a person drops a civil action cannot be used to halt or suspend criminal proceedings (Code of Criminal Procedure, art. 2, para. 2).

Article 14

Article 14 ensures that the victim of an act of torture has the right to fair and adequate compensation

276. Under article 21 of the Constitution, any person who commits acts of torture on his own initiative or on the orders of a superior shall be punished in accordance with the law.

277. While the role of punishment is essentially deterrent and preventive, the victims' rights are ensured only by material compensation for the harm suffered.

278. The procedure for claiming compensation is based on articles 2 to 5 of the Code of Criminal Procedure and on article 1382 of the French Civil Code of 1804. According to the latter, which is still applicable in Togo, "the perpetrator of any act that causes damage to another person is obliged to make reparation".

279. It should be pointed out that there is no specific procedure for claiming compensation for injury resulting from acts of torture.

280. The principle applied in practice is that the perpetrator of acts of torture or any other form of violence is required to reimburse all the costs incurred as a result of his acts.

281. Generally speaking, the victim requests the perpetrator of the act to cover the costs of his recovery. If the perpetrator pays these costs, compensation is considered to have been provided. If he refuses, the victim may take the case to court or to a friendly settlement body (for example, the National Human Rights Commission or a traditional chief).

(a) Procedure in court

282. In the absence of specific provisions to implement article 14, paragraph 1, of the Convention, reference may be made to the following general articles of the Code of Criminal Procedure:

- Article 2, which provides as follows: "A civil action to claim indemnification for injury resulting from a crime, a serious offence or a minor offence may be brought by all those who have personally suffered injury directly caused by the offence" (para. 1);

- Article 3, whereby the civil action to claim indemnification for injury directly caused by the offence may be brought simultaneously with criminal proceedings before the same judges under the following conditions of admissibility: "[The civil action] shall be admissible for all areas of material, physical or moral injury stemming from the acts that are the subject of the prosecution proceedings" (para. 2);

- Article 3: "The injured party is entitled to claim compensation from the criminal court not only for physical or moral injury but also for material damage caused by the same act, even if the indictment does not mention any related minor offence that has caused material damage" (para. 3);

- Article 4, which provides that: "A civil action may also be brought separately from the criminal proceedings. Judgement on such an action in the civil court is deferred, however, until a final ruling has been given on the criminal proceedings once these have been initiated";

- Article 5, which reads: "A party who has brought an action before the competent civil courts cannot take it to the criminal courts. An exception can be made only if the case has been referred to the criminal courts by the public prosecutor's office before the civil court has delivered its judgement on the merits."

283. Article 1382 of the French Civil Code is the legal basis for the action before the civil courts. Damages are assessed on the basis of medical or psychiatric reports, depending on the case. The nature, terms of reference and form of these reports are established by articles 131 and 142 of the Code of Criminal Procedure.

Selection of experts

284. Article 132 (para. 2) of the Code of Criminal Procedure provides that "experts shall be selected from a list prepared at the start of each year by the court of appeal". The Code specifies that, exceptionally, the investigating and judicial authorities may, on the basis of a reasoned decision, select experts who do not appear on the list prepared by the court of appeal.

285. When the decision to seek an expert opinion is made by an investigating judge, it cannot be appealed. The examining magistrate must, however, notify the public prosecutor's office and the parties of such a decision, and must also specify in the notification the names and qualifications of the experts and a description of the task entrusted to them.

286. Within three days of this notification, the public prosecutor's office and the parties concerned may, if they so wish, submit comments on the choice of experts or on the task of the experts appointed. The fact that these comments are discretionary shows clearly that the investigating judge is in no way bound by them.

287. In principle, experts whose names are on the list drawn up by the court of appeal must take an oath before that court to say they will perform their task, draft a report and give an honourable and conscientious opinion. The oath is taken at a solemn hearing. An expert whose name is not on the list drawn up by the court of appeal must take an oath each time he or she is appointed; this formality must be recorded in the report of proceedings, which has to be signed by the competent judge, the expert and the registrar (Code of Criminal Procedure, art. 136, para. 3).

Expert opinions

288. Experts act independently in the performance of their task and are free to choose the technical procedures that will enable them to answer the judge's questions. They are therefore completely free to examine the victim's body and perform an autopsy, for example. They may also take statements from the suspect and others.

289. Although experts are independent, article 137, paragraph 4, of the Code of Criminal Procedure stipulates that they must coordinate their work with that of the investigating judge. This means that they must keep the latter informed of progress in their work so that the judge can take any necessary steps promptly. On completion of their work, experts are required by law to prepare a report.

The expert report

290. According to article 141 of the Code of Criminal Procedure, "upon completion of their investigation, experts shall prepare a report containing a description of the said investigation and their conclusions. They shall certify that they have personally carried out or overseen the investigation entrusted to them and shall sign their report".

