



## International Covenant on Civil and Political Rights

Distr.: General  
22 December 2010  
English  
Original: French

---

### Human Rights Committee

Ninety-ninth session

Geneva, 12–30 July 2010

### List of issues to be taken up in connection with the consideration of the fourth periodic report of Togo (CCPR/C/TGO/4)

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

1. Please provide specific examples of judicial proceedings in which the provisions of the Covenant were directly invoked by one of the parties and cases in which the Covenant was directly applied by the country's courts. Are training courses on the Covenant organized on behalf of public officials, particularly teachers, judges, lawyers and police and national security officers?
2. Please provide additional information on Act No. 2005-04 of 9 February 2005 amending Institutional Act No. 96-12 of 11 December 1996 concerning the composition, organization and functioning of the National Human Rights Commission. Describe in greater detail the Commission's mandate in cases of human rights violations. What measures have been taken to guarantee the Commission's independence of the executive branch, for instance by ensuring that it has an adequate budget for the performance of its duties? How many complaints have been filed with the Commission over the past five years and what action has been taken on them?

#### Non-incitement to racial hatred and participation in public affairs (arts. 20 and 25)

3. Please indicate whether the allegations of serious violations of human rights during and after the presidential election of 24 April 2005 have been investigated and whether appropriate judicial action has been taken. Please indicate what penalties have been imposed, if any, on political leaders and journalists who incited ethnic hatred during the 2005 electoral process. Please indicate what measures the State party has taken in the aftermath of these events to prohibit all advocacy of ethnic hatred constituting incitement to discrimination, hostility or violence. Please provide information on progress made in the inquiries launched by the Truth, Justice and Reconciliation Commission. Please also provide detailed and up-to-date information on the mechanisms that exist in the State party to ensure that elections are transparent and fair. Please indicate furthermore whether there

have been any investigations or prosecutions in connection with allegations of numerous irregularities during the 2005 elections.

### **Equal rights of men and women and prohibition of discrimination (arts. 2, 3 and 26)**

4. With reference to paragraph 58 of the State party's report (CCPR/C/TGO/4), according to which "Togolese positive law has enshrined the customary practice of conferring on men the status of head of the family" and "this institution has discriminatory consequences for women in practice and in some legal provisions", please describe the measures taken to align the Individuals and Family Code with the provisions of the Covenant, especially articles 3 and 26. Please also provide detailed and up-to-date information on measures taken to eliminate discrimination against women and eradicate its sources, and to raise public awareness of equal rights for men and women. Please provide detailed information, in addition, on measures taken to abolish polygamy once and for all. Please state whether sexual relations between consenting adults of the same sex are an offence under Togolese criminal law. Please describe any measures taken to align the Individuals and Family Code with the provisions of the Covenant.

### **Violence against women (arts. 3 and 7)**

5. Please provide: (a) information on the legal framework for combating violence against women in Togo and on all measures taken and envisaged to eliminate violence against women; (b) statistical data for the past five years on the number of complaints filed concerning different forms of violence against women and the number of related decisions handed down by the courts. Please indicate whether domestic violence and marital rape are characterized as criminal offences in the State party's Criminal Code. If they are, please indicate the number of convictions handed down by the courts for marital rape and female genital mutilation.

### **Right to life, prohibition of torture and other cruel, inhuman or degrading treatment and protection of children (arts. 6, 7 and 24)**

6. The State party reports (para. 98) that "the approved preliminary draft law amending the Criminal Code includes the definition of torture contained in article 1 of the Convention against Torture, provides for appropriate penalties and includes the concept of cruel, inhuman or degrading treatment or punishment". Please indicate what stage has been reached in the enactment of the draft law. Please comment on allegations that ill-treatment is widely practised by public officials and that the perpetrators of such acts go unpunished. Please provide more information on the mechanisms for considering complaints of torture or ill-treatment filed against public officials at all stages of deprivation of liberty and indicate the extent to which such mechanisms are independent. Please state how many complaints of torture or ill-treatment have been recorded and supply information on the investigations, prosecutions, convictions and compensation resulting from the complaints.

7. Has action been taken on the following commitments listed among the "22 commitments" entered into by the State party with a view to strengthening democracy and human rights and promoting respect for basic freedoms in the context of the consultations held under article 96 of the Cotonou Partnership Agreement with the European Union: (a) No. 2.1 ("Commitment to guarantee at any time the absence of extrajudicial executions, torture and other inhuman and degrading acts ..."); (b) 2.4 ("Commitment to allow free access to prisoners by lawyers and humanitarian and human rights non-governmental

organizations ...”); and (c) 2.6 (“Commitment to take legal or disciplinary measures to ensure that the known perpetrators of extrajudicial executions, acts of torture and of degrading and inhuman treatment are prosecuted”)?

8. According to information received by the Committee, corporal punishment is a common practice at the juvenile detention centre in Lomé, where abandoned, trafficked and marginalized children, some under 10 years old, are held together with young adult offenders. Please describe the specific measures taken to prevent this practice in detention centres. Please describe the steps taken by the Government to review its legislation, policies and budgets in order to ensure the full implementation of juvenile justice standards.

