

Article 13. Participation of society

1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by such measures as:

- (a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes;
- (b) Ensuring that the public has effective access to information;
- (c) Undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula;
- (d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to such restrictions as shall only be such as are provided for

CIVIL SOCIETY REPORT

on the Implementation of

Chapter II (Prevention) & Chapter V (Asset Recovery) of the

UNITED NATIONS CONVENTION AGAINST CORRUPTION

IN TOGO

by Alliance Nationale des Consommateurs & de l'Environnement

Acknowledgements

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The findings in this report are those of the authors but do not necessarily reflect the views of the UNCAC Coalition and the donors who made this report possible.

Every effort has been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of January 12, 2022.

The authors of this report are Ebeh Kodjo Fabrice, PhD and Precilia Djodji (ANCE-TOGO). The report was reviewed by Denyse Degiorgio and Danella Newman (UNCAC Coalition). The English translation of the original French report was also conducted by the UNCAC Coalition.

National Alliance of Consumers and the Environment (ANCE)

Agbalépédogan,

near the Lycée 2 Février, Rue SOCRATE, Immeuble 104,

08 BP 80.925, Lomé-TOGO

Email: info.ancetogo@gmail.com | Website: <https://www.linkedin.com/company/ong-ance-togo/?viewAsMember=true> | Facebook: <https://www.facebook.com/ANCETOGO> |

Twitter: https://twitter.com/ance_togo |

YouTube: <https://www.youtube.com/user/ANCE250?app=desktop>

The National Alliance of Consumers and Environment (ANCE-Togo) is the National Contact of Transparency International in Togo and a member organization of the UNCAC Coalition. ANCE is a sustainable development NGO created on August 21, 1999. ANCE has three regional offices including the regional office of Kara which reports to the Executive Secretariat to which it submits its activity programs and reports on the execution of its activities.

Our vision is "a well governed, corruption free and prosperous Togo". Our mission is "to promote citizen participation in good economic, social and environmental governance in all sectors of activity". Our areas of action: ANCE carries out several anti-corruption activities in Togo including research, advocacy, capacity building of actors and networking among others.

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Acronyms and abbreviations

While the abbreviations are provided in both French and English in the following table, they are used in their original French version throughout the report for institutions and laws and in their English version for names of international institutions or initiatives.

Abbreviation	French	English
ADDI	Alliance des Démocrates pour le Développement Intégrale	Alliance of Democrats for Integral Development
AIGE	Aéroport International Général Eyadema	General Eyadema International Airport
ALG	Alternative Leadership Group	
AN	Assemblée nationale	National Assembly
ANC	Alliance Nationale pour le Changement	National Alliance for Change
ANCE	Alliance Nationale des Consommateurs et de l'Environnement	National Alliance of Consumers and the Environment
APD	Aide publique au développement	Official Development Assistance
APG	Accord Politique Global	Global Political Agreement
ARCEP	Autorité de Régulation des Communications Électroniques, des Postes et de la Distribution de la Presse	Postal Services and Electronic Communications Regulatory Authority
ARMP	Autorité de Régulation des Marchés Publics	Postal Services and Electronic Communications Regulatory Authority
ASCE-LC	Autorité supérieure de contrôle de l'Etat et de lutte contre la corruption	Superior Authority for State Control and the Fight against Corruption
ASCE-LCI	Autorité supérieure de contrôle de l'Etat et de lutte contre la corruption et infractions assimilées	Superior Authority for State Control and the Fight against Corruption and Related Offenses
BAD	Banque Africaine de Développement	African Development Bank
BCEAO	Banque centrale des Etats de l'Afrique de l'Ouest	Central Bank of West African States
BEF	Brigade Economique et Financière	Economic and Financial Brigade
BIDC	Banque d'investissement et de développement de la CEDEAO	ECOWAS Bank for Investment and Development
BM	Banque mondiale	World Bank
BMC	Baromètre mondiale de la corruption	Global Corruption Barometer
BOAD	Banque Ouest Africaine de Développement	West African Development Bank
BTI	Indice de transformation de Bertelsmann Stiftung	Bertelsmann Stiftung Transformation Index

CADA	Commission d'accès aux documents administratifs	Commission for Access to Administrative Documents
CAJAC	Centre d'assistance juridique et d'action citoyenne	Center for Legal Assistance and Citizen Action
CAR	Comité d'Action pour le Renouveau	Action Committee for Renewal
CCMP	Commission de Contrôle des Marchés Publics	Commission on Public Procurement
CEA	Commission économique des Nations Unies pour l'Afrique	United Nations Economic Commission for Africa
CEDEAO	Communauté économique des États d'Afrique de l'Ouest	Economic Community of West African States
CENTIF	Cellule Nationale de Traitement des Informations Financières	National Financial Information Processing Unit
CFE	Centre de formalités des entreprises	Center for Business Formalities
CNDH	Commission Nationale des Droits de l'Homme	National Human Rights Commission
CNUCC	Convention des Nations Unies contre la Corruption	United Nations Convention against Corruption
CNUCED	Conférence des Nations unies sur le commerce et le développement	United Nations Conference on Trade and Development
CNUDCI	Commission des Nations Unies pour le droit commercial international	United Nations Commission on International Trade Law
CONAC	Comité national de coordination des activités de lutte contre le blanchiment de capitaux et le financement du terrorisme	National Committee for the Coordination of Anti-Money Laundering and Countering the Financing of Terrorism
CoST	Initiative pour la transparence des infrastructures	Infrastructure Transparency Initiative
CRD	Comité de règlement des différends	Dispute Resolution Committee
CSM	Conseil Supérieur de la Magistrature	Superior Council of the Magistracy
CST	Collectif « sauvons le Togo »	"Let's Save Togo" Collective
CTO	Convention des Nations Unies contre la criminalité transnationale organisée	United Nations Convention against Transnational Organized Crime
CUA	Commission de l'Union Africaine	African Union Commission
CUT	Compte Unique du Trésor	Single Treasury Account
DAIAQ	Direction de l'Audit et Assurance Qualité	Audit and Quality Assurance Department
DCF	Direction du Contrôle Financier	Financial Control Department
DCF	Direction du Contrôle Fiscal	Fiscal Control Department
DAC	Direction Anti-Corruption	Anti-Corruption Directorate
DGTCP	Direction générale du Trésor et de la comptabilité publique	General Directorate of the Treasury and Public Accounting
DOS	Déclaration d'Opérations Suspectes	Suspicious Operations Report
EIU	Economist Intelligence Unit	Economist Intelligence Unit