291. As soon as it is submitted, the expert report is included as evidence in the case file and, in accordance with article 142, paragraph 1, of the Code of Criminal Procedure, "the judge shall convene the parties concerned and inform them of the experts' conclusions". The judge takes their statements and gives them eight days to submit comments or requests for further investigations or for a second expert opinion.

292. The purpose of the supplementary investigations is to fill any gaps in the report, to rectify any omissions or to introduce any new evidence that has emerged since the initial investigation.

293. The purpose of a second opinion, on the other hand, is to produce conclusions that may differ from those of the first experts.

294. Moreover, article 139, paragraph 2, of the Code of Criminal Procedure provides that, when the investigating judge examines the suspect in the presence of the experts, he or she must comply with the formalities of article 96 of the Code on penalty of invalidating the examination (this article deals with inviting the suspect's counsel to attend the examination, confronting the suspect and making the case file available to counsel a day before the examination).

295. Settlement and payment of damages are determined by articles 9 and 505 of the Code of Criminal Procedure. According to article 505, when the security deposited, the assets confiscated and the prisoner's earnings are insufficient to settle all the damages, fines and legal costs, the sums available are distributed in the following order of priority:

(1) The party claiming damages;

(2) The criminal fine;

(3) Legal costs; and

(4) Fiscal, customs and civil fines.

(b) Proceedings before amicable settlement bodies

296. Unlike the courts, amicable settlement bodies do not have the necessary means to carry out an expert appraisal of damages resulting from acts of violence.

297. Compensation in this sense includes payment by the perpetrator of medical expenses, medical analyses, X-rays, functional rehabilitation, the purchase of orthopaedic appliances, etc. It is true that such compensation is far from complete in that it does not take psychological injury into account.

298. Here, we will simply give a few examples of allegations of cruel or inhuman treatment referred to the National Human Rights Commission and the compensation received by victims.

Example No. 1

299. An officer from the gendarmerie detail on duty in Kpémé subjected K.D., a woman suspected of theft, to ill-treatment in order to make her confess and caused her injuries. The case was referred to the National Human Rights Commission, which called for the victim to be paid 225,000 CFA francs for medical consultations, prescriptions and travel. This sum was paid to the victim in its entirety.

Example No. 2

300. During a police patrol in the Kodjoviakopé district on 28 November 1999, eight young people, including a girl, were arrested and taken to Lomé central police station, where they were detained.

301. Two Lebanese citizens who had been the victims of a hold-up alerted the police, who sent officers to the scene. The eight young people there were suspected of being accomplices to the crime and were arrested. On their release, they were found to have physical injuries. One of their parents then complained to the National Human Rights Commission, which undertook investigations.

302. When approached, the police superintendent acknowledged that his officers had arrested eight young people on the date in question. He denied, however, that any ill-treatment had been inflicted on them during their detention.

303. When the National Human Rights Commission insisted and produced supporting evidence, including photographs of swollen buttocks and medical prescriptions, the superintendent finally admitted that the eight young people had been to ill-treated. He said, however, that he did not know who the perpetrators were.

304. The National Human Rights Commission requested him, as the person in charge of the police station, to assume all the expenses stemming from these blunders, even if it meant taking legal action against the perpetrators of the acts.

305. It should be noted that the cost of the medical prescriptions issued as a result of this ill-treatment was 214,635 CFA francs. The superintendent agreed to pay this sum in full to the victims through the National Human Rights Commission. A first instalment of 90,000 CFA francs was paid in 1999. The rest was paid in full to the victims through the same intermediary on 11 May 2001.[9]

Example No. 3

306. In a petition dated 21 October 1999, H.K. appealed to the National Human Rights Commission to intervene to clarify the ill-treatment he had received from members of the Togolese armed forces who had wrongly accused him of stealing a car windscreen. He subsequently claimed damages for loss of earnings from his work as a docker in the port, to cover, in particular, the medical expenses resulting from the beatings he had received.

307. Since no one has the right to take the law into their own hands, the soldiers had not acted lawfully, regardless of the truth of the allegations against H.K.

308. After verifying the alleged violation, the National Human Rights Commission referred the matter to the head of the gendarmerie for appropriate sanctions.

309. The chief of staff of the National Gendarmerie, in a letter of 27 October 1999, deplored his officers' actions and recommended that they should be punished. He requested the National Human Rights Commission to send him documentary evidence of H.K.'s expenses with a view to settling them. The victim said that he had received satisfaction as a result of the cooperation of the gendarmerie, which had made the perpetrators pay the costs of his medical care.[10]

Example No. 4

310. In a petition received by the National Human Rights Commission on 3 February 2000, A.K.A. complained of ill-treatment by officers from the gendarmerie in Dayes Apéyémé, a village 170 kilometres from Lomé.

