Republic of Togo
Work – Liberty – Homeland

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INITIAL REPORT OF THE GOVERNMENT OF TOGO ON THE IMPLEMENTATION OF THE AFRICAN CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD

January 2009
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I. INTRODUCTION


Article 43 paragraph 1 of the African Charter on the Rights and Welfare of the Child requires state parties to submit to the African Committee of Experts on the Rights and Welfare of the Child, through the Secretary General of the African Union (AU), initial reports on measures adopted to give effect to the provisions of the Charter and on the progress achieved in the exercise of these rights within two years after the entry into force of the Charter.

Thus, this report prepared in accordance with the guidelines developed by the African Committee of Experts on the Rights and Welfare of the Child sets out the legislative, regulatory, administrative and other measures taken by Togo, to give full effect to the provisions of the Charter and the difficulties encountered in the implementation of the rights provided thereof.
II. GENERAL MEASURES OF IMPLEMENTATION

8. Provide relevant information in accordance with Article 1 of the Charter of the child in particular on:

a) The initiatives undertaken in accordance with institutional procedures and provisions of the Charter of the child to adopt legislative and other measures to give effect to the provisions of thereof.

Articles 50 and 140 of the Constitution of October 14, 1992, recognize the superiority of conventions ratified by Togo over domestic laws without exception. Indeed, under Article 50 of the Constitution, rights and duties enshrined in the Universal Declaration of Human Rights and international human rights instruments ratified by Togo are an integral part of the Constitution. As per Article 140 of the Constitution, treaties or agreements duly ratified or approved, have upon publication a higher authority/relevance than national laws. However, the applicability of such provisions depends upon their objectives. Thus, any provision enacted solely for the benefit of the rights of citizens applies immediately and can be invoked before the courts who must apply it. On the other side, one aiming at the criminalization of an act or a fact is subject to compliance with the domestic law, which in principle must provide for applicable sanctions.

b) Measures for integrating the rights and welfare of the child in the laws of the state party or in any other agreement or international agreement in force in that state

With regards to measures taken to integrate the rights and welfare of the child in the laws of Togo, it is worth mentioning the following texts:

- The Constitution of October 14, 1992

Articles 2, 11 and 35 take into account the principle of non discrimination and equality of all human beings, the right to education of children, and the right to health. Articles 25 and 26 recognize the freedom of thought, conscience, religion, worship, opinion, expression and press freedom. Articles 13 and 21 protect the right to physical and mental integrity, to life and safety of persons. Section 36 protects youth against any form of exploitation or manipulation. Articles 28 and 29 guarantee respect for privacy, dignity, honor, image, shelter and secrecy of the communications and correspondence of every person.

Articles 16, 18 and 19 deal with judicial guarantees such as the right to a fair trial within a reasonable time by an independent and impartial jurisdiction, the right to
be assisted by counsel starting from the preliminary inquiry, the right to be examined by a doctor of his choice, the right to be informed of the charges, the right to benefit from the presumption of innocence and the right to receive treatment that preserves the dignity, physical and mental health and facilitates social reintegration.

- Ordinance No. 80-16 of January 31, 1980 relating to Togo's Law of Persons and Family Code

It takes into account the best interests of the child in its provisions concerning the marriage of minors (Article 49), child custody in cases of divorce or separation of parents (articles 142, 143 147et 151), the exercise of parental authority (Articles 253, 254 and 333) and the succession criteria for the child in civil law in the sense that the child conceived and alive will be recognized as an heir only if it is in the child’s interest (article 395). It also provides for the nutrition of the Child (Articles 102, 103.110, 204, 205).

- The Penal Code of August 13, 1980

It punishes indecent exposure (Article 84 to 86), rape (Article 87), exploitation for prostitution (Article 92), gross violation of, gangster- ship (Articles 187 to 189), offenses committed by parents and third parties on a minor (Article 47, paragraph 1, Articles 65, 70, 71, 73, 74, 78, 79, 81 to 83), violations to civic status (Articles 75 to 77).

- The Criminal Procedure Code of March 2, 1983

It states in its sub article X relating to child offenders, procedural rules of prosecution, investigation, filing and judgment concerning child offenders before juvenile jurisdictions (Articles 456 et seq.)

- The Act of May 16, 1984 concerning the protection of girls and boys enrolled in an educational institution or vocational training center

It criminalizes and punishes the act of making a girl pregnant or the fact of having an intimate relationship with a girl or a boy enrolled in one of these institutions.

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

Article 1 and 2 define “genital mutilations”. Female Genital Mutilation is defined as any partial or total removal of external genitalia of little girls, girls or women
and/or other operations on these organs, excluding surgical operations performed on prescription.


Articles 2 to 6 define the action, Articles 7 to 9 provide for preventive measures and the quantum of penalties relating thereto, are listed in articles 10 to 15. The advantage of this law is that even if it is the parents themselves who are perpetrators or accessories, they can be prosecuted as equally as third parties. If they are first time offenders, the law grants them sentences compounded with probation (Article 12).

- The Labour Code of December 13, 2006

This code fixes the minimum working age of the child at 15 and above. Any employer caught exploiting a child under this age is pursued in accordance with legal provisions relating to the exploitation and underage labour of children (Article 150 and 151). Thus, it punishes offences committed in the workplace for exploitation of child labour.

- Act No. 017-2007, 6 July 2007 relating to Code on the Child

This code incorporates into the national legislation, all the provisions and international principles on the protection of child rights. It is the first legal instrument that takes into account the promotion and protection of rights in almost all areas governing the life of the child. In this sense, it takes into account the civil, social, criminal and procedural rights of the child. At the institutional level, this text identifies potential institutional bodies who may be involved in the promotion and protection of child rights. This code has the advantage of combining into one document all universally recognized legal instruments on the protection of child rights and the principles of child protection. It is subdivided into eight headings, including a preliminary heading devoted to definitions and general principles (articles 1-9), a Heading I on the rights and freedom of the Child (Articles 10 to 239), Heading II on the rights of the child to special protection (240 to 427), a Heading III which covers the duties of the Child (Articles 427 to 429), Heading IV on the obligations of the State to protect and promote the rights of the child (Articles 430 to 441), a Heading V on the protection and promotion of rights (Articles 442 to 444), a Heading VI on the protection, promotion of child rights by private institutions (Articles 445 to 455) and Heading VII on final provisions.
(Articles 456-457) repealing any other provisions contrary to those of the said code.

The international legal instruments on the child to which Togo is a party are:
- ILO Convention No. 29 concerning Forced Labour of 28 June 1930 ratified by Togo June 7, 1960
- Convention No. 182 of the ILO Worst Forms of Child Labour;
- ITO Convention No. 138 on Minimum Age for Employment adopted June 26, 1973 and ratified by Togo March 16, 1984;
- The Convention on the Rights of the Child of 20 November 1989 ratified by Togo on 1 August 1990;
- ............of 17 June 1999, ratified by Togo in September 19, 2000;

Item 8:c – Initiatives for the promotion of values, traditions and positive cultural practices

Since its establishment, the Ministry of Social affairs, Promotion of Women, Protection of Children and the Elderly participated in the enforcement of the government's policy of promoting the values, traditions and positive cultural practices long formulated by the Ministry of Social Affairs and the Ministry of Culture.

In order to allow school age children to also benefit from the initiation rites of traditional Voodoo practice, the Ministry responsible for the protection of children and the elderly, has, in 2007, involved the heads of convents in discussions about the duration of initiation rites which are too long (three years).

Thanks to the involvement of local protection committees combined with the openness of the heads of convents, the initiation rites of children now take place during school holidays and lasts for a period of two to four weeks, thereby allowing children to attend school and also follow the initiation of Voodoo cult.
By the same token, the Ministry undertook public awareness campaigns on the promotion of traditional mechanisms for the protection of young girls in communities. Hence, traditional practices of the Bassar community (dance of the virgins) and Kabyè (akpéma) have been promoted. Today, many are young girls who abstain until marriage. The promotion of these traditional values and cultural practices aims for the protection of children from early and forced marriage and from STD / HIV-AIDS

**Item 8:d - Existing or proposed mechanisms at the national or local level to coordinate policies related to the child.**

**Existing Mechanisms**

A number of mechanisms are in place to coordinate policy related to the child.

1. **At the micro level**

1.1. **Neighborhoods, villages or district**

Traditionally, there exist what are known as social centers in some villages and neighborhoods. The person in charge of the protection of the center also implements the duties of the Ministry of Social affairs, Promotion of Women, Protection of Children and the Elderly in his territory. Every activity is carefully documented in a special register and report will be made thereof to his supervisor. He identifies and works with groups, associations and non-governmental organizations and others also intervening in his territory. He is for the locality, the envoy of the Ministry to local authorities (Village Development Committee, District Development Committee, opinion leaders, etc...), Groups, associations and NGOs at the grassroots level

He reports to and takes his instructions from the prefectural administration.

1.2. **Prefecture**

At the prefectural level, activities related to the child are led by the Section Head appointed by Ministerial decree. He is in charge of keeping a register identifying groups, associations, NGOs or others intervening in the area of child protection throughout the prefecture. He is urged to centralize all the statistics collected by the agents, associations and NGOs at the grassroots level, which he is expected to complete by those registered by other institutions (justice, police, education etc...) on all cases involving children.
He reports to and takes his instructions from the regional administration.

2 At the mid level

2.1 Region

At the regional level, activities are led by the Division Head appointed by Ministerial decree. With the assistance of the Regional Director, the head of division is in charge of centralizing all the data and prefectural reports. He is in charge of keeping an indicative register on groups, associations, NGOs or others intervening in the area of child protection throughout the prefecture. He collects all activities undertook by the department and all activities of groups, associations, NGOs or others in his prefecture, and provide a daily report thereof to the Regional Director.

In technical terms, the Division Heads and Regional Directors are urged to be in constant dialogue with the General Directorate for Child Protection for mutual discussions and instructions.

2.2 General Directorate for Child Protection

It is the technical arm of the Ministry of Social affairs, Promotion of Women, Protection of Children and the Elderly. As such, it develops action plans and programs. It works directly with the regions and prefectures as well as the civil society to implement the developed plans and programs. It is responsible for coordinating and supervising the activities of associations, NGOs (non_donors, individually) and local communities intervening throughout the territory in the field.

The General Directorate for Child Protection works closely with the Ministry and, along with central directors, takes part in the board's technical meeting every Monday morning.

2.3 Specialized Institutions

The National Committee on the Rights of the Child (NCC)

According to the provisions of section 453 of the Code on the Child, the main objectives of The National Committee on the Rights of the Child (NCC) are:
- The promotion of child rights within the jurisdiction of the Republic of Togo by all means and in particular:
  - Pedagogic activities including information, advocacy, education, research, propagation, training and development;
  - the elaboration of draft laws and regulations to ensure greater respect for rights of the child for submission to government;
  - activities of coordination and cooperation at national, bilateral and multilateral level;

- The protection of child rights in the territory of the Republic of Togo;
- Participation in the preparation of national reports concerning child rights
- Monitoring the implementation of protection measures and promotion of child rights and in particular the provisions of the Code.

Within the framework of the Modernization Program of the judicial system in Togo, a draft decree relating to the Composition, Organization and Functions of the said committee is still in the process of elaboration.

The NCC must be an independent and financially autonomous body through grants from the government and contributions from bilateral and multilateral agencies or private institutions.

3.1 At the macro level (overall coordination)

3.2 The Ministry of Social Affairs, Promotion of Women, Protection of Children and the Elderly.

It is responsible for implementing government policy on child protection issues. It coordinates all activities.

**Intended Mechanisms**

The Ministry of Social Affairs, Promotion of Women, Protection of Children and the Elderly plans to organize the coordination as follows:
a) **Establishment of a High Level Council for Reflection and Guidance of Actions (HLCRGA)**

It will act as the final authority for adoption and implementation of all concerted actions.

The council will be in charge of:

- coordinating all interventions in the field of child protection
- to give advice on all actions to be undertaken in conformity with current policy
- To plan and enforce major activities.

b) **Permanent Coordination of Commissions (PCC)**

The Ministry of Social affairs, Promotion of Women, Protection of Children and the Elderly intends to set up a permanent coordination that will be in charge of centralizing all the recommendations from agencies, studies, conferences, meetings or others including those of ad hoc and permanent thematic commissions (existing or future) regarding adoption, child abuse, education, trafficking, child prostitution, etc..

The Permanent Coordination will be in charge of centralizing, synthesizing and instructing the Council on urgent or chronological actions to conduct in order to achieve tangible results.

c) **Focal Points Coordination (FPC)**

In order to take into account the concerns of all ministries involved in the field of child protection and undertake concerted efforts for the welfare of children, a coordination of "Child Protection" focal points will be set up.

d) **Coordination of networks and federations of NGOs on working on Child Protection**

Such Permanent coordination will be established at the cabinet level of the Ministry of Social Affairs, Promotion of Women, Protection of Children and the Elderly.
e) “Children for Children” Platform for Action

In order to engage the participation of children in activities that concern them, such permanent platform will be established for them. The platform will be decentralized at the regional, prefectural as well as locality level.


Since April 2000 an extensive awareness campaign on the principles and provisions of the African Charter on the Rights and Welfare of the Child was conducted throughout the territory targeting political actors, prefects, mayors, magistrates and police commissioners as well as chief of police stations, NGOs working on the protection and promotion of child rights as well as children, mostly students, themselves. Such campaigns were conducted in public places (town halls, social affairs centers or community centers) and schools. The audience was often composed of apprentices, workshops teachers, teachers, students, local authorities, heads of Village Development Committees (VDC) and local NGOs working in the prefectures.

The rights of children are incorporated in school curricula and training programs for law enforcement and security officers as well as in all schools with a direct impact on children such as the Ecole Nationale d'Administration (National School of Administration), Ecole Nationale de Formation Sociale (National School for Social Work), Ecole National Medical Assistants (National School for Medical Assistants).

Training sessions on child rights and international human rights law targeting lawyers, court clerks, customs officers, social workers, social workers dealing with youth and sports, teachers, the military, have been organized by the government, with financial and technical assistance from development partners and NGOs working in the field, namely: UNICEF, ICRC, the WAO-Afrique, Plan Togo, BICE, IPEC / ILO.

Moreover, several awareness sessions were held for the military in the garrisons.
The rights of children are incorporated in Togolese military training materials and are credited up to 5 coefficients. Launched in 2002, the project of military staff training on child rights issues relating to pre, during and post-conflict situations has broadened since February 2008 to include law enforcement and security officers.