EPIP	Évaluation des politiques et des institutions des pays	Country Policy and Institutional Assessment
EPNFD	Entreprises et professions non financières désignées	Designated Non-Financial Businesses and Professions
FEC	Facilité élargie de crédit	Extended Credit Facility
FFI	Flux Financiers Illicites	Illicit Financial Flows
FMI	Fonds monétaire international	International Monetary Fund
GAFI	Groupe d'Action Financière	Financial Action Task Force
GFI	Global Financial Integrity	
GI	Global Insight	
GIFT	Initiative mondiale pour la transparence fiscale	Global Initiative for Tax Transparency
GIM-UEMOA	Groupement Interbancaire Monétique de l'UEMOA	WAEMU Electronic Money Interbank Group
HAPLUCIA	Haute autorité de prévention et de lutte contre la corruption et infractions assimilées	High Authority for the Prevention and Fight against Corruption and Related Offences
IAS	International Accounting Standards	
IBP	International Budget Partnership	
IDA	Association internationale de développement	International Development Association
IDE	Investissement direct étranger	Foreign Direct Investment
IDH	Indice de développement humain	Human Development Index
IF	Institutions Financières	Financial Institutions
IFRS	International Financial Reporting Standards	
IGE	Inspection Générale d'Etat	General State Inspection
IGF	Inspection Générale des Finances	General Inspectorate of Finance
IGSJP	Inspection Générale des services Juridictionnels et Pénitentiers	General Inspectorate of Jurisdictional and Penitentiary Services
INTOSAI	Organisation internationale des institutions supérieures de contrôle	International Organization of Supreme Audit Institutions
IPC	Indice de Perception de la Corruption	Corruption Perception Index
ITIE	Initiative pour la transparence des industries extractives	Extractive Industries Transparency Initiative
LIT	Ligue des Indépendants pour la Transparence	League of Independents for Transparency
MAEP	Mécanisme africain d'évaluation par les pairs	African Peer Review Mechanism

MAPS	Méthodologie d'évaluation des systèmes de passation des marchés	Methodology for Evaluating Procurement Systems
MCA	Millennium Challenge Account	
MCC	Millennium Corporate Challenge	
MéToCoB	Association Médias Togolais contre la corruption et le blanchissement	Togolese Media Association against Corruption and Laundering
NEPAD	Nouveau partenariat pour le développement de l'Afrique	New Partnership for Africa's Development
NICI	National Information Communication Infrastructure	National Information Communication Infrastructure
OCDE	Organisation de coopération et de développement économiques	Organization for Economic Cooperation and Development
OCRTIDB	Office Centrale de Répression du Trafic Illicite des Drogues et du Blanchiment	Central Office for the Repression of Illicit Drug Trafficking and Money Laundering
OGR	Open Government Rating	
OHADA	Organisation pour l'Harmonisation du Droit des Affaires en Afrique	Organization for the Harmonization of Business Law in Africa
ONG	Organisations Non-Gouvernementales	Non-Governmental Organizations
ONUDD	Office des Nations Unies de lutte contre la drogue et le crime	United Nations Office on Drugs and Crime
OSC	Organisation de la société civile	Civil Society Organization
OTR	Office Togolais des Recettes	Togolese Revenue Office
PEFA	Méthodologie d'évaluation de la performance de la gestion des finances publiques	Methodology for Assessing Public Financial Management Performance
PND	Plan National de Développement	National Development Plan
PNF	Parquet National Financier	National Financial Prosecutor's Office
PPBESE	Programmation, budgétisation, exécution, suivi et évaluation	Programming, Budgeting, Execution, Monitoring and Evaluation
PPP	Partenariat Public-Privé	Public-Private Partnership
PRS	Guide international sur les risques pays	International Country Risk Guide
PRMP	Personne responsable des marchés publics	Person Responsible for Public Procurement
RAC	Réseau Anti-Corruption-Togo	Anti-Corruption Network-Togo
RCCM	Registre du Commerce et du Crédit Mobilier	Trade and Personal Property Credit Register

SADC	Communauté de développement de l'Afrique australe	Southern African Development Community
SAGETIL	Système Automatisé de Gestion des Titres et de la Liquidité	Automated Securities and Liquidity Management System
SCA	Système Comptable Allégé	Simplified Accounting System
SCN	Système Comptable Normal	Standard Accounting System
SFD	Financiers Décentralisés	Decentralized Financial Institutions
SICA-UEMOA	Système Interbancaire de Compensation Automatisé de l'UEMOA	WAEMU Automated Interbank Clearing System
SMT	Système Minimal de Trésorerie	Minimum Treasury System
SNDS	Stratégie nationale de développement de la statistique	National Strategy for the Development of Statistics
SP-PRPF	Secrétariat permanent pour le Suivi des Politiques de Réformes et des Programmes Financiers	Permanent Secretariat for Monitoring Reform Policies and Financial Programs
STAR-UEMOA	Système de Transfert Automatisé et de Règlement de l'UEMOA	WAEMU Automated Transfer and Settlement System
SYSCOA	Système Comptable Ouest Africain	West African Accounting System
SYSCOHADA	Système comptable OHADA	OHADA Accounting System
TI	Transparency International	
UE	Union Européenne	European Union
UEMOA	Union Economique et Monétaire Ouest Africaine	West African Economic and Monetary Union
UFC	Union des Forces du Changement	Union of the Forces for Change
UNIR	Union pour la République	Union for the Republic

List of Persons Consulted

More than 20 people, including officials from government agencies, the private sector, and civil society organizations, were consulted during the preparation of this report.

In accordance with Togolese law, all those consulted prefer to remain anonymous.