311. The incidents took place on a market day during a dispute between some gendarmes and a group of young people. The petitioner said that she had witnessed the scenes as they took place in front of her house. When she was trying to prevent her grandson from joining the crowd, one of the gendarmes had deliberately assaulted her, breaking her left arm and causing other injuries.

312. After checking the facts, the National Human Rights Commission persuaded the section to which the officer in question belonged to cover the resulting medical and pharmaceutical expenses.[11]

Article 15

Article 15 prohibits State parties from invoking as evidence in any proceedings any statement obtained as a result of torture

313. Neither the Criminal Code nor the Code of Criminal Procedure contain provisions requiring the invalidation of statements obtained as a result of torture.

314. In practice, when descendants or witnesses state before an investigating judge or at a hearing that they confessed under duress, the judge does not automatically invalidate the confession.

315. Initially, the judge questions the senior police officer who investigated the case about the defendant's new statements. The judge may also verify the facts with any person he deems capable of enlightening him. If the defendant's allegations subsequently prove justified, the judge declares invalid the confession obtained under duress.

316. This declaration of invalidity, however, is only effective if it is not established that the act of which the defendant is accused, that is to say the offence, took place.

317. On the other hand, if endeavours to ascertain the truth from the investigating official or witnesses prove inadequate or fruitless, the judge may appoint an expert to shed light on any violence suffered by the defendant during questioning. (See the discussion on expert opinions above, in the section on article 14.)

318. On the basis of expert opinions, which are exceptional during pre-trial proceedings, the defendant's counsel may thus legitimately request that a statement obtained under torture be declared invalid.

319. In practice, defence lawyers take a passive approach to the defence of suspects, who are often unaware of their rights and obligations. For the most part, defence lawyers prefer the examining magistrate, on conclusion of the pre-trial proceedings, to dismiss the case.

320. If the statement was a determining factor, the defendant would simply be acquitted.

Article 16

Article 16 calls on States parties to consider acts of cruel, inhuman or degrading treatment or punishment committed by a public official to be torture

321. The Togolese Constitution establishes the sacred and inviolable nature of the human person: "No one may be subjected to torture or other forms of cruel, inhuman or degrading treatment" (art. 21).

322. Citizens have means of obtaining redress before the administrative and judicial courts to enforce their rights.

323. With respect to public administration, the law governing civil servants is codified in Ordinance No. 1 of 4 January 1968, establishing general regulations for civil servants of the Togolese Republic, and Decree No. 69-113 of 28 May 1969, on joint procedures for implementation of the general regulations on the civil service.

324. The first duty of civil servants or any public official is to show respect, courtesy and propriety in their language and behaviour towards their superiors.

325. In principle, orders are to be obeyed, even if the public official, privately disagrees with them. However, this is not an absolute principle, as officials may draw the attention of their superiors to the unlawfulness of an order before carrying it out.

326. The law authorizes an official to refuse to obey an order that is manifestly illegal, that is, when the order requires the official to commit a crime. If officials carry out such an order, they are personally responsible for their actions.

327. In short, according to the spirit of Togolese law on the civil service, public officials can never invoke their duty to obey their superiors as justification for treating another human being in a cruel, inhuman or degrading manner. Any official who does so is personally responsible for their actions.

328. Similarly, article 9 of the general regulations for civil servants provides that "every civil servant, regardless of his or her hierarchical rank, is responsible for the implementation of the tasks entrusted to him or her. Civil servants responsible for the operation of a service are accountable to their superior for the manner in which they exercise the authority conferred on them for that purpose and for the execution of the orders they give. They are not relieved of any of their responsibilities by their subordinates' own responsibility".

329. In the event of a violation of a right as highly protected as the physical integrity of a person, both the official who carried out the order and his or her hierarchical superior are held responsible in accordance with the provisions of article 9.

Women

330. Togo pays particular attention to the protection of the physical and mental integrity of women.

331. With this in mind, the Government has taken several measures, including the establishment of an ad hoc committee to study and make recommendations as to how to improve the protection of women's rights.

332. In particular, this committee is studying the legislation that covers such aspects of women's rights as:

- The inheritance rights of married women;
- Physical and psychological violence against women;
- Cases in which a widow's enjoyment of inheritance rights is conditional upon the execution of rites of widowhood that are sometimes degrading;
- Accusations of witchcraft levelled against a widow with the aim of disinheriting her.

333. Other aspects of women's rights, such as marital rape, early pregnancy, forced abortion, incest, economic abuse, institutionalized violence and sexual harassment, also come under the remit of the ad hoc committee.

