



TOGO

ANALYSIS OF THE SITUATION

A. General situation

Togo is located in Western Africa, between Ghana and Benin. It is divided into five economic regions (Savanes, Kara, Central, Plateaux and Maritime) and includes over 36 different ethnic groups. Togo gained its independence in 1960 and has since suffered of well-known political instability. Since the beginning of the 1990s the socio-political crisis, which the country has experienced, has resulted in the suspension of almost all foreign aid, thus leading to violent repercussions on the social sectors.¹ After many years of political tensions, President Faure Gnassingbé has been re-elected in 2015 with an electoral process approved by the European Union. 2017 was however marked by increasing political and social tensions.²

Togo is a developing country, which is among the least advanced countries in the world. However, even if economic conditions improved during the five last years, 55,1% of the population still lived below the poverty line in 2015, and approximately 60% of Togolese children are affected by poverty. 44 % of children aged between 5 and 17 years old have no access to basic services such as water, education, nutrition and housing. Togo's population was estimated to 7'800'000 in 2017³ of which, in 2015, 3'553'000 were under 18 years and 1'160'000 under 5. In 2015, Togo's birth rate was estimated to be at 35 per 1'000 and the child mortality rate to 52 per 1'000 births. The same year, the birth registration was 78%.⁴

The risks of HIV/AIDS transmission are considerable, affecting especially women in Togo. A 2017 study assessed the possible role of prevalent HIV/AIDS infection in the abandonment of children.⁵ As per the World Bank, the prevalence of HIV within the population aged 15-49 years is of 2.1% in 2017.⁶ UNICEF has locally developed a health programme and has implemented several activities aimed at promoting the girls' access to school, as secondary school attendance ratio is still low especially for girls (41% for period 2009-14).⁷

Despite the right to life granted by the Togolese Constitution to all children without any discrimination, the phenomenon of abandoned newborn babies in boxes along the streets, and of embryos and foetus thrown in the lagoon or latrines, persists in an increasing manner in the country's towns, and in particular in Lomé. In rural areas, and among the poorest levels of the population, the socio-political and economic crisis of the past years has led to an

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¹ See <https://freedomhouse.org/report/freedom-world/2010/togo?page=22&year=2010&country=7933>.

² UNICEF annual report 2017 Togo: https://www.unicef.org/about/annualreport/files/Togo_2017_COAR.pdf.

³ World Bank Country Profile.

⁴ UNICEF annual report 2017 Togo: https://www.unicef.org/about/annualreport/files/Togo_2017_COAR.pdf.

⁵ Abandoned Children Admitted to the Nursery of Lome (Togo): Place of HIV/AIDS Infection, 2017. Available at :

<https://bettercarenetwork.org/sites/default/files/abandoned-children-admitted-to-the-nursery-of-lome-togo-place-of-hivaidinfection.pdf>.

⁶ UNICEF annual report 2017 Togo: https://www.unicef.org/about/annualreport/files/Togo_2017_COAR.pdf.

⁷ UNICEF Statistics: https://data.unicef.org/wp-content/uploads/2016/06/SOWC-2016_all-tables_261.xlsx.



increase in the mortality rate of children under the age of five (78/1000 in 2015), and has seriously jeopardised the Togolese children's physical, mental and social development. Child labor (28% in 2015) and child marriage (22% were married by 18 in 2015) and violence against children (despite corporal punishment being prohibited)⁸ are still concerns.⁹ In 2016, youth employment affects 10.8% of the population aged between 15 and 24 years old (as opposed to 6.2 % of the total population).¹⁰

As many countries in the subregion, significant regional migration, including those of children, is prevalent in Togo. Therefore, a Project for the Protection of Migrant Children Along the Abidjan-Lagos Corridor (CORAL) in Côte d'Ivoire, Ghana, Togo, Benin and Nigeria was set up in April 2017 by Terre des hommes (Tdh), ENDA and the African Movement of Working Children and Youth (AMWCY) and initiated a participatory research study for further programming to strengthen child protection services for migrant children and children affected by migration, including increasing access to those services, reinforcing existing services, creating new ones, and stimulating synergies between the formal and the informal actors.¹¹

Other sources :

UNICEF, <http://www.unicef.org/infobycountry/togo.html>; Third and Fourth Periodic Report to the Committee on the Rights of the Child, May 2011, http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=TGO&Lang=EN; FODDET, Alternative Reports OPSC, 2011, http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=TGO&Lang=EN.

B. Children deprived of their family and alternative care options

According to 2010 data, a large proportion of Togolese children are in need of an alternative care placement or support: less than 2/3 (64.2%) live with both of their parents, 20.9% live with a single parent, and 14.9% live with neither parent.¹² Furthermore, 50% of vulnerable children are orphaned due to HIV and the AIDS epidemic. The latter amount 25 % of the total amount of Togolese orphans. A major problem concerns the lack of systematic data collection. UNICEF estimated that, in 2014, there were 54'000 orphans due to AIDS and 330'000 due to all causes. According to a 2018 report by SOS Children's Villages International, there were 5'080 children in alternative care in 2016, 43% of them were boys and 55% girls.¹³

According to a 2014 regional report¹⁴, due to a lack of specialised facilities, the country faces difficulties meeting children's specific needs and find suitable placements. This lack of choice led to children's views being rarely taken into consideration. As a consequence, children are moved from one region to another, which would make it difficult for them to remain in contact with their families and communities.

Policy and legal framework

The **2007 Children's Code (Children Code hereafter)** recognises the right of the child to a family (Sub-Title II) and specifies the parents' duties towards their children (Chapter I). However, the critical economic situation of the country, has made it difficult to positively implement these rights and has led some parents to abandon their children, as reflected in the data provided above.

Over the last years, the country has undergone a restructuring and legislative review process aimed at strengthening its legal and institutional framework for the protection of the rights of the child. A **Law N°2012 of 6 July 2012** amended for instance the Family Code. New entities have also been established such as the **Directorate-General for Child Protection (DGCP), the National Committee on the Rights of the Child¹⁵, the National Commission for the Care and**

⁸ The use of violent discipline in the home (defined as percentage of children who experienced any violent discipline /psychological aggression and/or physical punishment in the past month) was found to be 93% in Togo. See p. 2, <https://bettercarenetwork.org/sites/default/files/s12889-018-5057-x.pdf>.

⁹ UNICEF, <http://www.unicef.org/infobycountry/togo.html>.

¹⁰ See <https://bettercarenetwork.org/sites/default/files/s12889-018-5057-x.pdf>.

¹¹ Baseline Research Report: Project for the Protection of Migrant Children Along the Abidjan-Lagos Corridor (CORAL), 2018. Available at: <https://bettercarenetwork.org/library/particular-threats-to-childrens-care-and-protection/children-and-migration/baseline-research-report-project-for-the-protection-of-migrant-children-along-the-abidjanlagos>.

¹² See UNICEF, Multiple Indicators Clusters Survey / MICS4, Togo, 2010.