Name of the institution	Date of consultation
General State Inspection (IGE)	October 2021
National Human Rights Commission (CNDH)	October 2021
General Inspectorate of Finance (IGF)	October 2021
Extractive Industries Transparency Initiative (EITI)	October 2021
National Council of Employers of Togo	November 2021
League of Independents for Transparency (LIT)	November 2021
Alternative Leadership Group (ALG)	November 2021
National Alliance of Consumers and the Environment (ANCE-TOGO)	November 2021
General Confederation of Togolese Executives (CGCT)	November 2021
General Union of Free Trade Unions (UGSL)	November 2021
Group of Autonomous Unions (GSA)	November 2021
National Confederation of Workers of Togo (CNTT)	November 2021
Confederation of Togolese Workers (CSTT)	November 2021
Synergy of the Workers of Togo (STT)	November 2021
National Union of Independent Trade Unions of Togo (UNSIT)	November 2021

I. Introduction

Togo signed the United Nations Convention against Corruption (UNCAC) on December 10, 2003 and ratified it on July 6, 2005.

This report reviews Togo's implementation of selected articles of Chapter II (Preventive Measures) and Chapter V (Asset Recovery) of the UNCAC. The report is intended as a contribution to the UNCAC implementation review process currently underway covering these chapters. Togo was selected by the UNCAC Implementation Review Group by a drawing of lots for review in the third year of the second cycle. A draft of this parallel report was provided to the government of Togo.

Scope. The UNCAC articles and topics that receive particular attention in this report are those covering preventive anti-corruption policies and practices (Article 5), preventive anti-corruption bodies (Article 6), public sector employment (Article 7.1), codes of conduct, conflicts of interest and asset declarations (Articles 7, 8 and 12), reporting mechanisms and whistleblower protection (Articles 8.4 and 13.2), political financing (Article 7.3), public procurement (Article 9.1), the management of public finances (Article 9), measures relating to the judiciary and prosecution services (Article 11), private sector transparency (Article 12), access to information and participation of society (Articles 10 and 13.1), and measures to prevent money laundering (Article 14). Under Chapter 5, the UNCAC articles and topics that receive particular attention in this report are those covering anti-money laundering (Articles 52 and 58), measures for direct recovery of property (Articles 53 and 56), confiscation tools (Article 54), international cooperation for the purpose of confiscation (Articles 51, 54, 55, 56 and 59), and the return and disposal of confiscated property (Article 57).

Structure. The report begins with an executive summary, including condensed findings, conclusions and recommendations about the review process, the availability of information, as well as the implementation and enforcement of selected UNCAC articles. The following part covers the findings of the review process in Togo as well as access to information issues in more detail. Subsequently, the implementation of the Convention is reviewed and examples of good practices and deficiencies are provided. Then, recent developments are discussed and lastly, recommendations for priority actions to improve the implementation of the UNCAC are given.

Methodology. The report was prepared by the National Alliance for Consumers and the Environment (ANCE) with technical and financial support from the UNCAC Coalition and financial support from donors such as the Norwegian Agency for Development Cooperation (Norad) and the Danish Ministry of Foreign Affairs (Danida). The group made efforts to obtain information for the reports from government offices and to engage in dialogue with government officials. As part of this dialogue, a draft of the report was made available to them.

The report was prepared using guidelines and a report template designed by the UNCAC Coalition and Transparency International for use by CSOs. These tools reflected but simplified the United Nations Office on Drugs and Crime (UNODC)'s checklist and called for relatively short assessments as compared to the detailed official self-assessment checklist. The report template included a set of questions about the review process and, in the section on implementation, asked for examples of good practice and areas in need of improvement in articles of UNCAC Chapter II articles on prevention and Chapter V on asset recovery.

II. Executive Summary

Togo has made some major progress in implementing the UNCAC. Here are some of the highlights of this progress:

Innovations have been made in terms of preventive measures against corruption and related offenses in the public sector. Indeed, most of the penal provisions have been transposed into the new 2015 Criminal Code.

The adoption of the Organic Law 2020-003 of January 24, 2020, which establishes the conditions for declaring the assets and property of senior officials, civil servants and other public servants, is an essential measure in the prevention of corruption and related offenses.

Progress has also been made in the area of public finance through the transposition of West African Economic and Monetary Union (WAEMU) directives, in particular the one that was the subject of Law No. 2014 - 009 of June 14, 2014 on the code of transparency in public finance management. This law includes several relevant provisions intended to promote transparency in public finances.

There have also been commendable efforts to digitize public financial management, notably through the gradual implementation of certain WAEMU directives and instructions from the Central Bank of West African States (BCEAO).

In addition, there has been a profound reform of public procurement with the adoption of several texts, the creation and operationalization of regulatory, control and procurement bodies.

The dematerialization of administrative procedures contributes to the prevention and fight against corruption and related offences in the public sector. The government has identified new information and communication technologies (ICT) as a key lever for modernizing the administration, improving its efficiency and transparency and strengthening its governance in its economic development strategy. Several texts have been adopted. In addition, the government has put in place the e-Government project, which provides a high-speed internet connection to administrative buildings; an improvement of the flow of information with the establishment of a government messaging system and collaborative work tools for members of the government; a digital ecosystem which includes the online launch of a country portal¹ from which all government sites are accessible, and which lists administrative procedures and with time the creation of online businesses. The government also adopted on September 29,

¹ Government of Togo, public service portal, www.service-public.gouv.tg, (13.10.2021).

2021, the decree on the creation, powers, organization and operation of the Togo Digital Agency (ATD), an agency dedicated to the coordination and execution of digital projects.

The government attaches great importance to the protection of freedoms and access to information and public documentation. Thus, the law 2016-006 March 30, 2016 on freedom of access to information and public documentation and its implementing decree No. 2017-104/PR was adopted. Similarly, by organic law n°2021-006 of 1st April 2021 establishing the composition and functioning of the services of the Mediator of the Republic, the government has extended the Mediator's powers, providing the possibility of conducting inquiries or investigations to ensure the fairness, equity and quality of public services.

Transparency in the justice sector has improved with the adoption of certain legal texts such as Law No. 2019-015 of October 24, 2019, on the code of judicial organization; the Law of March 30, 2021, on the automation of the criminal records; and Law No. 2021-007 of April 21, 2021, on the new code of civil procedure.

In addition, the fight against money laundering and terrorist financing has been strengthened in recent years with the adoption of Uniform Act No. 2018-004 of May 4, 2018 on the fight against money laundering and terrorist financing in WAEMU Member States and its implementing legislation.

Finally, the creation of the Law Officer of the Treasury and several legal texts on debt recovery, such as the decree on the conditions of application of asset freezing measures, have strengthened the asset recovery system in Togo.

