

INFORMATION NOTE

3rd/4th periodic report of Togo during the 59th session of the United Nations Committee on the Rights of the Child

Summary of juvenile justice related issues

Ratification of the Convention on the Rights of the Child by Togo: 1st August 1990

Previous report presented in: January 2005 (38th session of the CRC).

1. COUNTRY PROFILE

The Republic of Togo is a country in West Africa bordered by Ghana to the west, Benin to the east, and Burkina Faso to the north. It extends south to the Gulf of Guinea, on which the capital Lomé is located.

Togo is a tropical, Saharan nation, highly dependent on agriculture, with a climate that provides good growing seasons. While the official language is French, there are many other languages spoken in Togo, particularly those of the Gbe family. The largest religious group in Togo is those with indigenous beliefs, but there are significant Christian and Muslim minorities. Togo is a member of the United Nations, African Union, Organisation of Islamic Cooperation, South Atlantic Peace and Cooperation Zone, La Francophonie and Economic Community of West African States.

Togo covers an area of approximately 57,000 square kilometres (22,000 sq mi) with a population of approximately 6.7 million; the population gender ratio is 98 men to every 100 women. Children account for almost half (48.2 per cent) of Togo's population, namely, 2,839,028 persons under the age of 18. Over half this child population (54.5 per cent) are children of compulsory school age, namely, 1,548,229 children aged 6 to 14, while the proportion of children aged 15 to 17 is 12.5 per cent (354,904 adolescents). The capital city, Lomé, is home to 15 per cent of children, while 30.4 per cent live in the Maritime region (not including Lomé), 18.8 per cent in the Plateaux region, 9.9 per cent in the Centrale region, 12.8 per cent in the Kara region and 13 per cent in the Savanes region.

HIV prevalence peaked at 6 per cent in 2000, stabilized in 2006 and is currently estimated at 3.2 per cent in the general population. Sentinel serosurveillance of pregnant women in 2009 recorded a prevalence of 3.9 per cent. Some 130,000 people are living with HIV, of whom 60 per cent are women and 10,000 are children aged 0 to 14. An estimated 68,000 children have been orphaned by HIV.

Over the past 15 years, Togo's socio-political crisis has slowed the development process considerably and caused a massive reduction in foreign aid. As a result, its Human Development Index, which had improved over the preceding decade, dropped from 0.510 in 1995 to 0.495 in 2006 (placing it 147th out of 177 countries worldwide).

2. JUVENILE JUSTICE KEY ISSUES IN TOGO

2.1. ISSUE BY ISSUE:

I) Legislation:

- Current Situation/Achievements:

- Decree No. 05-69, 17th February 1969 established a specialised judge for minors who find themselves in conflict with the law.
- The Criminal Code
- The Criminal Procedure Code
- The Childhood Code of 2007, articles 300 -346
- National Program of Modernization of the Judicial System in October 2006
- Togo has ratified the international instruments that offer comprehensive legal protection and guarantee the child all human rights

- Challenges:

Formal text in place, concrete implementation substantially lacks: structures, resources, professional training, public dissemination, etc.

II) Minimum age of criminal responsibility:

- Current Situation/Achievements:

The minimum age for criminal responsibility is 15 years of age – article 302 of the Children’s Code raised the MACR in 2007.

- Challenges:

III) Number of children and length of detention:

- Current Situation/Achievements:

The numbers of children in conflict with the law being held in detention centres under the authority of Lomé appeal court in March 2010 were as follows.

Table 30

<i>Detention centre</i>	<i>December 2009</i>	<i>March 2010</i>
Lomé juvenile division	64 children, incl. 13 girls	47 children, incl. 9 girls
Tsévié civil prison	2 boys	0
Aného civil prison	4 children, incl. 1 girl	4 children
Vogan civil prison	0	3 boys
Notsè civil prison	4 boys	3 boys
Atakpamé civil prison	8 boys	3 boys

NB: Kpalimé has no prison, so children are held in the Lomé juvenile division.

- Challenges:

IV) Trial conditions:

- Current Situation/Achievements:

There is no specific legal counsel for minors in conflict with the law in Togo. A number of judges and lawyers have set up a juvenile defence association, the *Enfant Radieux* association, which works with the juvenile division and the public prosecutor's office to secure the early release of young offenders.

Of the country's 22 ordinary courts, only Lomé has a juvenile court as required by Ordinance No. 78-35 of 7 September 1978 on the organization of the judiciary in Togo. The same is true of the other structures involved in juvenile justice, such as the juvenile division and reception centres. Only some of the country's civil prisons have special sections for juveniles.

The Children's Code contains provisions on procedural guarantees such as presumption of innocence, the right to a fair trial within a reasonable period of time by an independent and impartial court, the right to be informed immediately of the charges and the right to be treated in a manner that preserves dignity and physical and mental health and aids social reintegration (articles 300 et seq. of the Children's Code). It establishes special rules to be observed by the prison administration, for instance, the separation of juvenile offenders from adults in separate facilities, the need to provide protection and assistance to children in pretrial detention and the requirement to maintain contact with children's parents or guardians (articles 347 to 350 of the Code).