¹³ SOS Children's Villages International, 2018, *Decent work and social protection for young people leaving care, gaps and responses in 12 countries worldwide*, https://www.sos-childrensvillages.org/getmedia/842a5811-fdb7-41c4-a0b2-45b0e5e79090/SOS_LeavingCare_web.pdf

¹⁴ University of Malawi, Celcis, SOS Children's Villages, *Drumming together for Change*, 2014, http://www.sos-childrensvillages.org/getmedia/0efdca8a-871e-41e9-a083-75bcdaf2e2c/Drumming-for-change_full-report.pdf.

¹⁵ Stipulated in the Children's Code of 2007, granting greater autonomy under the current restructuring process.



Social Reintegration of Child Victims of Trafficking and the National Adoption Committee (CNAET). According to the Summary Records of the Periodic Review before the CRC Committee in 2011/12¹⁶, there seems to be a lack of coordination among these new entities, as well as unclear roles and responsibilities. Further, the establishment of the National Committee on the Rights of the Child had been on hold for several years, which did not contribute to the effective implementation of the 2007 Children’s Code. Therefore, the Government adopted **Decree n°2016-102/PR of 20 October 2016** regarding the composition, organisation and functioning of the National Committee on the Rights of the Child.

And finally, the reform of the child protection national system was finalised with the **National Plan for the child well-being in 2018**, which recognises families and communities as essential elements of the child protection system.

Prevention and Family Strengthening (including Family Reintegration)

In its legal framework, the country has acknowledged the right of children to grow up in their families and the role of the state in supporting the families in the provision of care and education. However, it has failed so far to implement effective family strengthening and preventative services to promote this right.

Indeed, apart from an Agency for National Solidarity, set up in 1992 to help families affected by natural and/or atrophic disasters, there is little state assistance available for vulnerable families, most of the family strengthening programs being provided by civil society organisations. Indeed, there is no national family strengthening policy, and therefore it is not surprising that State’s obligation to provide support to families, as enshrined in the CRC, is limited, or quasi inexistent.

Non-governmental organisations, such as SOS Children's Villages¹⁷, Plan Togo, BØRNEfonden, Terre des Hommes and the International Catholic Child Bureau, have been running family strengthening programs. Common challenges for the implementation of these interventions included coordination, low levels of financing (large dependence from external sources). Another entity, the Center for Reference, Guidance and Care for Children in Difficult Situations, has set up a mobile team to organize mediation between caregivers or parents and children to facilitate family reintegration. Once again, the non-existence of limitation of resources was highlighted as main challenge.

In order to implement the **social protection policy**, a pilot cash transfer program was implemented with the support of the World Bank and UNICEF. The pilot started in July 2013, focusing on the poorest regions of the country (Kara and Savanes) and was intended to reach 8,000 children and 81 villages where acute malnutrition was identified. It consisted in providing 5,000 XOF (approx. US\$10) per child for a period of 18 months, for families with children aged six to 24 months. Other services were offered such as awareness-raising among parents of the importance of education, nutrition and child health.¹⁸ According to the 2017 UNICEF annual country report, the program ended in July 2017 and allowed children to benefit from cash transfers, improved mothers and children’s health, as well as the birth registration. Through the program the most vulnerable families could be identified, which will allow for the creation of a “Unique Social Register” serving as basis for future cash transfer programs (financial means approved by the World Bank). The country indeed decided to extend cash transfer programs to the poorest families at a national level. Apart from this cash transfer program, other elements of the social protection policy has however not been fully implemented yet.

Gatekeeping mechanism

According to a 2014 report¹⁹, in order to centralise and improve the gatekeeping process for children in the alternative care system, an NGO facility (OASIS of Terre des Hommes) was taken over by Ministry of Social Action and National Solidarity in January 2012 to act as a **central referral centre for children**. Children are admitted in a transit center/orientation center (CROPESDI) during 72 hours (emergency shelter) while appropriate long-term care is being determined. An interdisciplinary team providing support (counselling, rehabilitation and reintegration) for children

¹⁶ Summary records parts 1 and 2, CRC/C/SR.1679 and CRC/C/SR.1680 (2012),

http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=TGO&Lang=EN.

¹⁷ Since 2002, SOS Children’s Villages works together with other partners at the community level in order to support families in the care of their children. Their work is based on three axes: economic strengthening, health and education.

¹⁸ SOS Villages pour Enfants, FODDET, *A Snapshot of Alternative Care Arrangements in Togo*, <http://www.sos-childrensvillages.org/getmedia/8cddb9a-8986-4ad5-9026-22ec627270b2/TOGO-FINAL-to-upload.pdf>.

¹⁹ University of Malawi, Celcis, SOS Children’s Villages, *Drumming together for Change*, 2014, http://www.sos-childrensvillages.org/getmedia/0efdca8a-871e-41e9-a083-75bcdaef2e2c/Drumming-for-change_full-report.pdf.



within foster families. CROPESDI runs a toll-free number²⁰ and offers mediation services for children and families to facilitate reintegration. Despite this progress in the establishment of a formal admission procedure, such a gatekeeping entity does not exist in all regions. Consequently, children are often placed in environments that do not meet their specific needs.

As per 2012, the application of this strategy has seemingly decreased the number of vulnerable children in institutions, established a national mechanism for collecting information on vulnerable children and supported the development of a welfare system for children in alternative care. Currently, the Government is documenting the strategy, extending it to all communities including rural areas, and strengthening members of the specialised child protection committees at village level so they can effectively monitor children in foster care.

Alternative care measures²¹

When children find themselves separated from their family, various substitute protection measures are provided for by the Children Code, in particular: guardianship, adoption, foster care and care in private institutions according to the *Alternative Report of the Collectif des ONGs togolaises de protection de l'enfance* (2005).

As per the 2018 Report from SOS Children's Villages International²², 2012 showed that 6'490 children were cared for in residential centres, 2'049 in transit centres and 1'022 in non-residential centres. This same source indicates that alternative care options are largely provided by NGOs. For instance, RESAEV-TOGO is a network of organizations caring for vulnerable children in Togo and aiming at creating a unified set of standards and objectives between the main alternative care organizations for children at-risk in Togo.

Guardianship applies in situations where the child's parents die or are temporarily or permanently deprived of their parental responsibility. The grounds leading to the termination of parental responsibility are outlined in article 161 Children Code: incapacity, family abandonment for a period exceeding six months or a judicial decision of loss or suspension issued in relation to the holders of parental responsibility. The operation of guardianship is set out in the second chapter of the Code. The guardian is usually appointed by parents, in a will drafted by the latter. If this is not the case, he or she will be appointed by the Family Council, which will select him or her among the members of the child's family. The guardian is in charge of the child's care and legal representation in all actions, except in those cases in which the law or custom authorises children to act by themselves. Guardianship terminates when the child comes of age or upon the child's death.

Informal care ("confiage") is widely practiced. When families breakdown due to sickness, divorce or death, or children need to live elsewhere for educational reasons, it is usually and traditionally in the community or extended family that children are being taken care of. It has to be noted, that this form of care goes beyond the extended family in Togo, and also applies to members of the community, friends or professional contacts of parents and could include putting children in the care of an older member of the community.