However, despite these laudable advances, there are some weaknesses such as poor performance and quality of public services (red tape, bribery, racketeering, inequality); poor public access to information; poor public participation in decision-making processes; weak enforcement of sanctions for acts of corruption; ineffectiveness of asset declaration at the time of writing; and a legal framework that is considered incomplete and not harmonized, characterized by a lack of clarity and overlap in the roles and responsibilities of actors.

Availability of Information

Most of the information needed for this report was available in real time.

The authors represent civil society in several working groups in Togo and collaborate with several institutions in Togo, such as the High Authority for the Prevention and Fight against Corruption and Related Offenses (HAPLUCIA), the National Financial Information Processing Unit (CENTIF), the General Inspectorate of Finance (IGF), the State Inspectorate (IGE), the Court of Accounts, etc. Thus, they had access to the information they needed through the

websites and reports published by the different state agencies or upon request. In addition, the government has made an effort to digitize and publish documents online over the past five years, which facilitates access to information.

Implementation in Law and in Practice

TABLE 1: Implementation and enforcement summary

UNCAC articles	Status of implementation in law	Status of implementation and enforcement in practice
Art. 5 - Preventive anti-corruption policies and practices	partially	moderate
Art. 6 - Preventive anti-corruption body or bodies	partially	moderate
Art. 7.1 - Public sector employment	partially	moderate
Art. 7.3 – Political financing	largely	moderate
Art. 7, 8 and 12 - Codes of conduct, conflicts of interest and asset declarations	partially	moderate
Art. 8.4 and 13.2 - Reporting mechanism and whistleblower protection	not implemented	poor
Art. 9.1 - Public procurement	largely	moderate
Art. 9.2 – Management of public finances	largely	moderate
Art. 10 and 13.1 - Access to information and participation of society	largely	moderate
Art. 11 – Measures relating to the judiciary and prosecution services	largely	moderate
Art. 12 - Private sector transparency	largely	moderate
Art. 14 - Measures to prevent money-laundering	largely	moderate
Art. 52 and 58 – Anti-money laundering	largely	moderate
Art. 53 and 56 - Measures for direct recovery of property	largely	moderate
Art. 54 - Confiscation tools	largely	moderate
Art. 51, 54, 55, 56 and 59 - International cooperation for the purpose of confiscation	largely	moderate
Art. 57 – The return and disposal of confiscated property	carried out in large part	moderate

TABLE 2: Performance of selected key institutions

Name of institution	Performance in relation to responsibilities covered by the report	Brief comment on performance (e.g., inadequate resources, lack of independence, strong expertise)
High Authority for the Prevention and Fight against Corruption and Related Offenses (HAPLUCIA)	Moderate	Weak investigative power.
Public Procurement Regulatory Authority (ARMP)	Moderate	Lack of dematerialization of ARMP services and public procurement management procedures.
Mediator of the Republic	Moderate	The mission of regulating access to information comes from law n°2021-006 of 1 st April 2021, so there are no statistics.
National Financial Information Processing Unit (CENTIF)	Moderate	Weak control of cross-border movements of cash and bearer negotiable instruments.
Superior Council of the Magistracy (CSM)	Moderate	Weak enforcement of sanctions.
High Court of Justice	Low	It is not yet operational.
Public Prosecutor's Office	Moderate	Burdensome /absence of a financial prosecutor's office.
General State Inspection (IGE)	Moderate	Conflicting jurisdictions and lack of a higher supervisory authority.
General Inspectorate of Finance (IGF)	Moderate	Conflicting jurisdictions and lack of a higher supervisory authority.
Court of Auditors	Moderate	Weak operationalization of the jurisdictional component.
Law Officer of the Treasury	Moderate	Burdensome/lack of a state judicial agency.
The National Human Rights Commission (CNDH)	Low	Weak consideration of corruption in its work.

Recommendations for Priority Actions**a) Update the legal framework**

The main legislative texts should be updated/revised to include the relevant provisions of the various international conventions to which Togo is a party.

b) Update the institutional framework

- Create and operationalize a supreme administrative control authority;
- Create and operationalize a State Judicial Agency;
- Create and make operational a National Financial Prosecutor's Office (PNF);
- Create and make operational an Economic and Financial Brigade (BEF);
- Accelerate the operationalization of the High Court of Justice;
- Accelerate the process of reforming the Superior Council of the Judiciary (CSM);
- Strengthen the framework of dialogue between the actors in the fight against corruption;
- Strengthen the institutional framework of government (open government).

c) Strengthen the quality and transparency of public services and public finances through digitalization

- **Strengthen the anti-corruption authority (HAPLUCIA)**
 - Strengthen the integrity of the appointment of members of the anti-corruption body;
 - Strengthen/conform membership to international standards.

d) Strengthen the fight against corruption in the private sector

- Support the adoption, dissemination and enforcement of codes of conduct and integrity pacts in private companies or Transparency International's Business Principles for Countering Bribery (August 2004);²
- Adopt a law to strengthen the internal control of private companies;
- Support Togolese companies to adhere to the 10th Principle of the United Nations Global Compact (2004);³
- Assist companies (public and private) in adhering to the ISO37001 standard (anti-corruption certification standard in business).⁴

² Transparency International, Business Principles for Countering Bribery Small and Medium Enterprises (SMEs) Edition, 2008 (13.10.2021). https://images.transparencycdn.org/images/2008_BusinessPrinciplesSME_FR.pdf, (13.10.2021).

³ United Nations Global Compact (2004), 10th Principle, <https://www.unglobalcompact.org/what-is-gc/mission/principles/principle-10>, (13.10.2021).

⁴ Standard ISO37001 - Anti-corruption management system, <https://www.iso.org/fr/standard/65034.html>, (13.10.2021).

III. Assessment of the Review Process for Togo

A. Report on the Review Process

Togo signed the UNCAC on December 10, 2003 and ratified it on July 6, 2005. Togo was reviewed in 2015 as part of the first review cycle, focusing on the implementation of Chapters III and IV. Togo is also included in the second review cycle, which focuses on Preventive Measures and Asset Recovery (Chapters II and V).

Activities related to the second cycle review started in 2019 with several working groups for the preparation of the self-assessment report at the national level. These meetings led to the development of the draft self-assessment report, which was approved by stakeholders and sent to the UNCAC Secretariat. Togo has just finished reviewing its draft self-assessment report in accordance with the comments received, and the report is about to be sent back to the UNODC. The expert reviewers are expected to make an on-site visit to Togo.