334. Female genital mutilation is prohibited under Act No. 98-016 of 27 November 1998.

Children

335. Togo is a party to most of the international instruments on the rights of the child (see above, paragraph 42).

336. At the national level, children's rights are protected by the following provisions; among others:

- The Individuals and Family Code;
- The Nationality Code;
- The Criminal Code; and
- The Code of Criminal Procedure.

337. In order to better ensure the protection of children, the Government adopted, on 13 March 2002, a draft children's code that brought together the rights and freedoms accorded to children by the aforementioned international instruments and national legislation in a single text.

338. However, the adoption at Bamako, on 31 March 2002, of guidelines on the harmonization of national legislation against the exploitation of children in French-speaking and other African countries has sidelined the draft children's code for the moment.

CONCLUSION

339. Respect for human dignity and the prohibition of any treatment that might infringe that dignity are formally written into the Togolese legal system.

340. The drafters' desire to ensure that failure to respect this prohibition is a reprehensible and punishable act is reflected in the provisions of the Criminal Code, even if this does not expressly use the terms "torture" or "cruel, inhuman or degrading treatment" as set out in the Convention.

341. In practice, the judicial and administrative authorities and human rights institutions monitor the implementation of legislation in order to punish the perpetrators of acts of violence and to provide redress for victims.

342. Realizing that respect for human rights has to be achieved through information and education, the Togolese authorities have undertaken a massive campaign to promote human rights, with particular emphasis on combating impunity.

343. The governing institutions of the country and civil society have made concrete efforts to raise awareness among the population about the prohibition of torture and of all forms of violence.

344. Social norms, the lack of financial resources and the inadequate training of judges, senior police officers and medical personnel must not be allowed to overshadow the Government's efforts to implement the international human rights instruments effectively.

345. The Togolese Government requests the Committee against Torture's indulgence for the very late submission of its report and reiterates its commitment to the human rights ideal, while seeking the support of all social partners in strengthening its institutional capacities (training, retraining, legislative reform, etc.) with a view to consolidating the rule of law and human rights culture in Togo.

Notes

[1] Board of the Institute for Advice and Technical Support (ICAT), Lomé Cacavéli, August 2001.

[2] Explanatory note to geological map of Kara, first ed., paper No. 1, 1984, p. 18.

[3] The "Nana Benz" were women who had a monopoly in the textile trade in Togo.

[4] *The State of the World's Children 2001*, United Nations Children's Fund (UNICEF), p. 15.

[5] "Femmes et enfants", UNICEF.

[6] The Quadripartite Agreements consist of:

- The Agreement on Police Cooperation;
- The Agreement on Mutual Administrative Assistance in matters relating to Customs, Trade and Immigration; and
- The Extradition Treaty.

[7] See the annual report of the National Human Rights Commission, 2000-2001, p. 34.

[8] See the report on the Togolese Human Rights League's visits to prisons, "Rapport de visites de prisons par la LTDH d'octobre 1994 à décembre 1995", pp. 3-4.

[9] See the annual report of the National Human Rights Commission, 1999, p. 17, and 2000-2001, p. 13.

[10] See the annual report of the National Human Rights Commission, 1999, p. 18.

[11] See the annual report of the National Human Rights Commission, 2000-2001, p. 27.

Annex

MEMBERS OF THE REPORT'S DRAFTING COMMITTEE

Mr. Aleza Mazabalo, Ministry of Health

Lieutenant Colonel Ali Bédiabadja, Ministry of Defence and Former Combatants

Mr. d'Almeida Dossè, Ministry of Justice

Mr. Alou Bayabako, Ministry of Planning

Mr. Assah Kossi Maxime, Ministry for Foreign Affairs and Cooperation

Mr. Awa Yao, Ministry of the Interior, Security and Decentralization

Mr. Djobo Koum-Miguiba, National Human Rights Commission

Mr. Fenou Kossi Enyonam, Ministry of Infrastructure, Mines, Post and Telecommunications

Ms. Gbodui Suéto, Ministry of Culture, Youth and Sport

Mr. Kodjo Paul Kudadze, Ministry of the Environment

Mr. Laïson Amah, Ministry of the Civil Service, Work and Employment

Mr. Noudonou Koudjo, Ministry of Communication and Civic Education

Ms. Otimi Kossiwa, Ministry for Social Affairs, the Advancement of Women and the Protection of Children

Ms. Pabozi N'do, Ministry for the Promotion of Democracy and the Rule of Law

EXPERTS

Mr. Gnondoli Komi, President of the National Human Rights Commission

Ms. Polo Nakpa, Director-General for Human Rights

Mr. Agbetomey Kokouvi, Counsellor to the Supreme Court, former Secretary-General of the Ministry of Justice

Togolese Human Rights League

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