Similarly, an attempt to introduce child rights education into the curricula of the National School of Administration and the National School for Social Work is underway.

Togolese political parties have also included child rights issues in their programs and have campaigned for the protection of children during the 2007 parliamentary elections, following the capacity building of their members by Save the Children and Wao-Afrique. FODDET on its part has started in 2005 and 2006 two sessions of training sessions on child right plannification (PDE) for its member networks.

III. DEFINITION OF THE CHILD

10. Definition of the child in Togolese legislation

Since the adoption of Act No: 2007-017 of 06 July 2007 pertaining to the Code on the child, emancipation as well as the age for criminal responsibility in Togo has been raised to 18. Child is therefore defined, as per Article 2 of the Code, as "every human below the age of eighteen (18) years" and the term child shall have the same meaning as minor. This definition is consistent with that of Article 2 of the Charter which sets majority at 18. Article 3 of the Code defines the discerning child as "any child able to judge clearly and soundly all things or all situations in which he could be and is therefore able to participate in any decision concerning him".

The Child Code in its Article 4 also defines the best interests of the child. According to this legal instrument, therefore, is meant by best interests of the child all that is beneficial to the latter for his mental, moral, physical and material well-being. Any decision concerning the child, whether judicial, administrative, and educational or family related must be made in light of the best interests of the concerned child.

Article 5 in turn establishes the principle of the children’s right to the enjoy all the rights and freedoms that the Code recognizes and guarantees. Any discrimination based on race, ethnicity, color, sex, language, religion, political or other opinions,
national or social origin, property, birth, disability, health status or other status is therefore prohibited.

Today in Togo the emancipation of the child is accorded starting from the age of 16 by a court or by right or automatically in case of pregnancy; the age of marriage in Togo both for the girl and for the boy is 18, which in turn prevents early marriage or child marriage. However, the guardianship magistrate may, for serious grounds, authorize the marriage of a minor who is at least 16 years of age as opposed to article 43 of the Togolese Code on the law of persons and family of 31 January 1980, which sets the age of marriage at 17 for women and 20.

IV. GENERAL PRINCIPLES

11. Relevant information, in particular main legislative, judicial, administrative and other measures, in force or proposed; factors and difficulties encountered and progress made in implementing the provisions of the Charter of the Child and priorities in the implementation thereof and specific objectives for the future, should be provided regarding:

11-a) Non-Discrimination

1- Information on legislative measures regarding the principle of non-discrimination (Article 3 and 26)

Non-discrimination is regulated by the following legal instruments that relate to concepts of non-discrimination and equality as well as those of non-restriction and exclusion:

- The Universal Declaration on Human Rights of 10 December 1948
  Article 2 enshrines the principle of non-discrimination in that it rejects, in the enjoyment and exercise of rights and freedoms it enshrines, any distinction based on race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Article 1 sets out the principle of equality, a necessary corollary of the principle of non-discrimination by proclaiming that human beings are born free and equal in dignity and rights.

- The Constitution of October 14, 1992:
• Article 2, paragraph 1 reaffirms the principle of equality and non-discrimination as follows: «The Togolese Republic guarantees equality before the law for all citizens without discrimination based on origin, race, sex, social status or religion». Paragraph 2 of the same article further adds respect for all political views, philosophical views as well as all religious beliefs;

• Article 11 enshrines the principle of equality of all human beings in its paragraph 1, while paragraph 2 of the article establishes the principle of equality of men and women before the law and its paragraph 3 decides on the principle of non-discrimination including on ethnic or regional origin in addition to the other reasons listed in Article 2 of the Universal Declaration of Human Rights of December 1948;

• Article 32 acknowledges the right to Togolese nationality of children born to a Togolese father or mother;

• Article 35, paragraph 2 provides that school is compulsory for children of both sexes until the age of 15.

- The Labour Code of December 13, 2006
  Article 2 of this Code provides for the right to work of any person regardless of sex or nationality.

- The Child Code
  * Article 5 of the Child Code states: «Every child can enjoy all rights and freedoms recognized and guaranteed by this Code. Is prohibited any discrimination based on race, ethnicity, color, sex, language, religion, political or other opinions, national or social origin, property, birth, disability, health status or other status”.

  * Article 58 guarantees for the child born out of wedlock and whose paternity is legally established, the same rights and obligations as children born in marriage; Article 86 provides that the adopted child has, in the family of the adopter, the same rights and same obligations as a child born in marriage; articles 114 and following are devoted to the inheritance of urban and rural property;
Thereby reiterating Act No: 16 of 6 May 1975 pertaining to the reform of education, Article 255 makes school attendance compulsory for children of both sexes up to age 15.

2- With regards to the judiciary

The Togolese Constitution of 14 October 1992 states that Togolese citizens have equal protection before the law; in practice all jurisdictions respect this principle.

3- Information regarding future legislation on the principle of non-discrimination (Article 3 and 26)

The draft Code on Health, submitted to parliament for review and approval, includes provisions relating to the protection of the health of the family and the child in Articles 64 to 68 and 94 to 105. It aims at the general well-being both physical and mental and the social development of child thanks to application of "Reproductive Health" (Article 94 to 95), "Maternal and Child Health" (Article 96 to 98), "Family planning" (Article 99 to 105) programs on the one hand, and the obligation upon parents or guardians to vaccinate their children during their first year and to respect the various calendars thereof on the other.

- Hague Convention adopted by the Council of Ministers

The government has adopted in June 25, 2008 at the Council of Ministers, the bill authorizing ratification of the Hague Convention on Protection of Children in cases of International Adoption. This bill has been forwarded to the National Assembly for consideration and adoption.

11.b): Best Interests of the Child (Article 4)

1- Information on legislation concerning the best interests of the child

The principle of the best interests of the child are enshrined in several legal instruments, the most recent and significant of which is the Child that defines the concept of “best interest” in Article 4. Article 8 of the same code on its part, establishes that the best interest of the child must prevail in any action or decision concerning him, be it family related, administrative, social, judicial or legislative.
It is in this sense that several provisions of the code refer to the interest of the child in matters parental separation, whether de facto or in cases of divorce (Articles 108 and following) or in cases of Adoption (Article 67 Para. 2 for example which allows derogation to placement for adoption when the best interest of the child requires it).

Other legal instruments are:

- The Code on Persons and Family of January 31, 1980 several articles of which enshrine the principle;

  Article 100 refers to the preservation of moral and material interests of the household and children, for the preservation of which parents owe mutual care and support.

  • Article 101 provides that the husband exercise his power as head of family in the common interest of the household and the children;
  • Article 208, paragraph 2 provides that full adoption can take place only if it benefits the adopted, i.e. advantageous to the child who may be Togolese or not;
  • The first sentence of Article 239 refers to the interest of the child in the following terms: "If the mother and father fail to agree on what is required by the best interest of the child, the practice that they may have followed on previous similar occasions shall prevail";
  • Article 710, paragraph 3 provides that the child may be placed at the time that best suits the interest of the child to determine the applicable law in situations where a change of nationality will occur at the establishment of parentage;

- the Code on Nationality of September 7, 1978

Article 8, paragraph 1 of this Code relates to the acquisitive nature of Togolese to all persons born from foreign parents at the age of 18, provided that they prove Togolese residence since the age 16, a legislation that allows the child the ability to choose the most advantageous nationality; Article 24 makes the loss of Togolese nationality by a minor who is also a national of a foreign country subject to an authorization granted by government decree, a solution implying that the acquisition of foreign nationality must be seen as more favorable to the child.
2- Information on the judicial system with regards to the best interests of the child (Article 4)

With respect to the application by the judiciary of the principle of best interest of the child, several decisions are taken by the Togolese courts that take the principle into consideration. For example, the judgment No. 2847/2007 issued on 28 December 2007 pronounced the divorce between spouses SZ and K. A. The court after granting the divorce to the couple awarded custody of the three children to their mother taking the best interest of the children into consideration. Similarly, in terms of protection of the rights of child offenders, the best interests of the child led the juvenile court at a hearing on December 21, 2007, to take only educational measures concerning 9 children who appeared before the court (placement of 5 of them in trustworthy families and in institutions for 04 others).

11.c): Rights to life, to survive and to develop

1. Information on legislative measures regarding rights to life, to survive and to develop (Article 5)

Articles 13, paragraph 1 and article 21 paragraph 2 of the Constitution of 14 October 1992 ensure the security of the person (the right to life and security, the right to physical and mental integrity, freedom from torture, cruel, inhuman and degrading treatment).

The Constitution guarantees the Togolese’s right to life. In addition, abortion is illegal, which protects the right to life of the child not yet born.

The child code enshrines the principle of indivisibility of rights. Several legal instruments refer to the child’s right to life, to survive and to develop.

The child Code in Article 7 guarantees the right to life. Article 149 makes it the duty of parents to shelter, feed, care for, maintain, raise, educate and cultivate to their children. As for Article 152, it requires parents to contribute according to their abilities and financial capacities to ensure the development of the child.

The Penal Code of August 13, 1980 contains provisions protecting the life, survival and the development the child in the following articles:
• Article 47 d) punishes with up to five years of imprisonment intentional violence on a child under 15 years;
• Article 48, paragraph 1 punishes with 5 to 10 years imprisonment, intentional violence inflicted without intent to murder resulting nevertheless in the death the victim;
• Article 48, paragraph 2 raises the sentence to up to 20 years of imprisonment if the fatal blows were delivered with a weapon or were inflicted by many on a single victim;
• Articles 71 and 72 criminalize and punish parental neglect (2 months to 2 years of imprisonment);
• Article 73 criminalizes and punishes desertion of household (one month to one year imprisonment or a fine of 10,000 to 100,000 FCFA);
• Article 74 criminalizes and punishes harmful behavior with one month to one year imprisonment or a fine of 10,000 CFA to 100,000 CFA francs every parent who has seriously endangered the health, morality and education of their children or those living in the same home by misbehavior, laziness, vulgarity or drunkenness;
• Articles 78 to 81 criminalize and punish the abduction, removal or displacement of a minor from the place and against the will of those who have authority over him had placed him (one to five years of imprisonment and five to ten years of imprisonment if the minor was under 12 years);
• Article 82, paragraph 1 punishes the non-presentation of children in defiance of a binding court order adjudicating on their guard (1 month to 2 years imprisonment);
• Article 83 criminalizes and punishes whoever abandons a child unable to protect himself (one to three years imprisonment when it has resulted an illness or an incapacity to work for more than six weeks, five to twenty years of imprisonment if the abandon resulted in the death of the child);

Several articles of the Code on Persons and Family of January 31, 1980 provide for the child’s right to life, to survive and to develop:

• the child's right to food is enshrined in Article 110 which stipulates that the spouses jointly consent, by the mere fact of marriage, the obligation to feed and support their children;
• the child's right to adequate housing which is, as well as food, another essential element of traditional Africa (the shelter), derives from Article
104 of the Togolese Code on Persons and Family, which states that the domicile or residence of the family is a place selected by mutual consent of the spouses failing which must be decided by the husband; in cases of children born out of wedlock, it may be the domicile or residence of the parent having recognized him or the father’s when recognition by both parents;

• the right of the child to suitable clothing results from a combined reading of article 110 and 117 of the Togolese personal and family Code: the first instrument refers to the obligation of spouses to cultivate and educate their children by providing fitting clothing, The second article urges courts to ensure that the payment in kind of child alimony must cover for food, clothes, medicines, books and notebooks, or even housing.

Act No. 16 of 6 May 1975 pertaining to the reform of education and establishing the “Nouvelle Ecole” sets its objectives and principles: The objectives are to the benefit of the democratization/openness of the school (compulsory education from 2-15 years for both sexes, free education and equal access), the maximization of the school (introduction of Kabyê and the Ewe of Togo in the education system); the principles of the school relate to the training and development of a truly African spirit, the training of citizens adapted to national realities and rooted in the community, the shaping of critical thinking, development of gifts, talents, physical and mental abilities (prohibitions of coercive methods and guidance and close cooperation between school and family), strengthening subjects such as drawing, music, sports and physical education, art education and aesthetics, civics and introduction to practical life, sex education and initiation into family life. The ATBEF has for long campaigned to increase contraceptive use to reduce the number of illegal abortions, discriminatory laws were repealed. Under the law, infanticide and abortion are considered as crimes.

2. Information on judicial measures regarding rights to life, to survive and to develop (Article 5)

In terms of judiciary measures by the courts, it is necessary to mention judicial decisions regarding child support paid to those who have custody of the child and including the need for covering of school and pharmaceutical fees...
11.d and e) Respect for the views of children (Article 7)

Article 29 of The Child Code in its Article 29 grants children the right to be heard on all matters concerning their education, religion, orientation, and social life.

Article 30 of the Code recognizes the child's right to be informed about everything that contributes to his physical, mental and spiritual development within the limits set by law.

V. CIVIL RIGHTS AND FREEDOM

13.a): Name, Nationality, Identity and registration at birth

A- Name, Nationality, Identity and registration at birth

Provide information on legislative, judicial, administrative and other measures in force; factors and the provisions of the Charter of the Child, priorities in its implementation and specific objectives for the future.

1- Information on legislative measures regarding the Name, Identity and registration at birth

Article 10 of the Child Code guarantees the child the right to a patronymic or maternal surname to be assigned as provided by law.

Under Article 11 of the Code, a child born during marriage takes his father’s name. In case of denial of paternity, he takes the surname of his mother.

A child born out of wedlock takes the name of the parent whose paternity is established.

In cases where, both parents’ parentage is established simultaneously and later paternity established, the child takes the name of the latter.

Under Article 12 of the same Code, adoption grants the name of the adopting parents to the adopted. If adopted by two spouses, the adopted takes the name of the husband. The child in respect of whom no parentage is established takes the name assigned by the registrar of civil status (Article 3 of the Child Code).

2. **Information on judicial measures regarding the Name, Identity birth registration at birth (Article 6)**

Concerning judicial measures, it is worth referring to some decisions dealing with rights of personality.

Thus, when deciding on paternity issues, if the judge does not have enough evidence, he often calls on medico-legal expertise. When the child's blood group is different from that of the alleged father, the judge dismisses the case. For example, in a Sotouboua court decision, the judge dismissed the paternity of M on the ground that following medical examination, his blood group was O, whereas the child’s, R, is A +, and R mother’s is O +. The combination of two O genes cannot give another group than the group O while the child is in group A+I.