TABLE 3: Transparency of Government and CSO participation in the UNCAC Review Process

Did the government disclose information about the country focal point?	yes/no	Yes
Was the review schedule published somewhere/publicly known?	no	Yes, schedule known.
Was civil society consulted in the preparation of the self-assessment checklist?	yes	Some civil society organizations, including ANCE, were heavily involved in the preparation of the self-assessment checklist.
Was the self-assessment checklist published online or provided to civil society?	no	The self-assessment was neither published nor provided to civil society.
Did the government agree to a country visit	yes	The expert evaluators are expected to visit the country.
Was a country visit undertaken?	no	The visit has not yet taken place but the experts are expected to be in the country.
Was civil society invited to provide input to the official reviewers?	yes	The government will of course invite some representatives of civil society organizations to present their contributions to the official reviewers.
Was the private sector invited to provide input to the official reviewers?	yes	The government intends to invite some private sector representatives to present their contributions to the official reviewers.
Has the government committed to publishing the full country report?	no	The government does not intend to release the full report.

B. Access to Information

Throughout the process of preparing this report, we sent letters to a few competent authorities requesting certain statistical data. The information we requested related in particular to corruption cases brought before Togolese courts. We sent a letter to the Minister of Justice, who authorized our consultant to access the statistical data, which made it possible to obtain data on the corruption cases included in this report.

This request was made in accordance with Law No. 2016-006 of March 30, 2016 on freedom of access to information and public documentation, which has strongly framed the right of access to information and public documentation in Togo.

In addition, under this law, several government agencies (HAPLUCIA, CENTIF, ARMP, ARCEP, etc.) make their activity reports and legal texts public online (laws, decrees, orders and other administrative documents), which has greatly facilitated the production of this report.

Under this law, access to information and documents of public bodies is free subject to the exceptions and time limits provided for by law (Article 4). Article 5 of the Act further states that “access to information and documents is free unless otherwise provided”. Such access to information or documents of a public body is free of charge unless there is a charge for transcribing, reproducing or transmitting the document (Article 9). Public information and documents may be used by any person who wishes to do so for purposes other than those of the public service mission for which the information was produced, received or held (Article 17).⁵

In addition, the decree n°2017-104/PR of 10/08/2017 relating to the application of this law has established the procedures for exercising this right. Indeed, Article 14 of the said decree stipulates that, “any person, wishing to have access to public information or documentation of public bodies defined in Chapter I of Title II of this decree, shall make a written request accompanied by a copy of a valid identity card to the authority responsible for the public body concerned. If the person is able to come to the public body concerned, he or she fills in a form available for this purpose. In this case, the form is considered a request.”⁶

The Mediator of the French Republic may be contacted by any interested party by means of a written request, when he considers that his request has been unjustly rejected after the exercise of appeals (Article 22).

⁵ Law No. 2016-006 of March 30, 2016 on freedom of access to information and public documentation, Togolese Republic, http://jo.gouv.tg/sites/default/files/publications/JOS_30_03_16-61%C3%A8%20ANNEE%20N%C2%B010.pdf#page=14, (25.11.2021).

⁶ Decree No. 2017-104/PR of 10/08/2017 on the application of Law No. 2016-006 of 30 March 2016 on freedom of access to information and public documentation, https://jo.gouv.tg/sites/default/files/JO/JOS_10_08_2017-62e%20ANNEE%20N%C2%B0%2023%20ter.pdf#page=23, (25.11.2021).

Decisions to refuse access to public information and documentation are issued in accordance with Article 14 of Law No. 2016-006 on freedom of access to public information and documentation. They include legal remedies and periods allowed for appeals (Article 16).

According to Article 9 of the law, a public body is obliged to publish in the same terms any information on its organizational structure, functions and tasks as well as public policies; public decisions and policies; regulations and manuals used for the performance of their functions; the description of public services and programs and their balance sheets; information on public programs and the results of public tenders. Other documents can also be found on the websites of state structures.⁷

TABLE 4: Criminal Statistics on the Fight against Corruption in Togo⁸

Nature of the offence	Year	Amount (in West African Francs)	Amount (in Euros)	Status of the case (as of December 2019)
Embezzlement and misappropriation of public funds	2014	27,679,469 F CFA	42,197.078	For information, see 5 th Cabinet
Embezzlement of public funds	2014	21,327,557 F CFA	32,513.651	In progress at 2 nd Cabinet
Embezzlement and misappropriation of public funds	2015	98,430,214 F CFA	150,055.89	For information, see 3 rd Cabinet
Embezzlement and misappropriation of public funds	2011-2016	50,977,325 F CFA	77,714.431	For information, see 5 th Cabinet
Embezzlement of public funds	2015-2016	91,565,967 F CFA	139,591.42	Order of dismissal
Embezzlement of public funds, complicity	2016	108,751,465 F CFA	165,790.54	In progress at 2 nd Cabinet
Embezzlement of public funds	2016	1,042,713.80 Dollars	91,076.186	In progress at 2 nd Cabinet
Embezzlement of public funds	2017	13,500,000 F CFA	20,580.617	In progress at 2 nd Cabinet
Embezzlement of public funds	2017	6,108,672 F CFA	9,312.610	Charged in pre-trial detention

⁷ Public information and documents published online are accessible on official websites, including: www.data.gouv.tg; www.jo.gouv.tg; www.service-public.gouv.tg; www.togo.gouv.tg (article 11), (25.11.2021).

⁸ ANCE, Study of corruption cases from 2008 to 2019, study conducted under the guidance of a senior magistrate through a call for tenders; an official letter was sent to the Keeper of the Seals, Minister of Justice to inform him of the recruitment of the senior magistrate who conducted this study and to request his facilitation to access the files.