Foster Care: as per official statements to the CRC Committee in 2012, the Government assured to have taken measures to properly regulate adequate fostering arrangements. In collaboration with partners such as UNICEF, Plan Togo, Handicap International and Terre des Hommes, a strategy of care for vulnerable children in foster care has been developed. In order to implement this strategy in family-based settings, a number of activities were conducted including: awareness raising to recruit foster carers, training for potential foster families, accreditation of host families, placement within foster families and monitoring of children.²³ Likewise, in 2017, SOS Children's Villages Togo started a foster family care programme. As per the organisation's website, prospective foster parents were identified and trained by SOS co-workers, social workers and social welfare officials.²⁴

Residential care:

²⁰ On March 16, 2018, the line benefited from two projects of Plan International-Togo: "Platform for Information Collection and Interactive Cartographic Visualization (USHAHIDI)", aimed at strengthening the participation of children in their own protection. Through these projects, young people seek information, advice, assistance and referrals about health, including sexual and reproductive health.

²¹ SOS Villages pour Enfants, FODDET, A Snapshot Of Alternative Care Arrangements in Togo <http://www.sos-childrensvillages.org/getmedia/8cddb9a-8986-4ad5-9026-22ec627270b2/TOGO-FINAL-to-upload.pdf>.

²² Ibidem 11.

²³ Togo: 15 familles d'accueil volontaires pour aider les enfants victimes de violences, <https://www.tdh.ch/fr/actualite/togo-15-familles-daccueil-volontaires-pour-aider-les-enfants-victimes-de-violences>.

²⁴ See, <https://www.sos-childrensvillages.org/news/providing-foster-family-care-in-togo>.



According to a 2014 report²⁵, 50 % of the institutions in Togo were not registered with the authorities. In 2014, there were about 98 non-state organisations, such as religious institutions or NGOs with only four being publicly or state-run. This seems to still be the case as per 2018 data²⁶: Out of the total of 141 care centers only 4 are owned by the State.

Unregistered facilities and lack of inspection: With this high level of non-state provision, and ineffective monitoring systems in place, it was reported that facilities do not meet minimum standards. The **Decree Nr.2010-100/PR**, which sets the standards of safety and hygiene, and the composition and operation of child care facilities, was indeed only signed on 23 November 2012. This Decree defines the list of documents necessary to register a care facility. However, without a rigorous system of inspection, monitoring and evaluation these unregistered centres operate without rules or oversight and tend not to meet the minimum conditions for the development of children. The DGCP is responsible for inspections, but even registered care centres are not inspected adequately. The DGCP inspectors tend to make only sporadic visits, due to lack of resources and organisation. Concerns relate to the employment of low skilled and under-paid staff in private facilities. As per the UN Alternative Care Guidelines (§105), failing to register alternative care provision should be ‘an offence punishable by law’. Authorisations/accreditations should also be ‘regularly reviewed by competent authorities based on established standard criteria’.

Leaving Care: The government aims at providing various support services to prepare young people for work and society through socio-professional inclusion. Therefore, at the national level, a study on the sustainable trades for support in care leavers’ employment and skills development has just been completed by the DGCP. However, the impact on the local level is unclear. Additionally, little data is available on young people leaving care. As per a SOS study Tracking Footprints, the majority of young people (64%) dropped out of school and entered into low skilled employment due to the fact that possibilities for professional training are very limited in Togo. It is mostly CSOs that try to address leaving carers. For instance, RESAEV-TOGO help with campaigns to train staff and young people leaving care. Within the network there is a division that is responsible for supporting care leavers into employment by offering professional training.²⁷

Children with disabilities

In its articles 8 and following, the Act No. 2004-005 of 23 April 2004 on the social protection of persons with disabilities requires the State, to ensure the latter’s education. Similarly, article 258 of the Code foresees a child’s right to education, rehabilitation and vocational training. Based on these provisions, the State may grant scholarships, exemptions from access to specialized schools and subsidies for institutions hosting persons with disabilities.

Setting up services and centers which provide care for children with disabilities fall within the responsibility of two ministries: the Ministry of Social Action and the Ministry of Health. These public services are supported by development partners, including the European Union (EU), the French Embassy and the German Development Service (DED), and the Cultural and Cooperation Service (SCAC). NGOs such as Handicap International, Christian Blind Mission (CBM), Liliane Foundation Envol, EPHATA and religious denominations such as the Church of the Assemblies of God, the Protestant Church.

According to a 2018 regional study²⁸ on violence against children with disabilities in West Africa, children with disabilities experience violence more than non-disabled children, episodes of violence starting often at birth, and differences in impairment and participation within their communities also lead to the latter’s experience of violence.

Comments of the ISS/IRC

The country has adopted several provisions and initiatives aimed at an improved implementation of the rights of children. Among them, it is worth highlighting the adoption of the Togolese Children’s Code, which allows for the compilation of all the legislative provisions applicable to children in a unique document. This Code grants the child a set of fundamental rights; however, its practical **implementation seems weakened due to a lack of means**. Indeed,

²⁵ University of Malawi, Celcis, SOS Children’s Villages, *Drumming together for Change*, 2014, http://www.sos-childrensvillages.org/getmedia/0efdcaba-871e-41e9-a083-75bcdaef2e2c/Drumming-for-change_full-report.pdf.

²⁶ Ibidem 11.

²⁷ *Decent Work And Social Protection For Young People Leaving Care*, 2018. Available at: https://bettercarenetwork.org/sites/default/files/SOS_LeavingCare_web.pdf.

²⁸ See, <https://bettercarenetwork.org/sites/default/files/s12889-018-5057-x.pdf>.



the **limited financial and human resources** render its application difficult. Further, according to a 2014 Report on the Implementation of the UN Alternative Care Guidelines in several African countries, it was highlighted that the Togolese legal framework had not taken into account several essential areas.

As emphasised by the Committee on the Rights of the Child in its concluding observations in 2012²⁹, one of the country's priorities remains **the strengthening of adequate and systematic training of alternative care professionals** such as law enforcement officials, teachers, health workers, social workers and personnel. In addition, despite the significant role of non-state actors for the provision of alternative care settings, **state coordination and monitoring** of these agencies is necessary in order to ensure that minimum standards are met and that children receive quality care.

At the social level, the weight of **traditional and customary practices** also is an obstacle in the positive implementation of the rights of the child. As advocated by the UN Guidelines for the alternative care of children, the **informal care** of children deprived of their families requires some supervision, in order to prevent any situation of abuse or exploitation. Even though it is appreciated that this supervision should not be as strict as in cases of formal care, the importance of its existence is nonetheless recognised.

The ISS/IRC would like to encourage the country to continue its efforts to establish a national-wide **foster care system** with guarantees adequate screening, preparation, matching, follow-up and support to foster care families.