A court in Sokodé arrived at the same conclusion in two decisions in 1998 and 1999. In the 1998 decision, the child, K’s blood group is AB Rh-positive; the mother’s blood group is of the same type, while the alleged father’s blood group is O Rh positive. In the 1999 decision, the child’s blood is group is AB Rh-positive group and hemoglobin CC while the alleged father’s blood group is type O rhesus positive and hemoglobin AA2.

However, if the blood groups match, it is the case to deny paternity that is dismissed by the judge3.

Similarly, in another case, the first instance court of Kpalimé has ruled that under Article 193 of the Code on Persons and Family that the proof of paternity for children born outside wedlock can only be established by recognition or a trial. In this case, Ms. Tina attributed to the named G. the born child while Mr. Ota believes that the child is his legitimate child. As Ms Tina and G. have not opposed the action of Mr. Ota, the judge acknowledged paternity of the latter4.

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1 Ref Court of Sotouboua, judgment No X of May 4, 2000
2 Ref decisions No n° 05 of February 26, 1998 and n° 9 of February 25, 1999 of the first instance court of Socoke
3 Ref decisions n° 273 of March 12, 1996 of the first instance court of Lome and n° 48 of June 2, 2000 of the first instance court of Vogan
4 Ref decision n° 037 of 31 May 2001 of the first instance court of Kpalimé*
3. Information on administrative measures regarding the Name, Identity and registration at birth (Article 6)

On the application of Article 1 of the Decree of 2 July 1962 pertaining to the reorganization of the civil registry in Togo:

To facilitate registrations at birth, it is worth noting the establishment of Centers of Civil Registry at the health centers in major cities, chief towns of the Canton and with the village leaders. Children born in these health centers are reported by the midwives who witnessed the birth, on behalf of the family. But the withdrawal of the birth certificate is made by one of the child's parents (father or mother). For children born in hospitals, declaration is filled in by the midwife or gynecologist, and is transmitted to the notary civil registry under the jurisdiction of which the clinic operates. The withdrawal is also made in this case by a parent of the child (father or mother). In remote villages, many families are unaware of the decree and do not report their children on time. This explains the large number of cases relating to civil status filed in these communities.

In matters of change of name or surname, Article 13 of the Annex to the Code on Persons and Family of 31 January 1980 provides for an administrative procedure which is outlined as follows:

Change of name is subject to an authorization from the Minister of Justice. This order shall be published in the Official Gazette and in a regular daily paper (art. 13, Paragraph 1 of the Code). Application to change the surname must be published in a regular daily paper, and as of the date of publication, anyone who claims a legitimate interest, has a period of three (03) months to oppose the change of surname (art. 13, paragraph .., ).

It therefore appears follows from Article 13 of the Code that the change of family name is subject to the principle of immutability, which opposes any change of surname because the name, as an attribute of the physical person, is immutable. That's why its change, which is quite exceptional, is subject to proof of a serious ground.

4. Information on the factors and difficulties encountered

Among the elements relating to the difficulties encountered, should be mentioned:
- Lack of coordination between different administrations dealing with the matter: Services of the Civil Registry/Notary Public, the Ministry of Justice, the Ministry of Communication and Culture, the National Committee for the Protection and Promotion of the child and called CNE under the Ministry of Social affairs, Promotion of Women, Protection of Children and the Elderly, the division of Maternal and Child Protection created within the General Directorate of Health, the General Directorate for Promotion and protection of the child;
- The non revitalization of the CNE, organ in charge of coordination of activities relating to the child;
- remoteness of civil registry centers;
- lack of motivation on the part of the notaries;
- irregularities and fraud in the preparation of birth certificates;
- Ignorance of the public on the importance of identity, name and registration of children at birth.

5. **Information on progress and priorities in the implementation of the Charter and specific objectives for the future**

As to progress made in the implementation of the Charter, it can be indicated by the following actions:

- Organization of mobile court sessions to allow judges to prepare and deliver the auxiliary judgment in place of birth certificates, to sensitize parents and children on the issue of name, identity and registration at birth.

Statistics:

First Instance Court of Soloed
2006: 3327 auxiliary judgments
2007: 1895 auxiliary judgments
2008: 306 auxiliary judgments

First Instance Court of Sotouboua
2006: 1200 auxiliary judgments
2007: 1700 auxiliary judgments
2008: 444 auxiliary judgments
- the creation of committees of parents of students in public and private schools;
- awareness campaigns conducted by associations and NGOs working in the field of child protection and promotion of the rights of the child on the importance of identity and birth registration;
- Creation of civil registry divisions in the Directorate for Nationality affairs and the function of which is: examination of applications for change of name and follow up of execution.

With regard to the priorities in the implementation of the Charter, it is worth mentioning:

- Systematic registration of births in accordance with Article 1 of Decree No. 62-89 of 2 July 1962 reorganizing Civil Registry in Togo; to be done within 30 days of delivery;
- Follow up of the awareness campaigns conducted by the CNE and the regional committees for the protection and promotion of the child.

Concerning specific objectives for the future, it should be noted:

- The establishment of an observatory that should keep a database on the promotion and protection of the child
- Formulating a national policy on the promotion and protection of the child with the following orientations:
  - Protection
  - Education
  - Environment

**B – Nationality**

Provide information, on the legislative, judicial, administrative and other existing measures; on the factors and difficulties encountered and progress made in implementing the provisions of the Charter on the Child, on the implementation and specific objectives for the future.
1. **Information on legislative measures concerning nationality.**

The question of nationality of the child is governed by the provisions of Articles 17 to 21 of the Code on the Child.

Under Article 17 of Act No. 2007-017 of July 06 pertaining to the Code the Child, the child born from Togolese parents is Togolese. The child born to a Togolese father or mother is Togolese.

Article 18 of same Code provides that any child born to foreign parents in Togo has the right to acquire Togolese nationality by declaration at 18 if he proves that he has Togolese residence since the age of 16.

As per Article 19 of the Code on the Child, a child found in the territory of Togo under the age of five (05) years and whose parentage is unknown, and any child born in Togo from parents whose place of birth is unknown, has the right to acquire Togolese nationality.

The Child Code in its Article 20 stipulates that a child whose father has become Togolese by naturalization automatically acquires Togolese nationality. Are, however, excluded from this provision:

   a) Children aged sixteen married under conditions laid down in Article 267 and following of the Code;
   b) Children who served in the army of their country of origin;
   c) Children under a deportation order or house arrest and not repatriated in due manner;
   d) Children who have been the subject of a serious conviction of up to 6 months of imprisonment for an intentional offense qualified as crime or infraction.

Under the provisions of Article 21 of the Child Code, any foreigner child who marries a Togolese may acquire Togolese nationality.

2. **Information on judicial measures concerning nationality.**

As for the application by the courts, it should be noted that individuals do not bring before the civil courts cases to challenge the acquisition of Togolese nationality as prescribed by Article 53 of the Code on Nationality of September 7, 1978. And we
find the same inaction when the Ministry of Justice refuses to repudiate Togolese nationality in favor of acquiring a foreign nationality.

3. Information on administrative measures in matters of nationality

First, some provisions of the Code on Nationality of 7 September 1978 impose upon the Minister of Justice to decide by decree in the following cases:

- Failure to produce a registered copy of the acquisitive declaration of Togolese nationality can be compensated by producing a certificate issued by the Minister of Justice at the request of the applicant (Art. 63 of the Code of Togolese nationality);
- Proof of non repudiation of Togolese nationality is made by a certificate issued by the Minister of Justice at the request of the applicant (Art. 64 of the Code of Togolese nationality);
- The inability to produce the copy of a decree of naturalization or the copy of the Official Gazette publishing this decree is compensated by a certificate that establishes the existence of the naturalization decree issued by the Minister of Justice at the request of the Applicant (Art. 65 of the Code of Togolese nationality);
- Unable to produce the copy of the decree for the loss or the issue of Togolese nationality is compensated by a certificate attesting the existence of the decree issued by the Minister of Justice at the request of the applicant (Art. 66 of Togolese nationality code).

Secondly, other articles of the Code on Nationality provide that the Minister of Justice has sole authority to issue a certificate of Togolese nationality to any person who proves that he is a national of the Togolese State (s.70) and that he may consult the Advisory Committee on nationality issues, established within his region, on the difficulties arising in connection with the issuance of certificates of nationality.

This commission, whose mission is to study problems concerning nationality is chaired by a magistrate and includes: The cabinet director of the President of the Republic, a representative of the Minister of Foreign Affairs and Cooperation, two judges and a representative of the State secretary in charge of Social Affairs and Promotion of Women, an officer of the Togolese armed forces; an officer of the gendarmerie (Article 67 and 68 of Act No. 78-34 of 7 September 1978 pertaining to the Code on Nationality).
Finally, yet other provisions of the Code on Nationality, require the intervention of the government which itself rules by decree in council of ministers. It is the case of the repudiation of Togolese nationality by a minor possessing the nationality of a foreign country, which is also made subject to an authorization granted by a government decree (article 24 of the Code). It is also true when the government opposes an acquisitive declaration of the Togolese nationality (article 33) or takes decisions on disqualification and repudiation of the Togolese nationality (Art. 45 to 47). It is same for decisions on naturalization and reintegration (art. 35 to 41).

4. **Information on the factors and difficulties encountered relating to nationality**

The establishment and management of certificates of nationality are faced with the following challenges:

- Members of the Committee issuing the certificates of nationality are non-permanent;
- lack of training of its members;
- Centralization of the nationality certificates issuing system in Lome;
- Delay in the conveyance of the records.

5. **Information on progress and priorities in the implementation of the Charter and specific objectives for the future**

The national program for the modernization of the judiciary (2005-2010) includes six sub-programs. The 1st sub-program, entitled Capacity building for the administration of justice plans as a priority the electronic management of certificates of nationality.

The new legislation on the restructuring of the Department of Justice has led to the creation of the Directorate for nationality affairs the duties of which include:

- receive, investigate and prepare cases for the acquisition, repudiation, revocation and reinstatement of nationality and follow up the litigation and the enforcement of decisions in this area;
- Process applications and prepare certificates of nationality;
- Manage the database and the electronic management of certificates of nationality delivery;
- Keep archives of certificates of nationality.
13.b): Freedom of expression (Article 7))

Information on legislative measures

In Togo, freedom of expression is basically guaranteed to every individual by Article 26 Para. 2 and Article 25 Para 1 of the Togolese Constitution. The first article (art 26 Para 2) states: «Everyone has the freedom to express and disseminate through speech, writing or other means, his opinions or the information he has… » whereas under Article 25 Para. 1 « Everyone has the right to freedom of thought and… expression…. »

Similarly, with regards to press and communication, Article 1 of Act No. 98-004/PR on press and communication of February 11, 1998 amended in 2000, 2002 and 2004 guarantees Freedom of “printed and audiovisual communications ». And Article 3 of same states that: « The Togolese State guarantees every person living in the country the right … to inform … ».

These are general provisions that may also apply to children.

As to the child, Child Code guarantees children freedom of expression under the provisions of Articles 29, 30 and 31. As per Article 29 of the Code "the child has the right to be heard on all matters concerning his education, religion, orientation, and social life." Article 30 of the Code recognizes the child's right «to communicate and to be informed about everything that contributes to his physical, mental and spiritual development within the limits of the law».

However, like other freedoms, freedom of expression is not unlimited.

In this regard, Article 31 paragraph 3 of the Code therefore states that "however, parents retain the right to exercise reasonable supervision over the conduct of their children."
Judicial measures

13-c) Freedom of thought, conscience and religion (article 9)

Information on legislative measures

The Child’s freedom of expression, freedom of thought, conscience and religion is guaranteed by the Constitution and the Code on the Child that enshrines the child's right to be heard on all points concerning education, religion, orientation, and social life.

Thus, in general, the Togolese Constitution of Oct. 14, 1992 states in Article 25, paragraph 1 that: "Everyone has the right to freedom of thought, conscience, religion, worship, opinion and expression". Paragraph 2 of that article further stipulates that "the organization and the practice of religious are free… “These, as stated, are provisions that any individual can claim, including the child”.

Moreover, and as per Article 1 of the Constitution, the Republic of Togo is a secular state. Paragraph 2 of Article 2 adds that the Republic “respects all political views, philosophical as well as all religious beliefs…” Thus, It clearly appears that there is no state religion in Togo that is imposed on the population and even less on the child. Article 25; paragraph 3 goes in the same direction when it states that the exercise of religion and expression of beliefs must be in compliance with the secular state.

In particular, Article 28 of the Code recognizes the child’s inalienable right to freedom of thought, conscience and religion.

But taking into account his vulnerability, paragraph 2 of the article retains to the parents, or to the guardians, the right to guide and orient the child in the exercise of those rights in a manner consistent with his development in accordance with national laws and policies in force.

However, such guidance cannot be made on the basis of a singlehanded decision of the parent. Indeed, Article 29 of the Code insists on the child's right to be heard on all matters concerning this freedom. So even if parents have the right or even the duty to guide and orient the child, they should not totally neglect the child’s opinion.
However, as with other rights and freedoms, it is a freedom that can be subject to limitations in its exercise. These are necessary for the respect of the freedoms of others, for public order, or the standards established by law and regulations.

**Information on judicial measures**

It should be noted that there have been cases of conflict between the child and his parents regarding the choice of religion, especially in matters of religion, but these cases were settled out of court. In any event, the best interest of the child has been taken into account.

13-d) **Freedom of association and peaceful assembly (article 8)**

**Information on legislative measures related to peaceful assembly**

Freedom of association and peaceful assembly is guaranteed in Togo, like other rights and freedoms by the Constitution in Article 30 paragraph 1. This article states: « The State recognizes and guarantees under conditions set by law, the exercise of freedom of association, assembly and peaceful demonstration and with no instrument of violence. » These are also general provisions which can be invoked by anyone regardless of status. That said, the child, as subject of rights may claim the enjoyment of these provisions.

With regard to specific legislation, the Child Code recognizes the child’s right in Article 32 as follows: « The State recognizes and guarantees to the discerning child, under the conditions laid down by law the exercise of freedom of association, assembly and peaceful demonstration.

The exercise of these freedoms is subject only to restrictions, which in a democratic society, are necessary to guarantee national security, public safety or public order and to the protection of health, public morals, rights and freedoms of others »

13-e): **Protection of privacy**

1. **Information on legislative measures related to Protection of privacy**

The Constitution of 14 October 1992 protects, in general terms the privacy of every citizen, that is, every human being, in Article 28 Para 2 as follows: « Every
citizen has the right to privacy, honor, dignity and image. » Article 29 guarantees the confidentiality of correspondence, communications and telecommunications.