Embezzlement and misappropriation of public funds	2018	11,280,019 F CFA	17,196.278	In progress at 2 nd Cabinet
Embezzlement of public funds	2017	15,000,000 F CFA	22,867.353	Information in progress
Embezzlement of public funds	2017	More than 3,900,000 F CFA	5,945.511	Information in progress
Embezzlement of public funds	2018	2,756,063 F CFA	4,201.591	Information in progress
Embezzlement of public funds	2018	More than 2,000,000 F CFA	3,048.980	Information in progress
Embezzlement of public funds	2018	1,903,394 F CFA	2,901.705	Out on bail
Embezzlement of public funds	2018	29,187,000 F CFA	44,495.295	Out on bail
Embezzlement of public funds	2018	12,000,000 F CFA	18,293.882	Authors on the run Arrest warrants

In addition to government sources, this report also relied on sources provided by civil society organizations, including the findings of ANCE's 2018 Parallel Report on Sustainable Development, which reviewed progress on the implementation of targets 16.4, 16.5, 16.6, and 16.10.⁹

In general, it is still difficult to obtain statistical data on law enforcement in Togo, as such data are not always systematically published. It is still possible to obtain such data, although it is subject to requests and procedures that can be more or less lengthy. However, some state structures such as the National Financial Information Processing Unit (CENTIF), the Public Procurement Regulatory Authority (ARMP), and the Postal Services and Electronic Communications Regulatory Authority (ARCEP)¹⁰ do have statistical data online.

⁹ ANCE-TOGO, PARALLEL REPORT, SUSTAINABLE DEVELOPMENT GOAL Review of progress in implementing SDG16: targets 16.4; 16.5; 16.6 and 16.10 (2018); https://knowledgehub.transparency.org/assets/uploads/kproducts/SDG_Parallel-Report_2018_Togo.pdf, (21.10.2021).

¹⁰ Activity Report, Postal Services and Electronic Communications Regulatory Authority (ARCEP) of Togo (2010); https://arcep.tg/wp-content/uploads/2020/11/rapport_activites_exercice_2010.pdf, (21.10.2021).

IV. Assessment of the Implementation of Chapter II and Chapter V Provisions

This chapter examines the implementation and enforcement of certain articles of the Convention through laws, regulations and practices.

A. Assessment of the Implementation of Chapter II

With specific reference to Chapter II of the UNCAC, the following points were commented on and analyzed:

4.1 Preventive Anti-Corruption Policies and Practices (Art. 5)

Togo ratified the United Nations Convention against Corruption by Law No. 06 of July 2005. The Convention obliges States Parties to implement comprehensive anti-corruption measures that affect their laws, institutions and practices. These measures are designed to promote the prevention, detection and punishment of corruption, as well as cooperation among States Parties on these issues.¹¹

Togo has ratified the African Union Convention on Preventing and Combating Corruption (AUC), ratified through Law No. 2005-007 of May 18, 2005.¹² The AUC, a legally binding regional anti-corruption convention, was adopted by the Heads of State at the African Union Summit held in Maputo on July 11, 2003.

Togo has ratified the United Nations Convention against Transnational Organized Crime (UNTOC Convention), which was adopted on November 15, 2000 in New York. Indeed, Togo signed this Convention on December 12, 2000 and ratified it on July 2, 2004.¹³ The UNTOC Convention recognizes that corruption is an integral part of transnational organized crime and must be addressed as part of the effort to combat organized crime.

Togo ratified the ECOWAS Protocol on the fight against corruption by Law 2005-007 of 18 May 2005.¹⁴ This protocol was adopted with the objective of strengthening effective mechanisms

¹¹ African Union Convention on Preventing and Combating Corruption (AUC) ratified by Togo by Law No. 2005-007 of 18 May 2005, https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50027_F.pdf, (25.11.2021).

¹² African Union Convention on Preventing and Combating Corruption (AUC) ratified through Law No. 2005-007 of May 18, 2005; https://au.int/sites/default/files/treaties/36382-treaty-0028_-_african_union_convention_on_preventing_and_combating_corruption_e.pdf, (25.11.2021).

¹³ United Nations Convention against Transnational Organized Crime (UNTOC Convention) adopted November 15, 2000 in New York; <https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-f.pdf>, (25.11.2021).

¹⁴ ECOWAS Protocol on the fight against corruption by Law 2005-007 of 18 May 2005; https://demarchesadministratives.gouv.ml/files/upload/justice/Protocole_afrique_corruption.pdf, (08.10.2021).

to prevent, suppress and eradicate corruption in each of the State Parties through cooperation between them. This protocol provides for preventive measures in the public and private sectors.¹⁵

Togo has ratified Protocol A/SP1/12/01 on Democracy and Good Governance in addition to the Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security (Dakar, 21 December 2001).¹⁶

Togo has also adopted several directives of the West African Economic and Monetary Union (WAEMU), which all contribute to good economic governance, including:

- Directive N°01/2009/CM/UEMOA on the code of transparency in public finance management within the WAEMU;¹⁷
- Directive N°04/2005/CM/UEMOA on procedures for the award, execution and settlement of public contracts and public service delegations in the WAEMU;¹⁸
- Directive N°05/2005/CM/UEMOA on the control and regulation of public procurement and public service delegations in the WAEMU;¹⁹
- Directive No. 06/2009/CM/UEMOA on financial laws within the WAEMU;²⁰
- Directive N°07/2009/CM/UEMOA on general regulations on public accounting within the WAEMU;²¹
- Directive N°08/2009/CM/UEMOA on the budgetary nomenclature of the State within the WAEMU;²²

¹⁵ These include requirements for the public sector to declare assets and establish codes of conduct. Other requirements include: access to information, whistleblower protection, public procurement standards, transparency in political party financing, civil society participation and many others. The Protocol also requires that independent national anti-corruption authorities be established, maintained and strengthened. It also insists on the criminalization of a range of offences involving public officials or employees of private sector companies, including bribery, influence peddling and complicity in the commission of offences.

¹⁶ Protocol A/SP1/12/01 on Democracy and Good Governance in addition to the Protocol on Conflict Prevention, Management, Resolution, Peacekeeping and Security, <https://www.eisa.org/pdf/ecowas2001protocol1.pdf>, (08.10.2021).

¹⁷ Directive N°01/2009/CM/UEMOA on the code of transparency in public finance management within WAEMU (2009), http://www.uemoa.int/sites/default/files/bibliotheque/directive_01_2009_cm_uemoa.pdf, (08.10.2021).

¹⁸ Directive N°04/2005/CM/UEMOA on procedures for the award, execution and settlement of public contracts and public service delegations in the WAEMU; http://www.uemoa.int/sites/default/files/bibliotheque/directive_04_2005_cm_uemoa.pdf, (08.10.2021).