As to **residential care**, it is worrying that non-registered facilities continue to operate despite the introduction of minimum standards and monitoring mechanisms. The government is to be encouraged to pursue its efforts to translate this framework into concrete actions. In relation to leaving care, SOS' report states that *“overcoming challenges for care leavers is often seen as sitting with the children's care centres themselves. While there is possibly more that could be done to establish links with businesses, the real challenges around education and employment are ones that require political will and direction.”*

Other sources:

- UNICEF Statistics: https://data.unicef.org/wp-content/uploads/2016/06/SOWC-2016_all-tables_261.xlsx;
- UNICEF annual reports of [2016](#) and [2017](#).
- Alternative report CRC Committee, International Disability Alliance (IDA), 2011, http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=TGO&Lang=EN;
- SOS, « Renforcer les communautés pour soutenir les familles », May 2014, <http://bettercarenetwork.org/sites/default/files/Renforcer%20les%20communaute%CC%81s%20pour%20soutenir%20les%20familles.pdf>;
- <https://bettercarenetwork.org/sites/default/files/Presentation%20-%20Lignes%20Directrices%20sur%20la%20Prise%20en%20Charge%20Alternative%20-%20Togo.pdf> .

C. Adoption

Adoption is regulated by the **2007 Children Code** and has been complemented by the **Law n°2008-014** of 19 November 2008 regarding the implementation of the 1993 Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption. The Family Code was amended in 2012 and refers to the Children Code “subject to the provisions of the Chapter IV” (articles 217 and following). In recent years, the **Decrees 2008 103/PR and 104/PR** regarding the adoption procedure and the National Adoption Committee have introduced further regulation.

THEMES	INFORMATION
CENTRAL/ COMPETENT AUTHORITY	<p>Le Comité National d'Adoption d'Enfants au Togo (CNAET) [National Child Adoption Committee] 01 BP 1402 Lomé - Togo Tel.: (228) 22-22-56-60 Fax: (228) 22-22-27-61 Email : cnaet.tg@gmail.com</p>

²⁹ 2012 Concluding Observations CRC/C/TGO/CO/3-4.



	<p>Website: www.actionsociale.gouv.tg Contact persons: M. Abd-Nafiou MAMANH, President, , Tél : (00228) 70-43-04-48/90-05-56-15, E-mail: abdnafiou@yahoo.fr; Mme DJANGUENANE Y.Falaman Epse PENN, Permanent Secretary, Tel: (00228) 22-22-56-60/70-43-04-49/90-16-80-38, E-mail: fagenepab01@yahoo.fr.</p> <p>Other competent authorities :</p> <ul style="list-style-type: none"> - Ministry in charge for child protection supervises the CNAET and the Minister signs PAP’s approvals in view of adoption, the attribution decision of a child based on CNAET’s proposals and the conformity certificate (art.23) - Ministry of Foreign Affairs and cooperation (1 representative within the CNAET to monitor the respect of international cooperation provisions) - Ministry of Health (2 representatives within the CNAET: pediatrician and psychologist; medical reports and psychological evaluations; delivery of medical certificates to PAPs; medical assessment of the adoptable child) - Ministry of Justice (2 representatives within the CNAET): verifies the conformity of all judicial acts: provisory placement orders; declaration of abandonment; adoption decision) - Tribunals: provisory placement (President of the First Instance Tribunal signs the placement decision as well as the final adoption judgment) - Consulates of the Receiving country: delivery of visa. <p>Sources : https://www.hcch.net/fr/states/authorities/details3/?aid=842; Hague Country Profile 2019, https://assets.hcch.net/docs/8a700f64-b730-43de-9d07-532781f1f3ff.pdf.</p>
<p>FULL/ SIMPLE ADOPTION</p>	<p>There are two types of adoption in Togo: simple adoption and full adoption.</p> <p>A full adoption takes effect from the day of the submission of the request for adoption. However, it only becomes enforceable to third parties from the mention or transcript of the judicial decision or of the ruling in the margin of the adoptee’s birth certificate. A full adoption grants the child a filiation, which replaces his or her biological filiation, except with regards to the prohibitions in relation to marriage. It is irrevocable. According to the Family Code, a full adoption can only be requested for a child below the age of 12. However, the president of the tribunal or the competent judge may override this principle if in the best interests of the child and based on a substantialised ruling.</p> <p>A simple adoption entails the integration of the adoptee in the adopter’s family, whilst also keeping his or her rights, in particular inheritance rights and maintenance obligations, in relation to his family of origin, in accordance with the conditions set out in articles 94 and following of the Family Code. A simple adoption may be revoked upon the adopter’s or the adoptee’s request, if this request is justified on serious grounds. If a simple adoption has been declared in Togo and an plenary adoption is being considered, the Togolese authorities require the consent of the birth family to this plenary adoption, which needs to be legalised by a notary.</p> <p>Sources: Arts. 217 and following, Family Code; Arts. 84-87 and 92 and following, Children Code; 2019 Hague Country Profile, p. 25-26.</p>
<p>SUBSIDIARITY PRINCIPLE</p>	<p>In case of successful efforts/social investigations to locate the birth family of a child who was placed on a temporary basis in a residential facility or a foster family, relevant social workers in collaboration with psychologists work towards the child’s reintegration in his/her biological family. An adoption can only take place in case of justified motives and if beneficial to the child.</p> <p>Intercountry adoption is authorised when it is impossible to properly ensure the child’s care, education, schooling and a family environment at national level.</p> <p>Sources: Art.102, Children Code; art. 217, Family Code; 2019 Hague Country Profile, p. 13.</p>
<p>CHILD ADOPTABILITY</p>	<p>The following children may be adopted:</p> <ul style="list-style-type: none"> ▪ father and mother or Family Council have validly consented to the adoption; ▪ have been declared abandoned by the Children’s Judge, or by the President of the Tribunal of First Instance of the child’s place of domicile or residence, in accordance with the conditions set out in the Code*; ▪ children, whose parents have been deprived of parental responsibility; ▪ children of the spouse; ▪ children, who have been the victims of natural disasters, armed conflicts, civil or other unrests; ▪ refugee children, who have been permanently deprived of their family environment.



The National Adoption Committee for children in Togo is in charge of judging the adoptability of children given up for adoption by their parents, by the Family Council, by social services, by homes for children in difficulty or by individuals having taken them in. However, it is the Children's Judge or the President of the tribunal of the child's residence that is competent to determine the child's adoptability.

* To be declared abandoned, the care institution shall notify the Regional DGCP within 72 hours. The social services of the DGCP in collaboration with the care institution and the police proceed with investigations to locate the birth family (radio/television, etc.). After 1 year of unfruitful searches, the child can be declared abandoned. Arts. 73 and 278 of the Children Code: The following may be declared abandoned by the Children's Judge, or by the President of the Tribunal of First Instance of the child's place of domicile or residence: children whose parents have explicitly shown a lack of interest for over a year, unless during that same period one of the parents has requested the care of children, and the President of the Tribunal has considered this request to be compliant with the child's best interests. The request for a declaration of abandonment may be submitted by the person or institution having cared for the child, by a social service or by the State Prosecutor.

As indicated by the 2019 HCCH Profile, in case of abandoned children, priority is given to domestic adoption.

Examples of *Children with Special Needs* are listed in the 2019 HCCH Profile: children with a disability, a grave congenital or incurable diseases, HIV/Aids, older children, etc.