The Child Code in Article 31 Para 1 stipulates that "every child is entitled to his privacy, honor, reputation and image as well as confidentiality of correspondence and communications”.

The Penal Code of August 13, 1980 prescribes a fine of 10 000-100 000 CFA to whoever publicly attributes to others, by any method of communication whatsoever, a fact likely to prejudice his honor (Art. 58 al.1 Togolese Penal Code). Again, this is a protection laid down in general terms and applies therefore to all human beings, child or adult. Must also be added here paragraph 2 of Article 58 of same which compounds a further two to six months of imprisonment when the infraction is punishable by more than two years of imprisonment.

Act No. 2004-021 of 15 December 2004 pertaining to the High Authority for Audiovisual and Communication in Article 3 protects the child and adolescent and the dignity of the person by providing that: « Audiovisual or written communication is free. This freedom is exercised in accordance with:

- The dignity of the human person;
- Protection of Children and Adolescents "

Article 71 of the Code on Press and Communication of August 27, 2004 prohibits access to sources of information concerning the privacy of individuals.

The Child Code in Article 31 stipulates that "every child is entitled to his privacy, honor, reputation and image as well as confidentiality of correspondence and communications. The child is entitled to the protection of the law against any arbitrary or unlawful interference with his privacy, family and home.

2. Information on judicial measures related to protection of privacy

The Child Code prohibits the advertising of deliberations and hearings in juvenile courts on the basis of Articles 334 and 344. Article 334, Para 1 of the Child Code which states that the juvenile court conducts hearings that are not public where are only allowed in the child, his parents, witnesses, plaintiffs, experts and social workers who have known the child or have been called to participate in the proposed educational measures.
Article 344 of the Child Code states: «Press cannot reproduce the hearings of juvenile courts. In reporting the judgments, it cannot cite the names of the children in question or provide references for their identification.

However, experience in a recent case has shown that the protection of the victim was only partial. This goes for the pedophile PD case, French expatriate appearing before the Criminal Court of First Instance of Lome in February 2006.

In this case, the press, carried away by the desire to help eradicate the phenomenon, has released the full identity of the victim, which has undermined his physical and moral integrity.

3. **Information on the administrative measures concerning the protection of privacy (see Social Affairs, Ministry in charge of child protection and others).**

4. **Information on the factors and difficulties encountered**

The difficulties encountered have to do with the following factors:

- non-compliance by public and private media to their ethical obligations;
- non-compliance by the parents to the respect of the privacy of the child in the exercise of their right to custody and supervision, including some rights related to the child's personality: unreasonable interference in the correspondence of the child, the lack of supervision or ineffective control of parents about the use and publication of the child’s image;
- the wrongful refusal to authorize the marriage of the child, his adoption by another person, a medical treatment or surgery vital to the child;
- Inadequate awareness campaigns, seminars and educational and training workshops on rights of the child.
5. **Information on progress and priorities in the implementation of the Charter and specific objectives for the future**

13- F): **Protection against child abuse and bad treatments**

1. **Information on legislative measures regarding protection against child abuse and bad treatments**

There are several connotations in the term "child abuse": the notion of sexual abuse in all its forms (indecent assault, rape, prostitution and using children for pornographic purposes), the notion of economic abuse in all its forms (trafficking, sale, work early or forced), the notion of physical abuse (mistreatment, corporal punishment and forced labour, kidnapping), the notion of mental or psychological violence (insults, marginalization, deprivation of food).

For all of these victims, the law has provided for not just criminal protection but also civil and social ones.

Regarding the criminal protection of children against abuse and mistreatment, the penal provisions that refer to it are found in the Constitution, the Child Code and other laws.

The child code provides for the protection of children against abuse and ill-treatment in Chapters 1, 2 and 4 of subtitle IV.

Article 353 of the Child Code states: «The state protects the child against all forms of violence including sexual abuse, physical or mental injury or abuse, abandonment or neglect, abuse perpetrated by parents or by any other person having authority over him or custody».

Articles 355 to 371 protect the child against physical, sexual or moral abuse within the family.

Article 360 of the Child Code reiterating the provisions of Act No. 98-016 of 17 November 1998 pertaining to the Prohibition of Female Genital Mutilation in Article 2 states: «All forms of female genital mutilation (FGM) are prohibited. Any partial or total removal of external genitalia of girls under the age of eighteen (18) years or any other surgery involving such bodies shall be punished according to the law on female genital mutilation.”
Articles 376 to 403 protect the child against physical, sexual or moral abuse in schools and institutions.

Articles 410 to 423 of the Child Code on the Child protect children against trafficking, sale and begging.

Other legislations are:

- The Act of May 16, 1984 on the protection of girls and boys enrolled in an educational institution or training center which criminalizes and punishes the act of making a girl pregnant or the fact of having an intimate relationship with a girl or a boy enrolled in one of these institutions or training centers (6 months to 3 years imprisonment and a fine of 200,000 to 500,000 FCFA; the penalty is doubled if the crime was committed by a person having authority over the child).

- Act No. 2005-009 of August 3, 2005 on trafficking in children is aimed at the definition, prevention and sanctions applicable in the matter; Article 10 criminalizes and punishes the offense 2 to 5 years of imprisonment and / or 100,000-500,000 CFA any perpetrator, accomplice or any attempt thereof; in case of aggravating circumstances (victims aged under 15, an act committed with violence, use of drugs to alter the will of the victim, act committed by an organized group, child subjected to the worst forms of labour), the penalty of imprisonment goes up to of five (05) to 10 (years) and a fine of 5,000.000 to 10.000.000 F CFA with possible confiscation of objects and materials used.

As to the civil protection of children against abuse and ill-treatment, comparison must be made between the Constitution and other laws.

The Constitution is the fundamental law of the land not just by virtue of its status but also because of the Universal Declaration of Human Rights of 10 December 1948 which is integrated in the Constitution through Article 50 which states that the “rights and duties enshrined in the Universal Declaration of Human Rights are an integral part” of it. This implies that it is binding law in Togo and has a constitutional basis.
The articles of the Universal Declaration of Human Rights concerning the protection of civil rights of the child are the same as those enshrined in the Constitution, 14 October 1992 for the following reasons:

- Article 3 relates to the life, safety and personal liberty, guarantee also enshrined in Article 13 Para 1 of the constitution;

- Article 5 prohibits torture, inhuman, cruel, or degrading treatment, also consecrated by Article 21 Para 1 of the Constitution of 14 October 1992, and further adds that the human person is sacred and indivisible;

It therefore appears that the Constitution and the Universal Declaration of Human Rights of December 1948 guarantee civil and political rights. In terms of other legislation applicable in this case mention must be made of:

- the Code on Family and Persons of January 31, 1980 which states
  - Article 119-2 refers to the child's safety seriously compromised by the misbehaviour, neglect or desertion or the conviction of one spouse to an imprisonment sentence exceeding 4 years and cause for divorce;
  - Article 253 provides for the loss of parental rights by an express provision of a criminal trial when parents or other ascendants having a share of parental authority have been convicted as perpetrators, conspirators or accomplices of a felony or a crime committed against their child or when the child was the perpetrator of the crime or offense;

Article 254 Para 1 is the loss of parental rights, without any criminal conviction, of the father and mother who clearly endangered the health, safety or morality of the child, either through abuse, harmful examples of habitual drunkenness or misbehaviour, through neglect or lack of education;

- Act No. 16 of 6 May 1975 establishing the New School and pertaining to the reform of education has planned for the ban for physical correction methods in schools and institutions.

When it comes to social protection, mention must be made once again of the Universal Declaration of Human Rights of 10 December 1948, the Constitution and other legislations.
In terms of the Universal Declaration of Human Rights of 10 December 1948, it should be noted that Article 23 confers on any person the right to work, equal pay for equal work.

Two articles of the Constitution of October 14, 1992 on their part: Article 36 provides that the government must protect young people against any form of exploitation or manipulation; Article 37, paragraph 1 states that the government must give every citizen the right to work and strive to create the conditions to use this right. Article 37 Para 2 further stipulates that the government must guarantee every worker a fair and equitable remuneration.

In terms of other legislations, must be mentioned:

- the Labour Code of 13 December 2006 prohibiting any company from employing a child, even as apprentices, before the age of 15 (Art 150) provision to protect children against exploitation of labour;

- The collective inter-professional agreement of March 1, 1978; Article 39, Para 1 of which states that the working conditions of young workers under 18 are determined by law.

- Act No. 2002-16 of 30 April 2002 pertaining to the guidelines for technical education and vocational training; Article 19 Para 1 states that learning is designed to give young people a general education and theoretical knowledge and a practical knowhow that gives them professional qualifications; Article 23 provides that children who follow the training on a regular basis get family allowances in accordance with the legislation in force, i.e., the Code on Social Security of 12 November 1973, Article 25 provides that the minimum age for admission to apprenticeship, the length of training across industries and types of professional jobs and the organization of final examinations will be determined by law; Article 68 al.2 provides that apprentices should receive social security that cover the risks of accident and occupational diseases in accordance with the legislation in force, which is the Social Security Code.

- Decree No. 2003-238 of 26 September 2003 relating to apprenticeship; Article 4 states that apprenticeship cannot begin before the end of compulsory schooling, that is to say before age 15 years, Article 15
provides that the apprenticeship contract is signed by the master trainer or master craftsman, by the apprentice and his father, or failing that, by his mother or his guardian;

- Code on Social Security of 12 November 1973 - Article 3-3 gives to employees of the private sector social security benefits (Family allowances; benefits of occupational hazards and pensions), vocational school students and apprentices among others, family allowances for the maintenance, safety and education of the child are maintained for the duration of compulsory education, apprenticeship, and even during periods of interruption due to illness for a period of a year after interruption;

2. Information on judicial measures concerning protection against child abuse and mistreatments

The judicial measures in this regard relate to a few cases on indecent exposure at the first instance court of Lome in 2005.

<table>
<thead>
<tr>
<th>Age of offender</th>
<th>Age of victim</th>
<th>Judicial measure</th>
<th>Sentence</th>
</tr>
</thead>
<tbody>
<tr>
<td>32 years</td>
<td>13 years</td>
<td>Judgment n°0720/05 of 20/07/2005</td>
<td>12 months suspended sentence and 50,000 CFA francs in damages</td>
</tr>
<tr>
<td>19 years</td>
<td>14 years</td>
<td>Judgment n°232/04 of 23/03/2005</td>
<td>12 months imprisonment, suspended for two *+40,000 FCFA in damages</td>
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<tr>
<td>30 years</td>
<td>13 years</td>
<td>Judgment n°0535/04 of 02/07/2004</td>
<td>18 months of imprisonment + 50,000 CFA francs in damages</td>
</tr>
</tbody>
</table>

VI. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

14. Provide relevant information, including the main legislative, judicial, administrative and other measures in force and in particular show how the principle of “best interest of the child and respect of the views of the child” are reflected; the factors and difficulties encountered and progress achieved in implementing the relevant provisions of the Charter on the
Child and the priorities in the implementation as well as future objectives with regard to:

14.a): Parental guidance (Article 20)

1. Legislative measures regarding parental guidance

Chapter 1 of subsection IV of Title I of the Child Code deals with parental guidance, referring to parental duty, to the exercise of parental authority, to the delegation of parental authority, to the loss of parental authority and the rights and duties of parents regarding the child’s property.

Distinction must be made between legislative measures taking into account the principle of the best interest of the child and those taking into account the principle of respect of the views of the child.

First, the legislative measures concerning the taking into account of the principle of the best interest of the child pertain to the custodial rights and supervision of parents which are in fact a prerogative that the law recognizes to the holder of the parental authority to compel their children to live under their roof to monitor their activities. In this regard, Article 132 paragraph 2 and article 153 of the Child Code provide that the child cannot leave home without permission of the father and mother and can only be removed from his home by a justified court decision when his best interest so requires, and that parents have a duty to oppose any separation from their children unless the best interest of the child requires it.

Second, the legislative measures regarding the taking into account the principle of the respect of the child’s view must be based on the following articles:

- Articles 45 to 48 of Togo’s Code on Persons and Family providing for the consent of the father and the mother for the marriage of their child in that the dissent of one parent benefits the child in question (Article 45, paragraph 2, of the Togolese Code on persons and family);
- Article 218 of Togo’s Code on Persons and Family providing for the right of parents to consent to the adoption of their child by any person of Togolese or foreign nationality as long as it is to the child’s best interest, a solution allowing for the possibility for the adopted child to object if it is not in his interest and especially if he is over 16 years old (Article 217 of Togo’s Personal and Family Code);
− Article 311 of Togo’s Code on Persons and Family providing for the consent of the parents to the voluntary emancipation of the child, given that this legislation establishes the principle of the right of emancipation by marriage, the view of the child having to be taken into account in either case, (the Child Code sets the emancipation age at 16 in its article 235).

14.b) Parental responsibilities (Article 20.1)

1. Legislative measures regarding parental responsibility

Two categories of legislations can be distinguished, those governing the civil responsibility of parents and those governing the penal responsibility.

Regarding the legislations governing parental responsibilities, it is necessary to mention the following provisions:

- Article 149 of the Child Code
- Article 150 of the Child Code
- Article 151 of the Child Code
- Article 152 of the Child Code

− Article 101 of the Togo’s Code on Persons and Family provides that “the wife agrees with the husband to provide moral and material guidance of the family, to raise the children and to prepare their development” bearing in mind that the husband exercises his prerogatives as the head of household in the interest of the household and the children;
− Article 110 of Togo’s Code on Persons and Family imposes reciprocal obligations on spouses with respect to the maintenance, education and development of children;
− Article 233 of Togo’s Code on Persons and Family and Article 157 of the Child Code that defines parental authority as a set of parental rights and obligations which the law grants or imposes on the father and the mother in relation to the person and to the properties of their unemancipated children;
− Article 238 of Togo’s Code on Persons and Family which provides that during marriage, the father and mother are jointly responsible for the damages caused by their children living with them, implying that
parents have the obligation of taking care and supervision of their children living with them;

- Act No. 16 of May 06, 1975 pertaining to the education reform has prescribed, in terms of teaching methods, the guidelines and enforcement procedures as it encourages close collaboration between the school and the family.