### **Prohibition of slavery and forced labour (art. 8)**

9. According to a number of sources, the State party is a country of origin, transit and destination for child and women victims of human trafficking and smuggling for the purposes of forced labour and sexual exploitation. Please provide information on measures taken against the trafficking and smuggling of women and children and to provide appropriate care for the victims. Please also provide information on investigations and prosecutions and on judgements handed down by the courts against the perpetrators of such acts.

### **Right to liberty and security of the person and imprisonment for debt (arts. 9 and 11)**

10. According to article 15 of the Togolese Constitution, arbitrary arrest and detention are prohibited (paragraph 121 of the State party’s report) and judicial police constables and senior officers are not permitted to carry out arrests without a warrant unless the individual is caught in flagrante delicto (para. 126). According to information received by the Committee, however, such practices occur and are directed, in particular, against opposition activists and sympathizers. Please indicate what steps the State party intends to take in order to remedy the situation.

11. Please indicate whether the law and practice of the State party permit a person who is arrested or detained to institute legal proceedings so that a court may decide without delay on the lawfulness of the detention and order his or her release if the detention is unlawful, in accordance with article 9 of the Covenant. Please provide specific examples where possible.

12. The State party indicates in its report that, although the arrest of a person for civil or commercial debt is formally prohibited, persons detained for offences associated with civil or commercial debt are to be found in places of detention (para. 123). Please indicate what steps the State party plans to take in order to remedy such situations.

### **Treatment of detainees (art. 10)**

13. What steps have been taken to implement the Committee’s recommendation (CCPR/CO/76/TGO, para. 14) that the State party should amend the provisions of its Code of Criminal Procedure that deal with police custody with a view to ensuring the effective prevention of violations of the physical and mental integrity of persons held in police custody and protecting their right to a defence?

14. According to information received by the Committee, the conditions in police and gendarmerie stations and in most Togolese prisons are alarming in terms of the sanitary

situation, access to health care, food quality and overcrowding. Please provide information on progress made towards achieving the objectives of the Emergency Programme to Support the Prison Sector. What additional steps has the State party taken to reduce prison overcrowding and to ensure that remand prisoners and convicted prisoners are segregated? Do non-governmental organizations have access to places of detention and on what terms?

15. Please provide information on the number of deaths in prison or pretrial detention during the past five years and on the results of investigations into such cases.

### **Right to freedom of movement (art. 12)**

16. Are there currently any restrictions on freedom of movement between the different regions of Togo?

17. Please provide details on the extent and causes of, and trends in, the phenomenon of forced displacement in Togo, on the steps taken to ensure the protection of people displaced within the country, and on humanitarian access to displaced persons. In particular, please indicate what steps have been taken to protect and provide assistance to displaced persons and refugees returning to Togo from the neighbouring countries of Ghana and Benin. Please provide more information on the measures adopted by the State party to ensure respect for the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2, annex).

### **Right to a fair trial and equality before the law (arts. 14 and 26)**

18. According to information received from different sources, the State party's judicial institutions are to some extent dysfunctional, owing in particular to the lack of judges and other judicial staff. What additional measures has the State party taken to reduce the excessive length of legal proceedings (para. 173)? Please explain what the State party means by "presumption of guilt" in paragraph 147 of its report.

19. With reference to the information provided in paragraphs 150 to 157 of the State party's report, please indicate whether needy persons have access to free legal aid.

20. The State party indicates in paragraph 120 of its report that: "Article 19 [of the Constitution] provides for compensation for damages resulting from a miscarriage or malfunctioning of justice." However, "This provision has never been applied either because litigants are unaware of their rights or due to fear." Does the State party intend to adopt measures aimed at ensuring respect for this article of the Constitution?

### **Freedom of religion, freedom of expression, right of peaceful assembly and freedom of association (arts. 18, 19, 21 and 22)**

21. How many organizations of a religious character have applied to be registered with the Ministry of the Interior during the past five years? In how many cases has registration been refused and on what grounds?

22. According to information received by the Committee, members of the opposition and human rights defenders are subject to harassment and intimidation. Please comment and indicate the measures taken to guarantee in practice the right to freedom of expression, assembly and association.

23. Please provide detailed information on the criteria applied by the High Audiovisual and Communications Authority in assessing the activities of various organizations and on

the measures taken to guarantee the Authority's complete independence from the executive branch.

24. Please describe the regime governing the right to freedom of assembly and indicate the extent to which it is compatible with the Covenant. According to paragraph 214 of the State party's report, "[electoral] meetings and demonstrations may not take place on the public highway" and "are prohibited between the hours of 10 p.m. and 6 a.m.". Please comment on this information in the light of article 21 of the Covenant.

25. The State party refers in paragraph 225 of its report to the "difficulties that associations and non-governmental organizations face in obtaining acknowledgements [certificates of registration] and organizing meetings and demonstrations". Please provide detailed information on this point and describe the measures taken to prevent such difficulties from arising.

### **Rights of persons belonging to minorities (art. 27)**

26. Please provide more detailed information on the measures taken by the State party to ensure that persons belonging to minorities are able, together with other members of their group, to enjoy their own culture, profess and practise their own religion, and use their own language (paras. 329–334).

### **Dissemination of the Covenant (art. 2)**

27. The State party is invited to explain what it has done and intends to do to disseminate information about the provisions of the Covenant, the State party's fourth periodic report and the Committee's consideration of the report. Please provide information also on the involvement of civil society and national human rights institutions in the preparation of the fourth periodic report.

---