Child's File: according to the 2019 HCCH Profile, the report on the child is prepared by the social workers of the child's care institution and should contain the following information: the child's identity, history, physical and moral characteristics, each effort undertaken to find the child's birth family and envisaged solutions to ensure the child's harmonious development. The adoption committee currently has a child reporting template on which training to social workers has been provided at the beginning of 2019.

Sources: Arts. 68 and 73 of the Children's Code, arts. 16-24, Decree n° 2008-103/PR ; art. 5, Decree n° 2008-104/PR; [2019 Hague Country Profile](#), pp. 11-12, 14-15, 19.

**PROSPECTIVE
ADOPTIVE PARENTS**

An adoption may be requested:

- jointly by two spouses, who are not physically separated and one is at least 30 years old. Furthermore, the adopters must be at least 18 years older than the children they wish to adopt, except if they are the spouse's children, in which case the age difference is 10 years. This age difference may, however, be reduced upon an exemption issued by the President of the Tribunal of First Instance;
- by any person of one or the other gender, who is older than 30 years. Single female candidates will be accepted and single male candidates might be based on an evaluation of the CNAET (2019 HCCH Profile).

If the adopter is married and not physically separated, his or her spouse's consent is necessary, unless the latter is unable to express his or her wish.

Nobody may be adopted by several persons, unless they are spouses. The same conditions apply whether or not the applicants reside in Togo.

PAP's FILE

The adoption request, which is signed by both spouses and sent to the President of the Tribunal of First Instance of Lomé, must be submitted with the following documents:

- Certificate of eligibility and suitability, issued by the competent public authority of the receiving country;
- Reports of the psychosocial studies;
- Home study report;
- Birth certificates of each of the adopters and of the child/ren (if any);
- Marriage certificate, divorce decision or death certificate, if applicable;
- Police records of the adopters;
- Medical certificates (following a medical check-up);
- Proof of income(s) (salary slips/notarial certificate after evaluation of income and assets; work related information)
- Photographs of the adopters and their home;
- Recommendation letters by friends and acquaintances;
- Postal stamps, in order to cover the mailing expenses.

In case of the adoption of a second or third child, Togo requires a report on the first child's integration/adaptation into the adoptive family as well as the child's opinion on the subsequent adoption.



	<p>If the PAP's go through an AAB, they need to provide proof for the AAB's authorisation/accreditation.</p> <p><i>Sources:</i> Arts. 63-66, Children Code; arts.3-15, Decree n° 2008-103/PR ; art. 4, Decree N° 2008-104/PR related to the National Adoption Committee for Children in Togo; Ministry of Education, Social Policy and Sports of Spain, www.mepsyd.es/politica-social/familias-infancia/adopciones/adopcion-internacional/informacion-paises-origen/togo.html; 2019 Hague Country Profile, pp. 16-19.</p>
<p>CONSENTS</p>	<p>Consent by the child: A child who has the ability to understand has the right to personally consent to his or her adoption (article 70 Children Code). According to the 2019 HCCH Profile, this implies that the child is judged to have the capacity to provide with lucidity his/her opinion on the adoption decision. In addition, the CNAET will hold individual and collective interviews to verify with the child and his/her parent that the child's wishes and opinions are duly taken into consideration throughout the adoption process and that the adoption is in the child's best interests. Apart from these interviews, the child is provided with support and counselling by the social worker in charge of undertaking the social enquiry and the psychologist of the CNAET. Frequently, the child's consent is requested in cases of relative adoptions or the adoption of older children.</p> <p>Consent by the child's parents: The father and mother must both consent to the adoption of their child. If one of them is deceased, deprived of parental responsibility, unknown, or unable to express his or her wish, the consent of the other parent is sufficient. The CNAET informs and counsels the parents on the consequences and implications of domestic and intercountry adoptions as well as simple and full adoptions.</p> <p>Consent by the Family Council: If the father and mother are both deceased, deprived of parental authority, unknown, or unable to express their wish, lost their parental capacity, consent will be granted by the Family Council, with the prior opinion of the person in charge of the child. This is also the case when the child's filiation has not been established.</p> <p>Consent is expressed by an authenticated deed before the President of the Tribunal of the place of domicile or residence of the person consenting, before a Togolese or foreign public notary or before the Togolese diplomatic or consular officers.</p> <p>The consent to adoption may be withdrawn within three months. If, following the expiry of this period, it has not been withdrawn, the consent is fully valid.</p> <p><i>Sources:</i> Arts. 69-72, Children Code; Art. 219, Family Code; 2019 Hague Country Profile, pp. 13-14.</p>
<p>PROCEDURE</p>	<p><u>Administrative phase:</u></p> <p>There is no way in which the adoption candidates may know in advance which child will be allocated to them, and in which care facility the child is being cared of. In the terminology used by the Togolese legislative instruments, matching is referred to as the 'allocation of a child'. The allocation proposal is under the responsibility of the CNAET. The latter's role is to propose adoptable children to adoption candidates (with exception to relative adoptions and CWD adoptions, see below). Before transmitting any proposals to PAPs, the CNAET transfers the files (social and medical reports) of adoptable children to the CA or AAB of the receiving country for their respective appreciation. The matching is decided in a joint meeting, involving the CNAET and representatives of the specific child's care facility, in order to assess the family, to analyse the child's needs and the environment best suited to meet the child's needs (inclusive method).</p> <p>The CNAET then communicates to the Minister in charge of child protection, proposals for the allocation of children to PAPs. This Minister will issue a certificate of conformity for intercountry adoption.</p> <p>This same Ministry, with the prior opinion of the Ministry of Justice, signs the decision on the allocation of the child. The decision will be notified to the adopters by the President of the CNAET. The adopters have 30 days from the date of the notification to accept or refuse this allocation. The decision to refusal allocation must be justified. In case of justified refusal, a new child proposal is still possible.</p> <p><u>Judicial phase</u></p> <p>In the Togolese adoption procedure, the competent Tribunal of First Instance (see below) receives two types of requests: a request for a placement for adoption and a request for adoption. These requests occur once the matching procedure has been undertaken. Once a matching proposal is received by the PAPs, they have 30 days to accept or refuse the precise proposal. Any refusal must be justified.</p> <p>Since the ratification of the 1993 HC, this first request for temporary placement for adoption [placement order] is no longer practiced as considered contrary to the provisions of the 1993 Hague Convention.</p>



The **request for adoption [adoption decision]** is submitted by the President of the CNAET to the tribunal of his or her place of domicile, or if domiciled abroad, at the place of domicile of the child. Failing any other tribunal, the tribunal of Lomé is competent.

In order to be acceptable, the following must be attached to the request for adoption:

- a copy of the prospective adopters' file, previously prepared by the Central Authority of their country of residence, and
- a copy of the child's complete file, issued upon the applicants' request, by Togo's CNAET.

Articles 33 and 34 of Decree N° 2008-104/PR relating to the CNAET in Togo outline the content of the prospective adopters' file, as well as that of the child's file.