With regards to legislations governing the criminal responsibility of parents, it is worth mentioning the following provisions of the Penal Code of August 13 1980 and the Child Code of July 6, 2007:

- Article 71 of the Penal Code and Article 367 of the Child Code that punish from two months to two years imprisonment anyone who, without serious ground, takes more than two months without paying the amount for the alimony of the child imposed to him by a judicial decision or a legal deed;

- Article 72 of the Penal Code and Article 369 of the Child Code that punish from one month to one year imprisonment or a fine of ten thousand (10,000) to one hundred thousand (100 0000) CFA francs every parent who without just cause abandons the family home or fails to contribute to the household and family expenses according to his capabilities;

- Article 74, paragraph 1 of the Penal Code and Article 368 of the Child Code that punish for one month to one year imprisonment or a fine of ten thousand (10,000) to one hundred thousand (100 0000) CFA francs every parent who has seriously endangered the health, morals or education of his children or those living in his home by his misbehavior, his laziness, his rudeness or his drunkenness;

- Article 75 of the Penal Code and Article 373 of the Child Code that punish by a fine of twenty thousand (20,000) to thirty thousand (30 000) CFA francs whoever is legally required to have neglected to report to the civil registry a birth or a death;

- Article 76 of the Penal Code and Article 375 of the Child Code that punish from one to five years imprisonment anyone who abducted, hidden, replaced a child for the purpose of depriving him of his personal and familial status;

- Article 82 of the Penal Code and Article 378 of the Child Code that punish from one month to two years imprisonment the father, the mother or any person who, in defiance of an enforceable court decision
ruling on the custody of a minor, would refuse to present the child, would abduct or divert him, would make him be abducted or diverted from the hands of those who have custody;

− Article 370 of the Child Code states that: “Any parent who abandons a child unable to protect himself, a disabled child or a seriously ill child will be punished from one (01) to three (03) years imprisonment. If illness or incapacity to work more than six (06) weeks resulted from this abandonment, the penalty may be increased to five (05) years imprisonment. If death results from the child’s abandonment, the offender will be punished by five (05) to ten (10) years imprisonment.”

2. **Judicial measures regarding the legal responsibility of parents**

A number of decisions on parental responsibility have been made. By way of illustration, may be cited judgment No. 33/92 of August 6 1992 issued by the first instance court of Lomé. In this case, the court found the man named T. A. guilty of the offenses alleged against him and sentenced him to a suspended 6 months imprisonment. With regards to the civil action, the court found Lady A.M. liable for the defendant Mr. T. A. and made her pay to each of the named plaintiffs A. M. and A. D. wife A. the sum of two hundred thousand (200,000) CFA francs totaling four hundred thousand (400,000) CFA francs as damages.

14.c) **Separation from parents; separation caused by a State Party; separation caused by internal displacement resulting from an armed conflict, civil unrest and natural disasters (Articles 19.2, 3 and 25).**

1. **Legislative measures regarding the separation from parents**

Article 250 of the Child Code establishes the principle that the child may not, without permission of a parent or guardian, leave the family home and can only be withdrawn if his best interest requires it. Consequently, the child is a social being considered only in relation to the family group, and should not be separated from it. He must be integrated, nurtured, cared for, raised and educated.

The code provides for child protection measures in situations where the child is separated from his father or mother.
The problem of separation from parents often arises in proceedings for divorce or separation of parents regulated by the provisions of articles 105 to 111 of the Child Code.

Article 105 paragraph 1 provides that: “During the process of separation or divorce, the judge rules for, where applicable, any provisional measures relating to the child’s custody and alimony.”

When divorce is finalized, there are two situations:

The first concerns children up to seven (07) years: the principle is that they are in the custody of the mother, unless the court at the request of the husband or, failing that, the family council or the public prosecutor and given the findings of a social inquiry, rules in the best interests of the children, whether all or some of them be in the care of either the father, the mother or a third party.

The second relates to children over seven (07) years: in this case, the court rules according to their interests, that all or some of them be in the custody of either the father, the mother or a third person.

Article 111 also provides that the court determines the conditions under which the non-custodial parent may exercise his visit and accommodation rights of the child.

Togo’s Code on Persons and Family also provides that the father and mother retain the surveillance, maintenance and education right of their children respectively regardless of the person to whom the children are entrusted (Articles 143 and 243).

But when after a social inquiry, neither parent can provide education for the child, he is placed with another family member after taking his view into consideration.

Then the issue of separation of children from parents arises in the case of delegation of parental authority regulated by Articles 169 to 172 of the Child Code.

Article 168 limits the freedom of parents to abandon or surrender their authority over the child. It provides that: “No waiver, no abdication from parental authority can have effect, except under a judgment in conformity with Articles 169 and 170 of the Child Code.”

Article 169 provides that: “The father and mother, together or separately, or the guardian authorized by the family council may, when they entrust the child to a
trustworthy individual, to an institution approved for that purpose, renounce all or part of their authority. In this case, the total or partial delegation of authority results from any judgment made by the guardianship judge on request of the delegator and the delegated. It may be also be at the request of the delegated if the parents have clearly shown no interest in the child.

Article 170 provides that the delegation of parental authority may also take place when the child was found without the intervention of the father, the mother or the guardian. In this case, the individual or institution after taking the child in charge makes a statement to the administrative authority of the place of residence. This statement is made within a week. The administrative authority notifies the father, the mother or the guardian within one month. The notification made to them opens up a new one-month period after which, by their failure to claim the child, they are presumed not to exercise their authority over him. An individual or institution that has taken care of the child may file a claim for partial or total parental authority to the guardianship court. The judge may decide in the best interests of the child, the parents summoned or heard, that parental authority be delegated to a specialized service for children.

In addition, Articles 275 and seq of the Child Code provide for the protection of children in danger or in difficult situation. Article 275 establishes the principle that children in difficult situations may be subject to placement or any other educational measure.

The following situations can be considered as difficult or dangerous situations that threaten the health, development and physical, moral or mental integrity of the child:

- The loss of parents of the child who remains without family support;
- Reunited, abandoned or found child;
- The exposure of children to neglect and vagrancy;
- The flagrant and continuous lack of education and protection;
- The regular mistreatment of the child;
- The sexual exploitation of children, whether a boy or a girl;
- The exposure of the child to sexual abuse;
- The exposure of the child to begging and economic exploitation;
- The exploitation of the child in organized crime;
- The exposure of the child to conflict;
- The use of the child in armed conflict;
The exposure of the child to harmful practices having an adverse effect on his health or detrimental to his life;
- The failure of parents or others who are responsible for the child to ensure his protection and education.

Moreover, in cases of separation caused by internal displacement resulting from armed conflict, the Child Code has provisions for special protection of children in armed conflicts, whether internal or international. This protection is regulated by Articles 424 to 427 of the Child Code. Article 427 paragraph 1 provides in particular that children affected by armed conflict are entitled to respect for their persons, their honor, their family rights, their religious convictions and practices, their habits or their customs.

2. Judicial measures regarding the separation from parents

The First Instance Family court in Lomé, in judgment No. 108/07 of November 19, 2007, has, after discovering that the father and the mother of the child A.N. are living separately, decided to give custody to his paternal uncle named A.W. in the interest of the child A.N.

The right to visit and accommodation was granted to the mother every other weekend and half of the 2007 school holidays and vacation.

In decision No. 126/07 of December 24, 2007, the First Instance Court of Lomé found out that two children were born from the relationship between Mr. P.H.E. and Lady and K.E. The children lived with their mother due to the misunderstandings between the two parents. The court in the best interests of the children ordered the Director General of the Electrical Energy Company of Togo (CEET) to withdraw from the salary of Mr. P.H.E. the sum of ten thousand (10,000) CFA as alimony.

Togolese courts have issued several decisions relating to the separation of children with the parents.

By way of illustration, one can mention Judgment No. 99/TE 2008 of July 15, 2008.

This ordinance gave legal custody of the minors A.E.P.M. and A.K.A. aged respectively 14 and 9 years, to their mother Lady A.K.A. and fixed the sum of
twenty five (25,000) CFA as part of the father’s contribution to pay the maintenance and other needs of the aforesaid children.

In another case, the first instance court of Lomé, in Judgment No. 109/TE 2008 of July 30, 2008 decided to entrust the legal custody of the minor A.M.A. to a third party, the couple S. G, who were to be in charge as they deem fit and as head of household and report periodically at least once every quarter to the President of the Juvenile Court about the development of the child named above.

14.d) Family reunification and children deprived of family environment
(Article 25.2 (b))

1. Legislative measures regarding family reunification and children deprived of family environment

In the context of the protection of children, the Togolese government has taken a number of steps. The most significant ones are:

- The Memorandum of Understanding for the participation in the International Programme on the Elimination of Child Labour (IPEC) between the Government of Togo and the International Labour Organization (ILO);
- The creation of a Steering Committee for the project on the Abolition of Child Labour;
- The decree No. 560/MFPTE of April 30, 2000 appointing members of the National Steering Committee for the Abolition of Child Labour;
- The decree No. 357/MFPTE of March 27, 2001 on the creation and composition
- The Inter-ministerial decree No. 446/MFPTE/MIS/MA SPFPE/MSP of April 25, 2002 on the establishment, composition and powers of the National Commission for the Reception and Social Reintegration of Children Victims of Trafficking
- The Child Trafficking law No. 2005-009 of Aug. 3 in Togo mentioning in its Article 8 the creation of a National Commission for the Reception and Social Reintegration of Children Victims of Trafficking.

The Commission is composed of active members (representatives of ministries and NGOs involved in the fight against child trafficking) and members with an
observer status (representatives of the United States, France, ILO / IPEC and UNICEF).

The National Commission for the Reception and Social Reintegration of Children Victims of Trafficking is in charge of:

- organizing the repatriation in Togo of child trafficking victims detected at the borders and in different destination countries;
- coordinating the reception and taking care (accommodation and medical care) of repatriated children victims of trafficking;
- supervising the family and social reintegration of repatriated children victims of trafficking;
- centralizing the information and statistical data on trafficked children received and reintegrated at the national level;
- mobilizing the necessary resources for the repatriation, reception and reintegration of children victims of trafficking.

In 2007, the Commission received a total of 83 victim children including 41 girls and 42 boys.

These children were returnees from Côte d'Ivoire, Nigeria, Mali and Benin.

Out of these 83 children, only nineteen (19) had a successful social and professional reintegration (education, the chance to go to school and being supported in income-generating activities) with the financial support from UNICEF.

Difficulties nevertheless exist and they are multifaceted. In terms of logistics, the commission has no vehicle to transport children victims of trafficking that need to be taken into care and driven to the centers before being reintegrated.

In terms of communication, telephone or mail contacts are difficult or impossible because the permanent secretariat is not connected to the Internet.

Financially, the Commission has no operational budget; it therefore has great difficulty to undertake its activities especially those related to the repatriation of children within a short time.
14.e) Maintenance of the Child (Article 18.3)

1. Legislative measures regarding the maintenance of the child

The Child Code in its first chapter, Sub-Title I of Title II guarantees children the right to health, while Chapter II of the same subtitle provides for the right of the child to social security and an adequate standard of living.

As per Article 240 of the Child Code every child has the right to enjoy the highest attainable standard of health, including access to primary health care and medical services to benefit from preventive and curative care.

Article 245 on its part guarantees the child the right to an adequate nutrition, drinking water and breastfeeding.

During marriage, this obligation is incumbent on both the father and the mother.

It should be noted that a child born outside marriage recognized by either the father or the mother has the right to claim food from the one who has recognized him.

Article 249 of the Child Code guarantees the child the right to an adequate shelter

2. Judicial measures regarding the maintenance of the child

It should be noted that several decisions were taken by the courts in relation to the maintenance of children.

Can be mentioned among others decision No. 11-02 issued on September 22, 2000 by the First Instance Court of Lomé who ordered the Director of the institution D. to deduce monthly from the salary of Mr. W. A., salesman in that institution, the sum of eight thousand (8,000) FCFA for the child’s alimony starting from the end of August 2000, the deduction of 10500 FCFA from his salary payable in two installments that is 5250 FCFA per month to lady D. F. for the medical expenses of her child.

In its judgment No. 1885/05 of June 27, 2008, the First Instance Court in Lomé, after granting the divorce between Lady A. and M. T.K., gave custody of the child to his mother and set the sum of fifteen thousand (15,000) FCFA per month as alimony for the child.
The First Instance Court of Lomé, in its judgment No. 2847/2007 of December 28, 2007, has granted the divorce of the K.Z. spouses and sole responsibility attributed to Mr. K.A.O.A. The custody of the three children (W, M and K) has been entrusted to their mother and visitation right was granted to the father. The court ordered Mr. K.A.O.A to pay the sum of twenty thousand (20,000) CFA francs per month as alimony.

14.f) Adoption and periodic evaluation of the placement of the child
(Article 24)

1. Legislative measures regarding the adoption and periodic evaluation of the placement of the child.

Adoption matters are regulated by the provisions of Articles 62 to 104 of the Child Code which recognizes two types of adoption: Full Adoption and Simple Adoption.

The full adoption is irrevocable and creates a new parent-child relationship in that it gives the adoptee the same rights and obligations of a child born during marriage.

The simple adoption confers the name of the adopting to the adopted by adding it to the latter. It can be revoked only on serious grounds (Article 92 and 98).

Both kinds of adoption result from a court decision that takes into account the best interests of the child and his views. The discerning child must personally consent to his adoption (article 70).

2. Legal measures regarding the adoption and periodic evaluation of the placement of the child.

The courts have issued several decisions regarding the adoption of the child. Can be mentioned among others judgment No. 208/2000 of February 22, 2000 of the court of Lomé which granted the adoption of little K. to Miss Z., a French citizen. One can also mention judgment No. 129 of February 08, 2000 of the first instance court of Lomé granting the adoption of little Ako to Lady B. because she was abandoned by her parents.
In both mentioned decisions, there is no mention of age of Miss Z, nor of Lady B., both unmarried, to be able to know if the adopters met the criteria on age.

Judgment No. 716/2002 of May 17, 2002 issued by the first instance court in Lomé on the adoption of the named K. T. by Mr. and Mrs. E. H.A.K.A.

In this case, the court, having found that all legal requirements are met regarding the adoption, granted the adoption of the child K.T., born on January 9, 1998 in Lomé, and therefore, the child will be named after E.T.J.G. It ordered that the reference of the adoption and the name of the adoptee be made in the margin of the civil status certificate of the couple E.H.A.K. and a birth certificate of the adopted child be produced.

The courts of Togo have ruled on the placement of the child. One can mention among others, the interim custody decision made by the First instance court of Lomé on February 16, 1996.