Since 2005, the French association *La Voix de la Justice* has been working with the Togolese bar to provide free legal aid to children in conflict with the law. Togolese NGOs also provide free legal aid to these children.

In 2007, *Terre des Hommes* provided free legal aid to 58 children, while the Togo network against child trafficking (RELUTET) provided free legal aid to 11 children between June 2007 and January 2008. Plan Togo supported the Togolese Government in assigning a lawyer to plead three cases of rape of minors before the Lomé court of first instance between January and April 2007.

- Challenges:

V) Detention conditions

a) In general (condition in detention centres):

- Current Situation/Achievements:

There are no special prisons for minors, but there are sections fitted out for them in ordinary prisons. The Children's Code provides that all detention and correctional facilities must have social workers and areas set aside for juveniles.

To improve children's conditions of detention (where detention is decided upon), the Government has had juvenile sections created in some prisons (five out of 12 prisons), with support from its child protection partners. These improvements have not been made in all prisons, however, and some young people are still being detained with adults, some of whom have committed more serious crimes than they have, and are being treated as adults. In some cases, however, children remain in detention for a long time because their parents cannot be contacted or their identity is unknown.

In its juvenile justice component, the national programme for the modernization of the justice system envisages a new civil prison for minors with ventilated rooms and training premises, in other words, an educational centre that should contribute to the development and social reintegration of child detainees.

Prison sentences are imposed by the juvenile court only when the child is aged over 16, his or her offence constitutes a crime or he or she reoffends after benefiting from educational measures. The sentence may not exceed half the maximum prison term applicable to adult offenders or a total of 10 years. The juvenile court ordering imprisonment must adduce special grounds for its decision.

To sum up, no sentence of capital punishment or life imprisonment may be imposed on a minor in conflict with the law in Togo.

The Togolese Criminal Code of 13 August 1980 provided for capital punishment, but this penalty was never applied to a child. The death penalty was abolished in Togo on 23 June 2009, pursuant to Act No. 2009-011.

- Challenges:

b) Pre-trial detention:

- Current Situation/Achievements:

Only the Lomé juvenile division is responsible for conducting the pre-trial investigation for juveniles in conflict with the law, ensuring their pretrial detention and carrying out any investigations ordered by the juvenile magistrate. This initiative is in line with the Riyadh Guidelines and the Beijing Rules. The juvenile division has the capacity to handle 28 children.

- Challenges:

c) Separation from adults:

- Current Situation/Achievements:

- Challenges:

VI) Alternative measures:

- Current Situation/Achievements:

The Children's Code allows several alternatives to prison to be imposed on young offenders, such as: placement with trustworthy parents; placement in an educational, vocational or health institution; penal mediation, in which a non-professional mediator is appointed to ensure that the procedure is settled amicably.

- Challenges:

VII) Re-adaptation / reinsertion of children:

- Current Situation/Achievements:

Togo does not have any special units responsible for reviewing the cases of offenders aged under 18.

The inadequate resources assigned to institutions that care for children in conflict with the law and their poor functioning are a real obstacle to these children's reintegration. The Children's Code provides for the creation of a reception and training centre for convicted minors or minors at risk in order to facilitate their social and institutional reintegration and rehabilitation.

The Yaokopé juvenile reintegration centre, created for the social and occupational reintegration of adult criminals, was reorganized in 2005 to receive minors in conflict with the law. It has capacity for 20 children and takes in boys placed by the Lomé juvenile court and other courts in the country. It is responsible for the rehabilitation and re-education of children in conflict with the law and returns them to the school system. Parents' visits and short family stays are organized to prepare the children for their final return home. The care of minors component was suspended in 2007.

509. The Foyer Antonio home takes in underage girls in conflict with the law placed there by order of the Lomé juvenile magistrate or of courts in the country's interior. The centre has capacity for 12 girls.

510. The Caccaveli observation and social reintegration centre takes in children in difficult circumstances —street children, children at moral risk, children in conflict with the law— who are placed either by the Lomé juvenile court or by judges in the country's interior. It has capacity for 40 children. Children stay one to three years for observation, re-education and social and occupational reintegration. ICCB, with UNICEF support, provides food so that children placed in such centres can receive free meals.

511. The Kamina juvenile re-education centre used to receive convicted ordinary juvenile offenders aged under 16 and acquitted juveniles having acted without discernment and sentenced to placement in a rehabilitation centre. The centre, created purely for juvenile offenders required to serve a sentence, was no longer operational. Thanks to financial support from UNICEF and technical support from ICCB Togo, the centre is again operational and receives children in conflict with the law placed there by ICCB.