The Tribunal, if applicable, and after having proceeded to an investigation by any qualified person, and after having ascertained that all the legal conditions have been complied with, declares the adoption without stating its reasons for the decision.

Nevertheless, all decisions on the effective entrustment of a child to his prospective adoptive parents may only be issued (whether for a placement for adoption or an adoption) if the following criteria are met (and arguably provide the reasons for the final decision):

- if the CNAET has secured the prospective adoptive parents' agreement;
- if the Central Authority of the applicant's usual place of residence has approved this decision, if required by that State's legislation;
- if the CNAET and the Central Authority of that State have agreed for the adoption procedure to proceed;
- if it has been ascertained that the prospective adoptive parents are eligible and suitable to adopt, in compliance with the Children's Code;
- if the child is, or will be, authorised to enter and permanently stay in the applicants' usual State of residence;
- once the judicial decisions of abandonment or adoption, have become final and binding.

The transfer of the child

After the judicial phase and due period of socialisation, the child is physically given to his/her prospective parents.

The child's transfer from the territory of the Togolese Republic to the applicants' State of habitual residence may only take place if all these conditions have been complied with. According to the 2019 HCCH Profile, the President of the CNAET has to deliver an authorisation for the visa delivery in order that the child may leave the Togolese territory. In case of a relative intercountry adoption, a passport is issued. The CNAET, jointly with the relevant CA are responsible for ensuring that this transfer takes place under full security and that the child is accompanied by his/her parents or prospective adoptive parents.

Final Decision is issued in Togo since the ratification of the 1993 Hague Convention. Whereas before, it was possible that the final adoption decision, due to the existence of a probationary period of placement, be issued in the State of habitual residence of the adoption applicants. In these situations, the CNAET was informed of the adoption procedure and of the measures taken to complete it, as well as of the progress of the probationary period of the placement for adoption.

Procedures for the adoption of children with disabilities (CWD): the files of a CWD is transmitted to the AABs with which the CNAET collaborates. The latter are in charge of identifying those families within the candidates they accompany throughout the adoption process, who are disposed to adopt a CWD. AABs can also notify the CNAET of candidates who are willing to adopt a CWD. Then it is the CNAET that identifies within the adoptable children, who correspond the best to the precise requirements of the PAPs.

Procedures for relative ICA: Togo applies the 1993 Hague Convention procedures equally for this type of adoptions.

Sources: Information provided by CNAET ; Arts. 32-43, Decree n°2008-103/PR ; Arts. 5, 14-15, 32, Decree N° 2008-104/PR; Art. 74 and following, Children Cod; [2019 Hague Country Profile](#), pp. 5-6, 17-25.

PERIOD OF SOCIALISATION & PROBATIONARY PERIOD	<p><u>Preparation of PAP</u> is ensured by the relevant AAB under supervision of the receiving country's CA.</p> <p><u>Preparation of the child and the period of socialisation</u></p> <p>After acceptance of the matching, the child is gradually prepared for his/her life with the adoptive parents by the institution's staff. This socialisation period is closely monitored, and lasts – according to the 2019 HCCH profile, approximately 4 weeks.</p>
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	<p>- At distance: The preparation of the child starts as soon as the judicial phase initiates. PAPs are asked to send a small photo album and toys, if possible. The educator of the institution, responsible for the child helps him/her understand the persons in the album, so that the child is able to recognize his/her parents and the other family members. This album is being kept at disposition for the child, which he/she can access at any moment. Once the judicial phase is sufficiently advanced, PAPs are required to establish contact with the child. They can call him/her via telephone or skype. When the parents arrive in Togo, an entire preparation process has already taken place. This facilitates the child's attachment with his/her parents.</p> <p>- In Togo: Once the PAPs arrive and after an information meeting with the CNAET, the PAPs receive an authorisation by the President of the CNAET to visit the child at the care facility, where they are accompanied by the institution's staff. First, they start daily visits and spend time with the child in his/her habitual environment. Based on an assessment that takes place after one week, the PAPs can start taking the child outside the institution, may undertake outdoor visits, and bring the child back at night. After a successful third week, the child may definitely leave the institution and spend the nights with his/her PAPs.</p> <p>Probationary period prior to the ratification of the 1993 Hague Convention, adoption was allowed only for children who had been living with the adopter (s) for at least one year. This obligation could be waived where it was in the best interests of the child. Since ratification, this probationary period is no longer required or practiced.</p> <p>The adoption is only authorised in relation to children, who have been cared for in the adopters' home for over one year. If considered in the child's best interests, this obligation may be exempted. The Togolese law does, however, not give details as to the possible conditions of exemption.</p> <p><i>Sources:</i> Information provided by CNAET; art. 67, Children's Code; 2019 Hague Country Profile, p. 14.</p>
<p>ADOPTION DECISION</p>	<p>The adoption is a judicial decision, issued by the Tribunal of the adopters' place of domicile, or when they live abroad, by the Tribunal of the adoptee's domicile.</p> <p>The adoption decision may be appealed by all the involved parties and by the State Prosecutor. The appeal must be lodged within one month following the decision. The Court examines and decides in the same form and conditions as the Tribunal. A third party's opposition to the judgement or to the adoption decision can only be received in cases of misrepresentation or fraud, attributable to the adopters.</p> <p><i>Sources:</i> Arts. 78, 80, Children Code.</p>
<p>REGISTRATION</p>	<p>Within one month following the day, on which the decision is no longer subject to a possible appeal, the adoption, the adoptee's new surname and names is recorded in the margin of the latter's birth certificate, upon the request by the General Attorney of the Republic or by the competent Judge.</p> <p>If the adoptee was born abroad, or if his or her place of birth is unknown, the decision is recorded on the registers of the town hall of Lomé within the same period.</p> <p><i>Source:</i> Art. 82, Children Code.</p>
<p>ADOPTION EFFECTS</p>	<p>Independently of the adoption form, the adopter is invested with respect to the adoptee of all the parental rights including consent to the marriage of the adoptee. Further, the adoptee and his/her descendants acquire the same inheritance rights in the adopter's family as a child whose parentage was originally established in respect of the adopter, except express stipulation to the contrary at the time of the simple adoption. This stipulation to the contrary is deemed void in the case of a full adoption.</p> <p>Full adoption: A full adoption grants the child a filiation, which replaces his or her biological filiation, except with regards to the prohibitions in relation to marriage. It is irrevocable.</p> <p>Simple adoption: It entails the integration of the adoptee in the adopter's family, whilst also keeping his or her rights, in particular inheritance rights and maintenance obligations, in relation to his family of origin. A simple adoption may be revoked upon the adopter's or the adoptee's request, if this request is justified on serious grounds. If a simple adoption has been declared in Togo and an plenary adoption is being considered, the Togolese authorities require the consent of the birth family to this plenary adoption, which needs to be legalised by a notary</p> <p><i>Sources:</i> Arts. 84-87, 92 and following, Children Code; Arts. 223-226, Family Code; 2019 Hague Country Profile, p. 25-26.</p>
<p>POST-ADOPTION FOLLOW-UP</p>	<p>Post-adoption follow-up is addressed in very general terms in article 43 of Decree N° 2008-104/PR: 'the Adoption Committee proceeds to the monitoring of the positive development of the adoption, together with the Central Authority of the country of residence of the child and the competent social services'.</p>