From the findings of a social inquiry conducted by the social services of the Court of Lomé, it became apparent that the girl S.K.L. was abandoned by her mother at the home of Mrs. K.A.D.C. The latter took care of her and her education for years; in any case, the child was de facto in her care.

All previously mentioned facts considered, it was in the best interest of the girl S.K.L. to keep her in the care of lady K.A.D.C.

14.g) Abuse, neglect and exploitation of children including physical and psychological rehabilitation and social integration of the Child (Articles 16 and 27)

1. Legislative measures regarding abuse, neglect and exploitation of the child

The subtitle IV of Title II of the Child Code in its articles 353 to 423 protects the child against all forms of domestic, school or institutional violence,

The Child Code criminalizes and punishes new crimes such as child prostitution, child pornography and sex tourism involving children, pedophilia, the sale of children, incest, corruption of the youth, rape and indecent assault.
2. Judicial measures regarding abuse, neglect and exploitation of the child

Judicial measures regarding the exploitation of the child

The first instance court of Niamtougou in its judgment No. 027/2007 of June 13, 2007, condemned the named B.K.P. to (12) twelve months suspended sentence for child exploitation.

Similarly Mr. L. K. S. prosecuted for attempted recruitment or abduction of a child for exploitation purpose at the first instance court of Niamtougou was sentenced to (18) eighteen months of imprisonment following judgment No. 026/2007 of June 13, 2007.

3. The factors and difficulties encountered, the progress achieved, the priorities in the implementation and the objectives for the future

The progress achieved

In view of the major actions reported, some results were obtained in the following areas:

− The adoption of the Act of August 03, 2005 relating to child trafficking in Togo;
− The adoption of the Act of July 06, 2007 relating to the Child Code;
− The establishment by the Child Code of a National Committee on the Rights of the Child (NCC);
− Free education in public nursery and primary schools.

The definition of exploitation is given in Article 4 of the Act. Under this article, “exploitation means any activity to which the child is subjected and do not have any economic, moral, mental or physical interest from it, but, to the opposite gives the author of the traffic or any other person direct or indirect financial, moral or physical benefits.”

As for the punishment, one must refer to Article 11, which punishes the perpetrator to a sentence of 5 to 10 years imprisonment and a fine of 5 to 10 million CFA francs in specific cases. In addition to these cases the penalty is 2 to 5 years and a fine of 1 to 5 million CFA francs (Article 10).
The Child Code in its subtitle II, Chapter I of Title II provides for the protection of the child in difficult circumstances or in danger by referring to the notions of neglect, abandonment, sexual exploitation and abuse. The progress of these legislations lies in the criminalization of these concepts for parents and third parties. Furthermore, they criminalize most offenses.

**Concerning the protection of the child,**

The ratification of ILO conventions,182 on the Worst Forms of Child Labour, 138 on Minimum Age for Admission to Employment; the African Charter on the Rights and Welfare of the Child and the adoption of the Child Code, show that progress on child protection have been achieved. The integration of these issues in policies and in the environment of legal protection for vulnerable children have been strengthened.

**Concerning resource mobilization,**

Despite the crisis in the country since 1994 due to the suspension of development assistance, the resource mobilization became increasingly effective with multilateral partners such as agencies of the UN system and bilateral donors such as Plan Togo, Action Aid, GTZ and civil society organizations. This mobilization still remains low.

**Difficulties encountered**

The major difficulties preventing the effective implementation of the recommendations of the Charter are inadequate human and financial resources.

The delay in implementing the strategic plan in the fight against poverty and in the reform of the judiciary in particular the organization of juvenile courts.

**Major objectives for the future are:**

The revision of the Penal Code and the Code of Criminal Procedure in the context of a comprehensive modernization program of justice

15. **Information on the number of children per year during the reporting period in each of the following group, broken down by age, sex, ethnicity, social strata and the national rural and urban environment: homeless children, children subjected to abuse or neglected / abandoned, under care, children in the custody of a foster family, children placed in specialized institutions, children adopted domestically, children in the country through**
the inter-country adoption procedures and children leaving the country through the same procedures.

− **Homeless children:**

The country lacks a system of data collection in this area. The few cases reported by the technical services of the Ministry of Social Action, the promotion of women, the protection of children and the elderly relate to street children, whose age range is between eight and eighteen years who are at odds with the family and live permanently in the street.

− **Children subjected to abuse or neglected / abandoned, under care, children in the custody of a foster family, children placed in special institution.**

The lack of coordination of care institutions do not give the exact number of cases of children mentioned above. The figures below are only partial and relate only to cases of children placed in certain institutions.

<table>
<thead>
<tr>
<th>Year</th>
<th>Number</th>
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<tbody>
<tr>
<td>2002</td>
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<tr>
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<tr>
<td>2005</td>
<td>182</td>
</tr>
<tr>
<td>2006</td>
<td>195</td>
</tr>
</tbody>
</table>

**Source** 5

− **Adopted children** 6:

  • In the country 14 including 5 girls and 09 boys in 2002

  09 including 6 girls and 03 boys in 2003

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5 Ministry of Health, Directorate of Statistical Information Studies and Research
6 Ministry of Health, Directorate of Statistical Information Studies and Research
- Abroad

  11 including 5 girls and 6 boys in 2001
  12 including 5 girls and 07 boys in 2002
  25 including 8 girls and 17 boys in 2003
  21 including 9 girls and 12 boys in 2004

VII. BASIC HEALTH AND WELFARE

17. In this section, State parties are requested to provide relevant information, especially on the main legislative, judicial, administrative and other measures such as projects, programs etc.; on the institutional infrastructure for the implementation of the policy in this area, particularly the strategies and monitoring mechanisms, factors and difficulties encountered and progress achieved in implementing the relevant provisions of the Charter on the Child in respect of:

Administrative measures

17.a) The survival and development of the child (Article 5)

The Ministry of Social Action, promotion of women, protection of children and the elderly has a Directorate for Child Protection. This Directorate for the protection of children is represented in the regions within the regional social affairs directorates.

It ensures the development of policy on child protection. This policy is implemented in consultation with civil society organizations such as WAO Afrique, ICCB, FODDET, etc. and development partners such as Plan Togo, UNICEF and UNFPA.

The difficulties lie mainly in the lack of resources for the implementation of the policies developed, and the absence of a sufficient framework for coordination and consultation.
Nevertheless, progress has been achieved in implementing the provisions relating to the survival and development of the child including the multifaceted support provided by the government and the development partners.

17.b) Handicapped children (Article 13)

Act No. 2004 - 005 of April 23, 2004 pertaining to the social protection of handicapped people in Togo requires the State in its Articles 8 and seq to promote the education of persons with disabilities. Similarly, the Child Code in its Article 258 states the same obligations, including the right to education, rehabilitation and vocational training. The provisions of these laws provide for the granting by the State of scholarship, exceptional access to specialized schools and grants to schools taking care of people with disabilities. The implementing decrees under this law specifying conditions for access to these benefits are not yet taken.

Services and centers are intervening to help handicapped persons. They come from two ministries: the Ministry of Social Action, promotion of women, protection of children and the elderly and the Ministry of Health.

The Ministry of Social Action, promotion of women, protection of children and the elderly has a national mechanism for social development, which is structured into three directorates including the Directorate for Handicapped Persons. This directorate is established by Decree No. 96-107/PR of October 08 1996 pertaining to the organization and functions of the Ministry. It protects handicapped people in particular children and young girls. It conducts actions of, in collaboration with the departments concerned by the problem of handicap, sensitization, education, training, integration and social reintegration of disabled people, especially the young.

We also find at regional, prefectural and village level, social centers involved in helping this section of society. However, the services provided are very limited. They are supported in this onerous task by development partners: the European Union, the Department of Cooperation and Cultural Action of France and the German Development Cooperation, NGOs such as Handicap International, Christofell Blinden Mission (CBM), Liliane Foundation Envol (mentally handicapped), EPHATA and religious groups such as the church of Assemblies of God, the Protestant Church, the Baptist mission ABWE, the Catholic Church and the Muslim Union. All of them work with FETAPH (Togolese Federation of Associations with disabled people) and intervene in the field of education, vocational training and health.
The Ministry of Health offers several forms of care.

With regard to preventive and promotional care, it is noteworthy to mention the organization in our country of several vaccination days to eradicate polio from the country.

On curative care, they take into account the treatment of diseases at all levels of the health system to eradicate diseases that cause disability.

As for rehabilitative care, there are two centers, namely: the National Center for Orthopedic Appliances (NCOA) and the Zébévi Psychiatric Hospital (Aného).

The NCOA is based in Lomé with four regional centers in the country, including Atakpamé Sokodé, Kara and Dapaong.

Children with special needs face particular barriers to learning and participation in school. There is hence the need for specialized education throughout the national territory ensuring the education of various categories of people with disabilities through the efforts of the government and the Christian missions.

Moreover, the state of Togo has established training centers for persons with disabilities. Can be mentioned among others:

- The National Vocational Training Centre for Disabled Persons established in 1974 in Lomé handles training in shoemaking for boys with disabilities;

- The Center for Disabled persons of Djokpé Akata, established in 1989, aims at training the youth with disabilities in sewing and weaving. Start-up credits are granted to them;

- The Pilot Centre of Vocational Rehabilitation and Social Reintegration of Disabled Persons of EDTA (Kara) who handles the training of the youth in various areas: sewing, shoemaking, carpentry, weaving.

Unfortunately, these two centers are no longer operational in recent years due to lack of resources.

Furthermore, the Togolese State intervenes in a timely manner in the following cases:

- Support on education (exemption of tuition fee, bearing of the costs of some teachers in special schools)
– Support for vocational training (bearing of the training costs);
– Punctual assistance (purchase of pharmaceutical products, donation of school supplies, evacuation of some patients with disabilities).

Sick children with disabilities who require interventions at exorbitant fees are placed at Terre des Hommes by the Ministry of Social Affairs and Promotion of Women, which supports them for their evacuation. Physically disabled children are provided with orthopedic equipment or tricycles through the service of the National Center for Orthopedic Appliances.

The state bears the cost of some of the educators of these institutions. Young people represent 56% of all persons with disabilities and those over 45 years constitute 41.1%.\(^7\) Based on the annual growth rate of the population which is 3.2%, an estimated 80,000 people live with disability\(^8\).

But these figures underestimate the actual figures and should experience a net increase due to increased vehicle fleet, the violence that our country has experienced in recent years, poverty, addiction, the low coverage in health care and primary health services, polio and others.

People with disabilities are often denied the opportunity to participate fully in their socio-cultural activities. This is due to material and social obstacles coming from ignorance, indifference, fear and tradition (in some circles, people with disabilities are considered a curse).

People with disabilities face discrimination in the following areas:

– Education: Schools are not available across the country to all categories of disabled persons. It is the same case for vocational training. For example, in some prefectures, children with visual, mental or hearing impairment cannot attend regular schools either because of their difficulties in adapting to the environment, or due to lack of introductory courses given to the teachers regarding programs of these types of disabilities. The children are then sent elsewhere outside their community to attend classes, or they become illiterate if their parents have no means to provide them this education.

\(^7\) Source: Directorate for Statistics, census of 1981
\(^8\) Source: ibid
Equipment: the lack of necessary equipment to mitigate the effects of disability such as wheelchairs, tricycles, artificial limbs, white canes, crutches and hearing aids slows the momentum of disabled children to learn, to be trained and develop.

Associations, NGOs and religious institutions are also involved in the education of children with disabilities. Special schools have been established both in Lomé and inside the country for this purpose. For example:

- For the visually impaired: the Centre for the Education of the Blind (Kpalime), the Multipurpose Center of St. Augustine (Lomé), the Center for people with hearing impairment, the EPHPHATA center (Lomé) and VIVENDA (Sokode);
- For people with motor impairment: the Marillac Center of Lomé (Golfe), the CODHANI center in (Niamtougou);
- For the mentally impaired: the Institute ENVOL (Lomé, Kpalimé, Atakpamé, Sokodé, Kara, Dapaong);

The financial support is provided by the SCAC, the DED, the U.S. Embassy, the EU and international organizations such as Handicap International, Christoffel Blinden Mission (CBM), and Plan Togo.

Very few people living with disabilities are educated. Their number is estimated at just 1%.

Much of the communities do not see the usefulness of the person living with a disability to the society. In most cases the relationship of these individuals with their families are very tight. They are victims of neglect, discrimination and condescending pity. This explains the chronic lack of schooling.

The difficulties encountered in the implementation of Article 13 of the Charter lies in the insufficient resources available to those structures. Faced with this problem, the government has initiated the development of a sector policy in order to mobilize resources to support children with disabilities.

However, efforts continue to be made not only to provide these children with the education they need but also to create awareness in the fight against all forms of violence against children with disabilities.

Disabled people, especially the young participate in cultural and sport activities.
Regarding cultural clubs one can mention among others: the cultural club for disabled people of Mango, Bombouaka, Dapaong, etc.

Regarding sport one can mention the tore ball for the visually impaired, the wheelchair basketball.

17.c) Health and health services (Article 14)

A ministry with a primary health care services directorate providing primary health care, dealing with children's health and the prevention of communicable diseases by providing to the health facilities vaccines to be administered to children during their first year of life.

The access to health care is made possible through the creation of Peripheral Healthcare Units in urban and rural areas throughout the country.

The difficulties lie in the purchasing power of people to buy medicines, even when these are generic.

To address this health problem, more and more services offer free services to children.

17.d) Social security and services and facilities for the development of the child (Article 20.2 (ac))

The National Social Security Fund provides services and facilities for staff members (state, para-governmental and private agents) and their families especially children.

The difficulty lies in the limited access of the population to the social security services and in children whose parents work in the informal sector have no access to membership and thus the children cannot benefit from these services.

To address this problem, plans are being developed to sponsor children in terms of health and education.

But these efforts are by far insufficient to meet all the needs of the child. It is important that some form of social security be set up for people working in the informal sector to cover their children.
17.e) Care for orphans (Article 26)

The Yamoussoukro workshop in April 2002 on OVC (Orphans and other children made vulnerable) followed by the one in Dakar in 2004 have prompted the government to sufficiently be aware of the need to pay particular attention to orphans. Due to scarce resources, the government relies now on civil society organizations and faith based organizations involved in the care of orphans. The real difficulty is the insufficient number of these institutions and the lack of a coordinated policy in this sector.

However, efforts have been made to provide each region with orphanages for children. Thus we have three (03) orphanages in the Maritime region, six (6) in Lomé District, six (06) in the Kara Region, six (06) in the Plateaux region, four (04) in the Central Region and one (01) in the Savannah region.