¹⁹ Directive N°05/2005/CM/UEMOA on the control and regulation of public procurement and public service delegations in the WAEMU (2005); http://www.uemoa.int/sites/default/files/bibliotheque/directive_05_2005_cm_uemoa.pdf, (08.10.2021).

²⁰ Directive N°06/2009/CM/UEMOA on the financial laws within the WAEMU; <http://www.droit-afrique.com/upload/doc/uemoa/UEMOA-Directive-2009-06-lois-de-finances.pdf> (08.10.2021).

²¹ Directive N°07/2009/CM/UEMOA on the general regulation of public accounting within the WAEMU; <http://www.droit-afrique.com/upload/doc/uemoa/UEMOA-Directive-2009-07-reglement-comptabilite-publique.pdf> (11.10.2021).

²² Directive N°08/2009/CM/UEMOA on the budgetary nomenclature of the State within the WAEMU; <http://www.droit-afrique.com/upload/doc/uemoa/UEMOA-Directive-2009-08-nomenclature-budget-Etat.pdf> (11.10.2021).

- Directive No. 02/2015/CM/UEMOA on the fight against money laundering and terrorist financing in the WAEMU Member States;²³
- Directive N°04/2009/CM/UEMOA instituting a single window for filing financial statements in the WAEMU Member States;²⁴
- Directive No. 08/2002/CM/WAEMU on measures to promote the use of cashless means of payment.²⁵

Togo has also joined and applies the rules of the Extractive Industries Transparency Initiative. The Extractive Industries Transparency Initiative (EITI) is a global reform to promote good practices of transparency and accountability in the governance of the extractive sector, including the oil, gas and mining sectors. Currently an international standard, the EITI is governed by principles, criteria and the 21 requirements contained in the EITI rules. The government must also make public the revenues collected. To become an EITI candidate, a state must provide detailed work plans, along with relevant documentation, to indicate how it intends to comply with the EITI. Togo has made a strong commitment to transparency by joining the EITI and regularly reports in accordance with its commitments.

4.1.1 Good practices

Progressive application of sanctions against the perpetrators and accomplices of acts of corruption:

- The High Authority for the Prevention and Fight against Corruption (HAPLUCIA) forwarded three complaints against acts of corruption in November 2019 to the judiciary (case of the Lome-Vogan-Anfoin road; case of the management of the funds of the African Cup of Nations (CAN) 2013²⁶ and the case of the management of funds relating to fairground operations at the Directorate General of Transport);
- In addition, more than five corrupt magistrates have been sanctioned and removed from the judiciary by decision of the Superior Council of the Magistracy;²⁷

²³ Directive No. 02/2015/CM/UEMOA on the fight against money laundering and terrorist financing in the Member States of the WAEMU; https://www.bceao.int/sites/default/files/2017-11/directive_no02_2015_cm_uemoa_lbc_ft-2.pdf (11.10.2021).

²⁴ Directive N°04/2009/CM/UEMOA instituting a single window for filing financial statements in the Member States of the WAEMU; http://www.uemoa.int/sites/default/files/bibliotheque/directive_04_2009_cm_uemoa.pdf (11.10.2021).

²⁵ BCEAO Directive N°08/2002/CM/UEMOA on measures to promote the use of cashless means of payment http://www.uemoa.int/sites/default/files/bibliotheque/pages_-_directive_08_2002_cm.pdf (11.10.2021).

²⁶ HAPLUCIA takes two landmark cases to court; <https://news.icilome.com/?idnews=875009/la-haplucia-saisie-la-justice-pour-deux-dossiers-phares>, (11.10.2021) and 'In case of fraud, there will be no gift'; <https://togoactu24.com/en-cas-de-fraude-il-ny-aura-pas-de-cadeau/>, (11.10.2021).

²⁷ Togo, Superior Council of the Magistracy: Two judges severely punished, <https://togotribune.com/news/togo-conseil-superieur-de-la-magistrature-deux-juges-severement-punis/>; <https://theworldnews.net/tg-news/togo-conseil-superieur-de-la-magistrature-deux-juges-severement-punis> (11.10.2021).

- Five corrupt officials from the Togolese Revenue Office (OTR) were also sentenced to prison terms and fines of 7 billion for tax fraud and corruption.²⁸
- In 2020, 225 law enforcement and security agents were sanctioned by the government for indiscipline, personal recklessness, negligence, abandonment of post, theft, racketeering, greed, dishonesty and corruption, including 88 police officers and 137 gendarmes.²⁹

The effective implementation of these sanctions demonstrates the government's firm commitment to effectively fighting corruption in Togo.

4.1.2 Deficiencies

Article 5(3) of the UNCAC requires States Parties to adopt legal measures to combat corruption by providing that *"each State Party shall endeavor to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and combat corruption"*. These legal measures include both repressive and preventive measures. Thus, even though Togo has already implemented a new penal code³⁰ and most of the relevant provisions relating to the repression of corruption³¹ into its national law by Law No. 2015-010124, our anti-corruption corpus still has some of the following gaps:

- **Togo does not yet have a law on the prevention of corruption and therefore does not fully comply with the UNCAC's obligations.** A draft law has been initiated by the High Authority for the Prevention and Fight against Corruption and Related Offenses, but it has not been adopted by the Council of Ministers or by parliament;
- **Togo does not yet have a whistleblower protection law.** A whistleblower is defined as "any person (natural or legal) who reports to the competent authorities, in good faith and on the basis of reasonable suspicion, any facts concerning violations established in accordance with this Convention" (UNCAC, 2003). All whistleblowers must be protected in accordance with the law;
- **Togo does not yet have a law on the transparency of lobbying activities.** Indeed, lobbying represents the fact of coming into direct or indirect contact with a public official in order to influence a political decision to defend particular values and interests. It plays an increasing role in the public decision-making process. When its use is made clear and

²⁸ Togo: 5 OTR agents sentenced to 7 years in prison (03/08/2019); <https://24heureinfo.com/flash-info/togo-5-agents-de-lotr-condamnes-a-7-ans-de-prison-ferme/>, (11.10.2021).

²⁹ TOGO, police and gendarmes sanctioned for serious breaches (4 February 2021); <https://www.togoactu.com/togo-policiers-et-gendarmes-sanctionnes-pour-manquements-graves-quid-des-sauvages-de-militaires/>, (11.10.2021).