	<p>According to the 2019 HCCH Profile a follow-up report has to be provided to the CNAET once a year during the first three years by the competent authority in the receiving country, the fourth report must be given three years after the third one, the fifth report five years later and then every five years until the majority of the child.</p> <p style="text-align: right;"><i>Source: 2019 Hague Country Profile, pp. 27-28.</i></p>
REVOCAION IN CASE OF PROBATIONARY PERIOD	<p>Since the entry into force of the 1993 Hague Convention in Togo, the transfer of a child to PAPs is effective only if the adoption judgment possesses force of res judicata. No child is allowed to leave the territory without an adoption judgment possessing force of res judicata. All the articles which make the case of the transfer of a child before the final adoption decision have therefore fallen into disuse, including in particular article 41 of the Decree n° 2008-103 / PR.</p> <p style="text-align: right;"><i>Sources: Information provided by CNAET ; Art. 41, Decree N° 2008-104/PR.</i></p>
SEARCH OF ORIGINS	<p>The CNAET, under responsibility of its President, is responsible for the preservation and confidentiality of information related to the origins of children proposed for adoption or adoptees. The CNAET ensures that the child and his/her legal representative can access this information in compliance with the laws and regulations relating to the confidentiality of personal data and with appropriate guidance of a psychologist of the CNAET.</p> <p>The judgment indicates the old and adoptive names of the adoptee as well as the parts to be transcribed on the registers of the civil status.</p> <p>The birth family has no right to access information in relation to the child given up for adoption.</p> <p style="text-align: right;"><i>Sources: Arts. 21-24 of Decree N° 2008-104/PR; 2019 Hague Country Profile, p. 26-27.</i></p>
ADOPTION ACCREDITED BODIES (AAB)	<p>According to the information shared by the CNAET, the ratification of the 1993 Hague Convention has led to a direct application of the provisions of 1993 Hague Convention. The CNAET confirms that it is mandatory to go through an AAB for an intercountry adoption in Togo. The competent authority of the receiving country must confirm the accreditation of the relevant FAO.</p> <p>To date, there is no provision in Togolese legislation relating to AABs that provides for the conditions of accreditation, operation, suspension and termination of cooperation with AABs.</p> <p>Article 30 of Decree N° 2008-104/PR actually states that any involvement of intermediaries in adoption matters is prohibited.</p> <p>According to the 2019 Hague Country Profile, there are currently 17 foreign AABs³⁰ which are authorised by the Togolese authorities. Togo fixes a limitation of 2 AABs per country, does however not limit the files of accepted PAPs. The country does only collaborate with contracting states of the 1993 HC. An authorisation for collaboration is given for an indeterminate period of time AABs need to be in direct contact with the Togolese CA but are not obliged to designate representatives or open an office in Togo. Further, there is no obligation to undertake an ICA proceeding via an AAB. Once an AAB is involved in the procedure, the competent authority of the receiving country must confirm the accreditation of the concerned AAB.</p> <p style="text-align: right;"><i>Sources: Information provided by CNAET ; 2019 Hague Country Profile, pp. 8-10.</i></p>
INTERNATIONAL MOBILITY	<p>As per Article 217 of the Family Code, a Togolese can adopt a foreigner or be adopted by a foreigner. Foreign PAP habitually resident in Togo can adopt a child habitually resident in Togo through domestic adoption procedures. According to the 2019 HCCH Country profile, foreign PAP habitually resident in Togo can however not adopt a child habitually resident in a third country. Togolese PAP habitually residing abroad and wanting to adopt a child habitually resident in Togo are required to go through intercountry adoption procedures.</p> <p style="text-align: right;"><i>Source: 2019 Hague Country Profile, p. 34.</i></p>
SANCTIONS IN CASE OF IRREGULARITIES	<p>In accordance with article 25 of Decree N° 2008-104/PR, nobody may benefit from undue material gain resulting from involvement in an intercountry adoption. The directors, managers and employees of children's homes, public administration and institutions, as well as their personnel who may be involved in adoption procedures, may not receive any remuneration, in relation to which the laws on smuggling and trafficking of children in Togo would be applied.</p> <p>It is incumbent on the CNAET to prevent undue material gains in cases of adoption, and to prevent any practice contrary to Togo's international commitments in matters of adoption.</p> <p>According to Law N°2005-009 of 3 August 2005 <i>portant repression du trafic d'enfants au Togo</i> and Law N°2007-017 of 06 July 2007 <i>portant code de l'enfant</i>, child trafficking and/or sale is punished by</p>

³⁰ Belgium, Canada, Denmark, France, Iceland, Italy, Germany, Netherlands, United States, Sweden, Switzerland.



	<p>imprisonment and fines. In addition, the provisions of Law No. 2015-010 of 24 November 2015 on a new penal code amended by Law No. 2016-027 of 11 October 2016 may result in penalties for sale and trafficking of a child.</p> <p style="text-align: right;"><i>Sources:</i> Arts. 6 and 25, Decree N° 2008-104/PR, 2019 Hague Country Profile, p. 33.</p>																								
ADOPTION COSTS	<p>In accordance with article 44 of Decree N° 2008-104/PR, the adoption procedure fees are set out in a joint order of the Minister in charge of child protection, of the Minister in charge of justice, and by the one in charge of finances. According to the Interministerial Decree for Intercountry Adoption N° 017/MASPFPEPA/MJ/MEF, the costs are 580.000 FCFA. According to the CNAET, the fees for domestic adoption amount to 280,000 FCFA.</p> <p style="text-align: right;"><i>Sources:</i> art. 44, Decree n° 2008-103/PR 2019 Hague Country Profile, pp. 29-30.</p>																								
STATISTICS	<p>According to the information provided by Togo to the CRC Committee in its last periodic report, there were 14 national adoptions and 14 adoptions international in 2010.</p> <p>Data on domestic adoptions and ICA for the period 2009-18 can be accessed via the HCCH website.</p> <table border="1"> <thead> <tr> <th>Type of adoption</th> <th>2018</th> <th>2017</th> <th>2016</th> <th>2015</th> <th>2014</th> </tr> </thead> <tbody> <tr> <td>Domestic adoption</td> <td>30</td> <td>16</td> <td>6</td> <td>29</td> <td>18</td> </tr> <tr> <td>ICA</td> <td>13</td> <td>23</td> <td>15</td> <td>29</td> <td>21</td> </tr> <tr> <td>TOTAL</td> <td>33</td> <td>39</td> <td>21</td> <td>58</td> <td>39</td> </tr> </tbody> </table> <p>Further details on the exact number of ICA per receiving country are likewise available.</p> <p style="text-align: right;"><i>Source:</i> HCCH Annual Statistics 2009-18, https://www.hcch.net/en/publications-and-studies/details4/?pid=6209.</p>	Type of adoption	2018	2017	2016	2015	2014	Domestic adoption	30	16	6	29	18	ICA	13	23	15	29	21	TOTAL	33	39	21	58	39
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Comments of the ISS/IRC

The reform efforts of the country are considerable and need to be encouraged.