18. In addition to information provided under paragraph 8 (d) of these guidelines, State parties are requested to specify the nature and extent or scope of cooperation with local, national, regional and international organizations in the implementation of this part of the Charter on the Child. State Parties are encouraged to provide any other statistical information and indicators relating to children covered by this part.

At regional, prefectural and village level there are social centers intervening in favor of this layer/section of society. However, the services provided are very limited. They are supported in this onerous task by development partners: the European Union, Department of Cooperation and Cultural Action of France and the German Development Service, NGOs such as Handicap International, Christoffel Blinden Mission (CBM), Liliane Foundation ENVOL (mentally impaired children), EPHATA and faith based organizations such as Assemblies of God Church, the Protestant Church, the Baptist mission ABWE, the Catholic Church and the Muslim Union. All of them work in consultation with the Togolese Federation of Associations with disabled people (FeTAPH) and intervene in the field of education, vocational training and health.

VIII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

19. In this part, State parties are requested to provide relevant information including the main legislative, judicial, administrative and other measures such as projects, programs, etc. on the institutional infrastructure for the implementation of the policy in this area, especially strategies and monitoring
mechanisms, factors and difficulties encountered and progress achieved in implementing the relevant provisions of the Charter on the Child regarding:

19.a) -education, including vocational training and guidance (Article 11)

1) Legislative measures

The Child Code in its chapter III of subsection I of Title II establishes the right of the child to education and vocational training.

Further to the training of managers, rural youth are not forgotten. Following the scientific council’s meeting held in Avetonou, it was decided to set up rural centres.

2) Administrative measures

Decision No. 105/MJSC/DJASE of November 07, 1989, established training centres namely: Rural Centres for Socio-Educational Activities (RCSA). in the prefectures.

These centres open to needy and school drop-out youth aged 15 to 25 years provide guidance and training to the young people by:

- Providing subsistence means by giving low cost trainings on remunerating skills/jobs
- Promote their professional integration in the production chains;
- Fostering their grouping in a cooperative in all areas and especially in agriculture;
- Curbing the rural exodus by creating leisure activities.
- The following trainings were given:
  - Craft training: sewing, weaving, carpentry, forge, masonry;
  - Training in marketing gardening: small livestock farming, agriculture;
  - Continuing education of apprentices: literacy, community development.
These centers are subsidized by the state. The admission of apprentices was subject to a contribution of 3,000 FCFA at the beginning and today the contribution is 10,000 FCFA for the duration of the training which can be 2 to 3 years depending on the specialty chosen.

Five (05) RCSAs were established in the different prefectures Kpélé-Segovia, Kuma-Dounyo in Kloto; Morétan in eastern Mono; Bangélis in Bassar; Pya in Kozah. Further to these centers, some faith based organizations and NGOs have training and socio-professional reintegration centers.

19.b) Leisure, recreational and cultural activities
It is organized annually in schools during cultural weeks. Holiday centers, summer camps, cultural activities (theater, evening entertainment, film screenings, games, group singing, workshop, etc.) are organized for the young students.

Difficulties encountered
At the end of their training, young trainees should be eligible for assistance at start-up, but due to lack of resources, this support could not be granted.

IX. SPECIAL PROTECTION MEASURES

21. In this part, State parties are requested to provide relevant information including the main legislative, judicial, administrative and other measures, such as projects, programs etc. on the factors and difficulties encountered and progress achieved in implementing the relevant provisions of the Charter on the Child and on the priorities in the implementation, as well as specific objectives for the future regarding:

21.a) Children in Emergencies:
   i. Child refugees, returnees and displaced (Article 23 and 25)

21.b) Children in conflict with the law

Legislative measures
   i. Administration of juvenile justice

The Juvenile justice in criminal matters in Togo is governed by the provisions of Title X of the Act No. 83-1 of March 02, 1983 on Criminal Procedure. This title is
entitled “procedures on minors.” It contains nine chapters on the general principles, the juvenile judge, on the filing procedure, the hearing of a juvenile judge, the juvenile court, appellate instances, appeals, and miscellaneous provisions.

The legislator, in his orientation, was inspired heavily by the French Decision of February 2, 1945 organizing the juvenile judiciary system. The provisions of this decision are applied in the former Criminal Procedure Code put into force in Togo before the Act of March 2, 1983.

Through the decision of February 02, 1945 and the Act of March 2, 1983, three principles define the spirit of the law applicable to the juvenile offender:

- Priority to Education;
- Specialization of the actors;
- More protective provisions.

Act No. 2007-017 of July 06, 2007, took into account these principles by integrating relevant provisions contained in international instruments relating to the administration of juvenile justice including the Beijing Rules on the Administration of juvenile Justice. The subtitle III of Title II provides for the protection of the child offender, subdivided into three chapters:

- Chapter 1: procedures for the child offender;
- Chapter 2: the child offender and the prison administration;
- Chapter 3: Child offender and private institutions.

ii. Children deprived of their liberty, including any form of detention, imprisonment or placement in a care center and respect of the provisions of Article 5 of the Charter prohibiting the imposition of the death penalty on children.

The matter is regulated by Articles 347 to 350 of the Child Code. The Child Code prohibits any agency or penal institution to torture, bad treatments, inhuman and degrading punishment any child detained or imprisoned arrested or deprived of his liberty.
The child offender or deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his age.

The principle of separation of juveniles and adults in places of detention or imprisonment shall be reaffirmed by the Child Code. Article 348 paragraph. 1 of the Child Code specifically states: “In places of detention or imprisonment, child offenders should be separated from adults and detained in separate institutions or in a separate facility than the one with the adults.”

The law offers the possibility of an alternative to imprisonment for child offenders by placing them in institutions including children who are in custody. They shall in this case, get support, protection and get the necessary social, educational, professional, legal, psychological, medical and physical assistance in the interest of their harmonious development (art. 349, Child Code).

Even in detention, the child offender must remain in contact with his family through correspondence and visits except in exceptional circumstances left to the discretion of the juvenile judge (art. 350 of the Child Code).

iii. Social reform, reintegration and rehabilitation

Article 328 of the Child Code solves this concern since it allows the judge, if the facts are established, to abstain from finding the child guilty and take appropriate educational measures depending on the character of child, to give the child the means to make amends, in short to help the rehabilitation of the child offender. The measures recommended by the Child Code are:

- Put the child, for a period that it determines, in an educational, professional training and care institution;

- Return the child to his parents or a trusted person by placing him on probation for a period it deems appropriate;

- Reprimand the child by asking him to perform a repairing act.

Private institutions such as NGOs, associations and private groups can also work with the judge to protect children in conflict with the law by proposing the replacement of detention or imprisonment by the following measures:

a. close supervision of the child offender;
b. placement of a child offender in an institution or education center;
c. placement of a child offender in a family (Article 351 of the Child Code).

Judicial measures:

- Decision No 083/TE/08, on the placement of the child EE, detained since December 7, 2007 without criminal charge in the center ANGE, taken by the President of the Juvenile Court of Lomé on June 6, 2008, to promote his socio-professional reintegration;
- Decision No. 007/08/JI, on the reversal of custodial rights to the benefit of the minor F. A., author of manslaughter in the center ANGE, taken by the investigating judge of the First Instance Court of Notsè acting as a juvenile judge to the aforesaid court on February 14, 2008 for a successful reintegration of the minor and to ensure he gets a vocational training in accordance with her wishes.

21.d) ii: Drug abuse

1. Legislative measures regarding drug abuse

According to Article 97-1 of the act No. 98-008 of March 18, 1998, on drugs control, the term “drug abuse” means the use of other non-prescription controlled drugs within the national territory and Article 1 of the legislation defining the drug as a substance of natural or synthetic origin which, when absorbed by a living being, modifies one or more of its functions.

One can also mention other provisions of the Act No. 98-008 of March 18, 1998, on drugs control, namely:

- Article 114 sets a prison term of 1 to 5 years and a fine of 25 000 to 2,500,000 CFA francs on those who knowingly have provided a minor one of the toxic chemical inhalants on the list established by a decree of the Ministry of Public Health.
- Article 115-6 provides that when the drug was delivered or offered or that its use has been facilitated to a minor, the maximum penalties under articles 98 to 106 (10 to 20 years imprisonment and a fine of 10,000. 000 to 250,000,000 CFA francs or one of these two penalties) will be doubled: life imprisonment and a fine of 20 million to 500 million FCFA, or one of these two penalties may also be pronounced.
Article 115-7 also provides the same penalties when a minor participates in the offense; solution contrary to article 475 paragraph b of the Criminal Procedure Code which excludes life imprisonment for juveniles;

Article 115-9 also provides the same penalties when the offense was committed in a penal institution, a school or educational institution, a care center or a hospital, a health or social services center or in places where schoolchildren or students are engaged in educational, sports or social activities or in the immediate vicinity of such establishments and such places, here too, the punishment for the child in conflict with the law cannot exceed a total of ten years imprisonment (Article 475, paragraph 1 above).

Articles 111 to 113 on the abuse of narcotic drugs and psychotropic substances, especially Article 112-3, a) exempts from punishment or the enforcement thereof (one to six months imprisonment and a fine of 25,000 to 500,000 FCFA), any applicant who could not reach the legal majority of 18 years by article 456, paragraph 1 of the Criminal Procedure Code of March 2, 1983. These provisions are supplemented by articles 404 to 409 of the Child Code.

Finally, the Child Code provides an exemption from punishment for the child who has illegally held, bought or grown plants classified as narcotics or psychotropic substances in small quantity allows to consider that they were intended for his personal use; he commits himself solemnly not to do it again or agrees to follow a detoxification treatment or to live under medical supervision.

2. Judicial measures regarding drug abuse

A 16 years old person named was arrested during a police raid in Lomé in possession of cannabis that he admits using it.

After the police investigation, he was brought before the juvenile judge. The investigation of the case noted that the accused has no family in Lomé and fatherless.

In its judgment No. 036/07 dated December 21, 2007, the Juvenile Court of Lomé found the accused guilty of the facts alleged against him and as punishment confined him to rehabilitation centre drug addicts at the expense of the parents who were also obliged to enrol him in a training centre.
On April 14, 2008, a 15 years old person named E.K, who was crossing the border between Togo and Ghana to travel to Lomé, was stopped by a gentleman whose identity he does not know and asked to help him carry luggage to cross the Aflao border.

During the search, security officers found in the package given to the child several bags containing cannabis. The child was arrested but the man who had given him the baggage had disappeared.

The preliminary investigation of the case has failed to find the parents of the named E. K.

In its judgment No. 006/08 dated June 22, 2008; the juvenile court of Lomé has acquitted the named E. K. and ordered him to return to the family with the social and institutional follow-up of the ICCB.

21.d) iii: Abuse and Torture

Refer to the information on the legislative and judicial developments discussed in item 13, f) page 37 and 14, g) on page 54.

21.d) iv: Sexual Exploitation and Abuse

1. Legislative measures relating to sexual exploitation and abuse

First, the laws governing sexual abuse are:

- The Penal Code of August 13, 1980:
  
  - Its articles 84-86 criminalize and punish from 1 to 5 years imprisonment the indecent exposure inflicted on a child under the age of 14 years (Article 85, paragraph 1); five to 10 years imprisonment if a child under 14 years has been the subject of violence or threat (Article 85 paragraph 2); five to 10 years imprisonment if indecent exposure on a child over 14 years has been inflicted compounded by violence by several people or if illness or incapacity to work for a period exceeding six weeks results from these violence
  
  - Article 87 criminalizes and punishes rape of 20 years imprisonment if the victim was under 14 years.
Article 88 provides for imprisonment of one to three years and a fine of 100,000 to 500,000 CFA anyone who commits an indecent act or against nature with an individual with the same sex;

- Act No. 98-16 of November 17, 1998 prohibiting female genital mutilation:
  - Article 3 describes as voluntary violence any partial or total removal of external genitalia of girls, young girls or women and/or any other operations on these organs (Art. 2);
  - Article 4, paragraph 1 punishes this offence with 2 months to 5 years imprisonment and/or a fine of 100,000 to 1,000,000 FCFA;
  - In case of recidivism, the penalty is doubled (4 months to 10 years of imprisonment) and/or a fine of 200,000 to 2,000,000 CFA francs (art. 4 paragraph 2);
  - In case of death of the victim, the penalty is 5 to 10 years imprisonment (art. 5 paragraph 2);
  - In case of absence of incrimination, the penalty is one month to one year imprisonment or a fine of 200,000 to 500,000 CFA francs (art. 6).

- The Act of May 16, 1984 on the protection of girls and boys enrolled in an institution or a training centre:
  - It punishes from 6 months to one year imprisonment and a fine of 200,000 to 500,000 CFA, the fact of making a pregnant a girl enrolled in an educational institution or training centre;
  - It punishes the same way the act of sexual relations with a girl enrolled in an educational institution or training centre;
  - The penalties are doubled (one to two years imprisonment and a fine of 400,000 to 1,000,000 CFA francs) for infringements committed by a person having authority over the girl or boy.

- Finally, the legislations relating to sexual exploitation are:
  - Article 94, 1) of the Penal Code which punishes up to 10 years of imprisonment for the sexual exploitation of minors which consists of
encouraging or engaging them in prostitution in order to satisfy the passions of others by promises, gifts, threats, fraud or violence (Article 92);

− Articles 95 and 96 of the Penal Code provide for the closure of sexual exploitation centers, the confiscation and seizure of beds and other furniture used in the sexual exploitation, the prohibition of certain the civil, civic and professional rights to the facilitator (prohibition of exercising a profession, being elected in a public office, being an administrator, being a guardian, subrogate guardian or curator of an unfit person), the covering of medical examination and treatment costs by the facilitator of the prostitutes suffering from venereal disease;

• Act No. 2005-009 of August 3, 2005 relating to child trafficking in Togo and the Code of the Child which relates to the definition, prevention and penalties pertaining thereto (see the developments on Item 14, g) on page 54

The provisions on the Child Code which has created new offenses such as sexual harassment, incest, sex tourism, child prostitution, child pornography, paedophilia, corruption of the youth.