522. The reduction in the number of children in conflict with the law being held in detention centres can also be explained by the establishment of observatories for the monitoring of detention centres. ICCB Togo, with financial support from UNICEF, has set up five such observatories for five detention centres, namely, Aného, Tsévié, Vogan, Notsè and Atakpamé, which help it look for parents and plaintiffs, conduct prison visits, reintegrate children in conflict with the law and monitor their reintegration. They also serve as watchdogs, deterring police units and detention centres from committing the most flagrant violations. These observatories were formed, and are currently operational on the ground, to defend the interests of children in conflict with the law.

- Challenges:

VIII) Training of professionals:

- Current Situation/Achievements:

In practice the specialization in juvenile justice does not exist in the Togolese judicial system.

Juvenile Magistrates, whose appointment is provided for in article 458 of the Code for Criminal Procedure, but who have yet to be appointed to all the country's courts. Juvenile Courts so far only exist in the capital, Lomé.

The Togolese Government cooperation programme with UNICEF has included capacity – building for all juvenile justice stakeholders. Judges, clerks of the court, police and prison staff have been trained in the supervision of children in conflict with the law or at moral risk and social workers have been trained in care of detainees.

The programme for the modernization of the justice system and the Children's Code provide for juvenile units to be created. Capacity building for judicial personnel began in 2006 and was stepped up in 2009 as a result of the UNICEF programme carried out in partnership with ICCB.

- Challenges:

A study on the state of juvenile justice in Togo's judicial system is underway in order to take better account of child protection by instituting a well-organized juvenile justice system.

Raising awareness among professionals and the general public alike.

IX. Other relevant areas:

- Current Situation/Achievements:

- In 2003, the Lomé court recorded 26 cases of children referred to the public

prosecutor's office; in 2004, the number of cases was 39, in 2005 it was 61 and in the first half of 2006, it was 36. Once their cases had been considered by the juvenile court, most of these children were returned to their families.

- Challenges:

2.2. TRANSVERSAL PROBLEMS / OBSTACLES:

- Birth Registration
- Geographic issues, regarding Lomé on one hand and all other areas on the other.

2.3. INTERAGENCY PANEL ON JUVENILE JUSTICE: Did the Committee ask any questions in relation to technical advice and assistance in juvenile justice or if they mention the Panel in any way?

- No
 Yes

3. MAIN CONCLUSIONS AND RECOMMENDATIONS BY THE COMMITTEE:

(please use bullet points or give title to paragraphs in order to facilitate the reading)

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4. 4. (Only if the country has a DCI-section): DCI perspective/response

- info on what DCI sections do on these issues

- recommendations by DCI sections

(to get this information, send the report to the National section and ask them if they have any information for this part).

Sources:

- United Nations Convention on the Rights of the Child

- United Nations Committee on the Rights of the Child. Concluding observations and recommendations to the Initial report of *country name*.

- United Nations Committee on the Rights of the Child. Initial report and 2nd/3rd periodic reports of *country name* (State reports).

- *country name* NGOs' Working Group 'on Protection of Children Rights', (Alternative report)

5. ANNEX:

5.1. Composition of country delegation

Maitre Yacoubou Koumadjo HAMADOU, Ministre des Arts et de la Culture, Chef de Delegation;

M. Sebade TOBA, Charge d'Affaires de la Mission Togolaise a Geneve, membre;

Madame Badabossia AZAMBO, Directrice Generale de la Protection de l'Enfant au Ministre de l'Action Sociale et de la Solidarite Nationale, membre de la Commission Interministerielle de Redaction des Rapports Initiaux et Periodiques (CIRR), membre;

Madame Kayi ABBEY-KOUNTE, Conseillere a la Cour d'Appel de Lomé au Ministere de la Justice, chargé des Relations avec les Institutions de la Republique membre;

Commandant Bamana BARAGOU, Conseiller au Ministere de la Securite et de la Protection Civile, membre de la Commission Interministerielle de Redaction des Rapports Initiaux et Periodiques (CIRR) membre;

Monsieur Koffi Ouboenale LANTOMEY, Directeur des Enseignements Prescolaire et Primaire au Ministere des Enseignements Primaire, Secondaire et de l'Alphabetisation, membre;

Madame Mazalo TEBIE, Directrice de Genre et des Droits de la Femme au Ministere de la Promotion de la Femme, membre ;

Monsieur Kokou MINEKPOR, Directeur de la Legislation et de la Protection des Droits de l'Homme au Ministere des Droits de l'homme, membre de la Commission Interministerielle de Redaction des Rapports Initiaux et Periodiques (CIRR), membre;

Monsieur NARETH-MESSAN A.Komlan, Deuxieme Secretaire a la Mission Permanente du Togo, membre;

Monsieur AHONDO Komla Deo, Charge de Mission au Secretariat General du Gouvernement, membre ;

Docteur N'TAPI Tchiguiriri Komlan Kassouta, Chef de la Division de la Sante Familiale au Ministere de la Sante, membre ;

Monsieur AFOLA Kokuvi, Chef session Budget des Prefectures, Charge des Departements Ministeriels du Groupe G au Ministere de l'Economie et des Finances, membre;