In 2012³¹, CRC Committee had indeed highlighted that the 2008 legal framework “did not coincide with international norms and that priority had not been given to national adoptions, which were often very expensive for Togolese families.” Other concerns were raised concerning the costs implicated in the domestic adoption framework (as high as for ICA). In this regard, it has “been pointed out that keeping costs at the same high level as for international adoption might discourage in-country adoptions. A study was needed to ensure that there was no discrimination.” Finally, in its [Concluding observations \(§§ 47-48\)](#), the CRC Committee noted its concerns: non-harmonisation of legal instruments with the HC provisions, ratified in 2009, and the inaccessibility of domestic adoptions impacting the implementation of the subsidiarity principle.

Clear improvements are reflected in the domestic adoption numbers that appear to be increasing over the last five years according to CNAET. Several other positive aspects introduce important safeguards: multidisciplinary decisions via the CNAET throughout the entire adoption procedure, development of counselling services for adoption and for post-adoption follow-up and clear provisions in relation to international mobility.

According to the CNAET, an amendment to the 2007 Children Code is currently being considered, yet this process is in its initial stage. The changes to the Children Code are aimed at ensuring conformity of adoption procedures in Togo with international standards and centralising the relevant provisions in one single text.

The following elements could thus be taken into account in the review of the Togolese provisions:

- Introduction of a maximum age of adoption candidates (the Togolese law now only fixes a minimum age and an age difference);
- Explicit reference to the need for medical and psychosocial assessment(s), beyond the purely legal requirements of the child’s adoptability;
- Prohibition of the adoption of children victims of natural disasters, armed conflicts and civil or other disturbances currently permitted by law (according to CNAET statistics, no child of this profile would have been the subject of a adoption).

In the meantime, the CNAET has stated that there are a number of aspects of existing law that are not being applied as they do not comply with international standards: placement prior to adoption is no longer practiced, and it is now

³¹ See Part 1 and 2 of the Summary records (2012),



mandatory for to be supported by a multi-disciplinary team with national and ICA. Whilst well intentioned, it seems that this «unilateral » decision by CNAET to apply certain aspects of existing law is resulting in some confusion and different practices. Therefore, it would be necessary for the CNAET to clarify the provisions that are not applicable in practice to its national and international partners.

LEGISLATION

A. International Instruments

INTERNATIONAL INSTRUMENTS	Signature (S) / Ratification (R) / Accession (A) / In Force (F)	Website
United Nations Convention on the Rights of the Child (1989)	26 January 1990 (s) 1 August 1990 (r)	http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en
Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2000)	15 November 2001 (s)	http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-c&chapter=4&lang=en
Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption (1993)	12 October 2009 (a) 1 February 2010 (f)	http://www.hcch.net/index_en.php?act=conventions.status&cid=69
Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children (1996)	-	http://www.hcch.net/index_en.php?act=conventions.status&cid=70

B. Regional instruments

REGIONAL INSTRUMENTS	Signature (F) / Ratification (R) / Accession (A) / In Force (F)	Website
African Charter on the Rights and Welfare of the Child	27 February 1992 (F) 05 May 1998 (R)	http://www.achpr.org/instruments/child/ratification/
<p>Multiple regional instruments against Trafficking in Africa such as : <i>Protocole à la Charte Africaine des droits de l'Homme et des peuples relatif aux droits des femmes en Afrique (2005) ; Accord de coopération multilatérale de lutte contre la traite des personnes en particulier des femmes et des enfants en Afrique de l'Ouest et centrale (2006) ; Accord quadripartite en matière de lutte contre la traite des enfants entre Togo-Bénin-Ghana Nigéria (2003) ; Accord de coopération entre le gouvernement de la République gabonaise et le gouvernement de la République togolaise en matière de lutte contre la traite des enfants (Gabon, Togo) (2018) ; Accord multilatéral de coopération entre la CEDEAO et la CEEAC sur la lutte contre la traite des personnes en Afrique de l'Ouest et en Afrique centrale (2006)</i></p>		

C. Country legislation

LAW/REGULATION	Web Site



Constitution of Togo of October 14 1992 (art.30)	http://www.icilome.com/togo/const2.asp
Loi n°2008-014 du 19 novembre 2008 portant approbation de la Convention de La Haye du 29 mai 1993 sur la protection des enfants et la coopération en matière d'adoption internationale	Available at ISS/IRC
Loi n°2007-017 du 06 juillet 2007 portant Code Togolais de l'Enfant (Chap.IV - Adoption)	Available at ISS/IRC
Loi N° 2012 n° 2012-014 du 06 juillet 2012 portant modification du Code des personnes et de la famille, modifié par la loi n° 2014-019 du 17 novembre 2014	Available at ISS/IRC
Loi n° 2005-009 du 03 août 2005 portant répression du trafic d'enfants au Togo	
Décret n°2008-103/PR du 29 juillet 2008 relatif à la procédure d'adoption d'enfants au Togo	Available at ISS/IRC
Décret n°2008-104/PR du 29 juillet 2008 portant création du Comité national d'adoption d'enfants au Togo (CNAET)	Available at ISS/IRC
Arrêté interministériel n° 017/MASPFPEPA/MJ/MEF du 08 juin 2009 fixant les frais relatifs à la procédure d'adoption d'enfants au Togo	
Arrêté interministériel n° 056/2015/MASPFA/MJRIR du 22 juin 2015 portant création des délégations régionales représentant le CNAET.	
Arrêté interministériel n° 043/2018/MASPFA/CAB du 14 août 2018 fixant les frais de prise en charge des enfants proposés à l'adoption internationale	
Décret n° 2010-100/PR fixant les normes et standards applicables aux structures d'accueil et de protection des enfants vulnérables au Togo	
Ordonnance N° 78-34 du 7 septembre 1978 portant sur le Code de la nationalité togolaise	
Loi n° 2015-010 du 24 novembre 2015 portant nouveau code pénal modifiée par la Loi n° 2016-027 du 11 octobre 2016. Code pénal du 13 août 1980 et Code de procédure pénale du 2 mars 1981.	
Loi No 2009-010 relative à l'organisation de l'état civil au Togo	

Documents in the framework of the Committee on the Rights of the Child

Convention on the Rights of the Child

- State party's report: Togo, CRC/C/TGO/3-4, 20 May 2011
- List of issues: Togo, CRC/C/TGO/Q/3-4, 18 July 2011
- Reply to list of issues: Togo, CRC/C/TGO/Q/3-4/Add. 1, 1 November 2011
- Concluding Observations of the Committee on the Rights of the Child: Togo, CRC/C/TGO/CO/3-4, 8 March 2012

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

- State party's report: Togo, CRC/C/OPSC/TGO/1, 18 April 2011
- Concluding Observations of the Committee on the Rights of the Child: Togo, CRC/C/OPSC/TGO/CO/1, 8 March 2012

Source: Committee on the Rights of the Child – including documents related to former sessions of the Committee: https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=TGO&Lang=EN