2. Judicial measures regarding sexual exploitation and abuse.

Here again, it is necessary to refer to the judicial decisions (see Development, 14 g) 2 – judicial measures regarding child abuse, neglect and exploitation; page 54)

21. v: Other forms of abuse and exploitation such as begging, early pregnancy, etc. (Article 29 (b))

1. Legislative measures regarding other forms of abuse and exploitation

The Penal Code of August 13 1980 provides two provisions on begging and vagrancy. Thus, Article 184 provides that anyone begging on the streets and/ or forces children to begging will be punished from one to twenty days of penal labour. The second of the two provisions, Article 185 of the Penal Code also punishes from one to twenty days of penal labour “anyone who has no home, no means of subsistence and do not have any job or profession and engages in vagrancy.”

Article 184 of the Penal Code envisages both the case of the child victim and perpetrator of begging (child left or exposed to begging), but article 185 of the same Penal Code had in mind only the single case of the author of vagrancy. And
in both cases, the child receives an alternative to imprisonment (from one to twenty days of penal labour constituting a measure of security).

Furthermore, the Child Code refers to children in difficulty or in danger which include the child exposed to neglect and vagrancy and the exposure of the child to begging and economic exploitation (Articles 276 et seq.) It provides that they may be subject to placement or other educational measure. The same Child Code, in its provisions relating to the protection of children against the sale and begging merely reproduces the penalty of one to twenty days of Penal Labour of Article 184 of the Penal Code to the only case of the child exposed to begging (Article 423 of the Child Code).

By contrast, the Child Code is silent on the exposure of the child to vagrancy by negligence of his parents, guardian, or a member of the extended family.

Finally, the Act of May 16, 1984 primarily protects against early pregnancy leading to dropout or abortions that are often fatal.

2. Judicial measures regarding other forms of abuse and exploitation

The child exposed to begging and exploitation and the child exposed to neglect and vagrancy both belong to the category of children in difficulty or danger to which the Child Code provides a measure of placement or any other educational measures to be ordered by the juvenile judge.

21.d) vi: Sale, trafficking and abduction

1. Legislative measure regarding the sale, the trafficking and the abduction of children

Regarding the sale of children, it has been regulated by the Child Code (Article 421) which punishes anyone who sales a child to a sentence of five to ten years imprisonment and a fine from 5,000,000 to 10,000,000 FCFA. The penalty will be doubled if the sale results in the disappearance or death of the child, without prejudice to the provisions of the Penal Code.

Regarding the abduction of children, it was regulated by the provisions of Articles 78-81 of the Penal Code of August 13 1980 and were reviewed as part of the discussions devoted to items 13, f) and 14 g ) (see the corresponding legislative measures).
However, the Child Code modifies the age specified in Article 79 of the Penal Code in deciding that a child under 15 years and not less than 12 years, justifies the application of the penalty of five to ten years imprisonment.

Similarly, the Children's Code (article 378 and seq) significantly modifies article 80 of the Penal Code which punishes the abduction for ransom purpose with life imprisonment or to the death penalty; applicable in cases of abduction. Indeed, the Child Code provides that the sequestration or abduction for ransom purpose is punishable with 10 to 20 years imprisonment instead of life imprisonment as per the former Article 62. As per the former article 63 of the Penal Code the death of a child resulting from abduction and sequestration was punishable with life imprisonment.

Finally, the Child Code (art. 386) punishes with one to five years imprisonment the abduction or relocation outside the national territory or those who have authorized his placement; and this against their will, except lawful order of public authority.

With regard to child trafficking, Act No. 2005-009 of August 3, 2005 on child trafficking in Togo includes a provision whose purpose is to provide for the definition of child trafficking, the prevention of child trafficking and the applicable penalties.

In terms of definitions, the Child Code uses the term “child trafficking” which replaces the term “traffic” mentioned in the Act No. 2005-009 to comply with the Protocol on Trafficking of Persons, especially Women and Children, annex to the UN Convention against Transnational Organized Crime, ratified by Togo. To be in harmony with the Charter on the Child the term “trafficking” enshrined in its Article 29 a) is maintained. To comply with the Additional Protocol relating to the trafficking of persons, the Child Code specifies the content of the term exploitation which includes sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. However, to comply with the Charter on the Child, one must add some of the provisions of Articles 16 and 27 of the Charter.

In terms of the prevention of child trafficking, the Child Code doesn’t provide for this point in that it does not duplicate the provisions of Article 8 of Act No. 2005-009 providing for the creation a national commission to fight against child trafficking, a prevention structure the organization and operation of which are set by decree in the Council of Ministers. Furthermore, Article 9 of Act No. 2005-009 pertaining to child trafficking in Togo requires during the movement of the child outside the country without being accompanied by parents or guardians, the
presentation of a special permit arrangements for which are established by decree in Council of Ministers.

However, the Child Code only refers about it in its provisions relating to penalties with respect to the expenses incurred for the services provided by the National Commission for the fight against child trafficking. This solution, which reproduces the one that is already provided for in Article 15 of Act No. 2005-009 shows that the Child Code considers this Commission as a protective structure, whereas the Act of August 3 2005 makes of it both a protection and prevention structure against trafficking of children.

2. Judicial measures regarding the sale, trafficking and abduction of children

21.e): Children victims of negative social and cultural practices that affect the welfare, dignity, normal growth and development of the child:

i and ii) Prohibition of the promise of marriage of girls and boys, and early and forced marriage (Article 21.2)

Legislative measures

Marriage, “a civil, public and solemn act by which a man and a woman establish between themselves a common legal and sustainable union” in Togo is regulated by the Child Code in its Articles 267 et seq.

Among the conditions of validity of marriage is the condition relating to age. Indeed, the Child Code sets the minimum age for both the boy to the girl at 18. And Article 267 paragraph 1 of the Code provides that: child marriage is prohibited. The age of marriage is 18 years old. Through these provisions, the code aims to protect children against early marriage.

However, Article 267, paragraph. 2 allows the presiding judge to depart from this principle by granting waivers to children of both sexes aged 16 years of age for serious reasons. This paragraph provides that “However, the president of the first instance court may grant dispensation to children of both sexes aged sixteen (16) years of age for serious reasons.”
Administrative Measures

The control of the civil documents produced by the intending spouses allows the notary officer in charge of registering the marriage to check the identity, age and ability of future spouses to contract a valid marriage.

In addition, the publication of notifications of marriage allows anyone to raise any objection to the marriage and oppose.

In addition to this, the personal appearance of the intending spouses during the marriage is required.

With regard to female genital mutilation, Togo has adopted Act No. 98-016 of May 17 1998 relating to the Prohibition of Female Genital Mutilation in its articles 1-6. The number is higher in the Central Region: 33% and 23% in the Savannah Region. However, due to the adverse effects (problems with urination and menstruation, problems during childbirth) and the awareness meetings, this phenomenon tends to disappear.

In addition to the legislative measures, social measures have helped to eradicate the practice of female genital mutilation in Togo. Thus the Ministry of Social Action, the Promotion of Women, the Protection of Children and the elderly through the Directorate of the Legal Status of Women conducted a massive awareness campaign about the dangers of female genital mutilation.

This Ministry, with the financial support from UNICEF, initiated an orientation program on the status of the circumcisers in income generating activities in December 2001 in the central region (Tchamba). But this program has not been continued due to economic reasons.

ii) Any form of harmful social and cultural practices

Harmful social practices:

- The early withdrawal of girls from school for economic and social reasons;
- The existence of vulnerable groups such as girl porters and domestic workers;
- Preference on sex and gender division of labour within the family unit and education.
Harmful cultural practices:

− Socio-cultural factors such as the problem of abduction in the region of Kara, rape in all prefectures and the “delivery marriage” in several localities in Togo, especially in rural Ewe of the Plateaux region;
− The practices of sacrifices in voodoo convents;
− The period of the compulsory convent among followers of the “hébiessou voodoo” in Ouatchi, Guin, Moba.

All these practices prevent girls and boys to pursue their studies, which constitute an obstacle to their self-actualization and economic and social development.

g) **Children needing special protection for being in situations of risk and vulnerability, such as street children and HIV / AIDS orphans**

The Ministry of Social Action, promotion of women, protection of children and the elderly is responsible for the protection of abandoned children.

Some NGOs like ASMENE run, in collaboration with the Ministry of Health, the project that provides psychosocial and economic integration support for people living with HIV / AIDS.

Since 2003, the Ministry of Social Action, promotion of women, protection of children and the elderly has made available to the NGO ASMEN eleven (11) social centers to conduct its business.

In all the five economic regions and the District of Lomé, some thirty NGOs have been set up to shelter, take care, feed and provide schooling to the orphans. Thus we have:

− Maritime Region: the Sisters of Providence Orphanage (Kouvé), the St Lazare and Louisa Kopé Institute in Tovégà, Ave.
− District of Lomé: The Tokoin Nursery, the SOS Children’s Village, the center of the 2MFEED-Togo - 2000 NGO, the Totsi Antonio center, the SPES created by religious people of Kégué.
− Kara Region: the Humen Center in Defali, the Pagouda orphanage, the ODPE NGO, the Pierre du Pauvre center, the SOS Village and the Hope NGO.
Plateau Region: the Orphanage of the Sisters of Notre-Dame of Nazareth in Notsè, the Son project in Notsé, the Social Action Center in Togo, Yokélé (Kpalimé), the House of the Child in Atakpamé, the Nanovio center in Amu.

Central Region: the Action World Togo NGO, Solignyogobu, Gracia Theresia, Adjengré sisters.

Savannah Region: the NGO living in hope receives children and orphans living with HIV / AIDS.

X. RESPONSIBILITIES OF THE CHILD

23 - State parties are requested to provide relevant information on current practices, the legislative, judicial, administrative and other measures in force, the factors and difficulties encountered in implementing the relevant provisions of Article 31 of the Charter on the Child in relation to the duties of the child towards:

23.a): The parents, the family and the community

1. Legislative measures regarding the duties of children towards the parents, the family and the community (Article 31)

The Child Code in its articles 428 and 429 provides for the duties of children towards their parents which are to:

- respect their parents, superiors and the elderly in all circumstances and, if necessary, assist them;
- respect other children;
- respect their identity, language, cultural and national values;
- respect the natural environment and work for its protection;
- respect the rights, reputation and honor of others;
- work for the cohesion of their family and the well being of the national and international community by placing his physical and intellectual abilities at their disposal;
- work to maintain public order, health and morals.
2. Judicial measures regarding the duties of the child towards the parents, the family and the community

23.c): The State and the continent

1. Legislative measures regarding the duties of the child towards the State and the continent

Title III of the Child Code provides for the duties of children towards their parents, their family, the society, the State and other legally recognized communities and towards the international community (Article 428).

Under article 429 of the Code, “The child, depending on his age and abilities and subject to the restrictions contained in this code, has the duty to:

- respect his parents, superiors and the elderly in all circumstances and, if necessary, assist them;
- respect other children;
- respect his identity, language, cultural and national values;
- respect the natural environment and work for its protection;
- respect the constitution and other laws of the Republic;
- work towards the respect of the human rights and child rights;
- respect the rights, reputation and honor of others;
- work for the cohesion of his family and the well being of the national and international community by placing his physical and intellectual abilities at their disposal;
- work to maintain public order, health and morals;
- work towards the preservation and strengthening of social solidarity and the nation;
- contribute to the best of his abilities, at all times and at all levels, towards the promotion and protection of the national unity and the African unity.”
- The Constitution of October 14 1992 provides on the duty of every citizen towards the State:
- Article 42 provides that respect for the Constitution and the laws and regulations of the Republic is a sacred duty of every citizen;
- Article 43 provides that the defense of the homeland and the integrity of the national territory is a sacred duty of every citizen;
– Article 44 provides that every citizen has the duty to follow a national service programme under the conditions defined by the law;
– Article 45 provides that every citizen has the duty to fight any person or group of persons who attempt to change by force the democratic order established by this Constitution.

**CONCLUSION**

Ultimately, the safeguards for the protection of the child are contained in the legal system of Togo. The willingness of the legislature to ensure that protection is manifested in the Togolese Constitution, which incorporates the African Charter on the Rights and Welfare of the Child with Article 50.


In practice, concerted efforts are made by the public authorities and the civil society with the invaluable support of the development partners to ensure the effective protection of children against all forms of abuse or exploitation.

Aware of the special attention and interest that must be given to the specific questions of children, the Togolese government remains committed to collaborate effectively with the African Committee of Experts on the Rights and Welfare of the Child for a better form of protection of children in Togo.
*List of members of the inter-ministerial commission for the drafting of the initial and periodic reports on human rights*

1. Mrs. POLO Nakpa  
   Ministry of Human Rights and Consolidation of Democracy
2. Mr. Kokou MINEKPOR  
   Ministry of Human Rights and Consolidation of Democracy
3. Mr. ASSAH Koffi Maxime  
   State Ministry, Ministry of Foreign Affairs and Regional Integration
4. Mr. WOLOU Sourou  
   National Commission on Human Rights
5. Mrs. AZAMBO Aquitème  
   Ministry of Social Action, Promotion of Women, Protection of the Child and the Elderly
6. Mrs. TAMAKLOE Massa  
   Ministry of Social Action, Promotion of Women, Protection of the Child and the Elderly
7. Mrs. GBDOUI Massa  
   Ministry the Youth, Sports and Leisure
8. Mrs. AZANGU Akati  
   State Ministry, Ministry of Health
9. Com. BARAGOU Bamana  
   Ministry of Security and Civil Protection
10 Cpt. BIGNANDI Aklesso  
    Ministry of Defense and Veterans
11 Mr. ALOU Bayabako  
    Ministry of Cooperation, Development and Urban Planning
12 Mr. KODJO G. Gnambi  
    Ministry of Justice
13 Mr. LAÏSON D. Amah  
    Ministry of Labour, Employment and Social Security
14 Mme. YAKPO Ama E.  
    Ministry of Environment, Tourism and Forest Resources
15 Mr. DANYO K. Hagbalé  Ministry of Territorial Administration, Decentralization and Local Governments

16 Mr. HEVI K. Enyonam  Ministry of Primary and Secondary Schools and Literacy

17 Mrs. ADOKO Ghane-Bëlë  Ministry of Communication, Culture, and Civic Education

18 Mr. LOGO Kokou Edina  WAO-Afrique

19 Mr. DWEGGAH Philippe  Forum of Organization for the Defense of the Rights of the Child in Togo (FODDET)

20 Mr. EDEH Kodjovi  International Catholic Child Bureau (ICCB)

RESOURCE PERSON

21 Mme. ABBEY-KOUNTE Kayi  Magistrate, President of the Juvenile Court

SECRETARIAT

22 Mr. K. BADABADI Tchamèda  Department of Human Rights and Consolidation of Democracy