³⁰ Law No. 2015-010124 New Criminal Code of the Togolese Republic, (2015); https://jo.gouv.tg/sites/default/files/publications/JOS_24_11_15-60%C3%A8%20ANNEE%20N%C2%B030.pdf (11.10.2021).

³¹ UNODC, Conference of the States Parties to the United Nations Convention against Corruption; CAC/COSP/2017/12; Analysis of Good Practices, Experiences and Relevant Measures Taken by States Parties after the Completion of Country Reviews during the First Cycle of the Mechanism for the Review of the Implementation of the United Nations Convention against Corruption; Vienna, 6-10 November 2017; <https://www.unodc.org/documents/treaties/UNCAC/COSP/session7/V1706722f.pdf> (11.10.2021).

transparent, lobbying can contribute to providing public decision-makers with elements of information and understanding on increasingly complex issues. On the other hand, unregulated lobbying can lead to abuses, which can result in decisions that better address private interests than those of the public, undue costs for the community and serious damage to public trust towards elected representatives and their institutions;

- **The absence of certain implementing legislation** (notably the law on the transparency of public finances; the uniform law on money laundering and the financing of terrorism in WAEMU Member States, etc., reduces the effectiveness of the implementation of these laws).

4.2 Preventive Anti-Corruption Body or Bodies (Art. 6)

The main anti-corruption bodies in Togo are, among others:

The High Authority for the Prevention and Fight against Corruption and Related Offenses (HAPLUCIA)

In its desire to effectively fight corruption and related offenses in Togo, the government adopted Law No. 2015-006 of July 28, 2015, creating the High Authority for the Prevention and Fight against Corruption and Related Offenses (HAPLUCIA).³² Its members were appointed by Decree No. 2017-001/PR of January 03, 2017 and were sworn in on February 07, 2017.³³

In accordance with articles 2 and 3 of this law, the missions of the HAPLUCIA are grouped into five categories: prevention, fight, consultative mission and cooperation and monitoring. According to article 2 of this law, the High Authority is an independent administrative institution, responsible for promoting and strengthening the prevention and fight against corruption and similar offences in administrations, public establishments, private companies and non-state bodies. Members of the High Authority from the administration are placed on secondment in order to carry out their duties on a full-time basis, except for those who carry out academic activities to continue their research and teaching activities. The other members must fully commit to the mandate conferred on them (article 4).

HAPLUCIA developed its strategic plan (2019-2023)³⁴ and conducted several awareness-raising activities throughout the country on its missions and the consequences of corruption.

³² Law No. 2015-006 of July 28, 2015 establishing the High Authority for the Prevention and Fight against Corruption and Related Offenses (HAPLUCIA), http://jo.gouv.tg/sites/default/files/publications/JOS_28_07_15-60%C3%A8%20ANNEE%20N%C2%B020.pdf#page=7, (11.10.2021).

³³ Decree No. 2017-001/PR of January 03, 2017 appointing members of the High Authority for the Prevention and Fight against Corruption and Related Offenses; <https://itietogo.org/wp-content/uploads/2019/12/DECRET-N%C2%B02017-001-du-03-janvier-2017-portant-nomination-de-membres-de-la-Haute-autorit%C3%A9.pdf>, (11.10.2021).

³⁴ The High Authority for the Prevention and Fight against Corruption and Related Offenses (HAPLUCIA), Strategic Plan 2019-2023;

It also referred two alleged cases of corruption to the courts. It has initiated three draft laws, the first of which has been adopted, namely organic law 2020-003 24/01/2020, setting out the conditions for declaring the assets and property of high-profile personalities, senior civil servants and other public officials;³⁵ the second on the framework law on the prevention and fight against corruption and related offences, which is still under discussion in government, and the last on the code of ethics and professional conduct for the public service.

HAPLUCIA has also conducted a study on the perception and economic cost of corruption in Togo;³⁶ it has a permanent secretariat with some technical and support staff. It receives an annual budgetary allocation from the general state budget.

HAPLUCIA has set up and made operational a platform of actors in the fight against corruption that brings together public sector institutions, and private sector and civil society representatives.

The National Financial Information Processing Unit (CENTIF)

The National Financial Intelligence Processing Unit (CENTIF) was established by Law n°2007-016 of July 6, 2007 on the fight against money laundering and Law n°2009-022 of September 7, 2009 on the fight against terrorism financing. The members were sworn in on February 26, 2009 before the Court of Appeal of Lomé which dismissed them to their duties. Their official installation by the Minister of Economy and Finance took place on December 1, 2009.

CENTIF's mission is to collect and process financial intelligence on money laundering channels. In this respect, it:³⁷

- is responsible, in particular, for receiving, analyzing, and processing information likely to establish the origin of transactions or the nature of operations subject to suspicious transaction reports by persons subject to the law;
- also receives all other useful information necessary for the accomplishment of its mission, in particular that communicated by the Control Authorities, as well as the judicial police;
- may request that taxable persons, as well as any natural or legal person, provide information in their possession that could be used to enhance suspicious transaction reports;

http://hapluciatogo.org/tempOne/documents/PAN_STRATEGIQUE/Plan_Strategique_HAPLUCIA_TOGO.pdf, (11.10.2021).

³⁵ Organic Law 2020-003 24/01/2020, establishing the conditions for the declaration of assets and property of high ranking officials, senior civil servants and other public officials,

http://jo.gouv.tg/sites/default/files/JO/JOS_29_01_2020%20-65E%20ANNEE%20N%C2%B0%2003%20TER.pdf#page=2, (11.10.2021).

³⁶ Report of the study on the perception and cost of corruption in Togo (EPCCT); August 2020; http://haplucia-togo.org/tempOne/documents/HAPLUCIA_Version_finale_Rapport_EPCCT_du_21_09_2020.pdf, (11.10.2021).

³⁷ National Financial Information Processing Unit (CENTIF), http://centif.tg/?p=mis_centif, (11.10.2021).

- carries out or commissions periodic studies on the evolution of techniques used for money laundering or terrorist financing purposes in the national territory;
- issues opinions on the implementation of the State's policy on the fight against money laundering and terrorist financing. In this respect, it proposes all necessary reforms to strengthen the effectiveness of the fight against money laundering and terrorist financing.

The Superior Council of the Judiciary (CSM)

The CSM was established by Law n°2013-007 of February 25, 2013 amending organic law n°96-11 of August 21, 1996 establishing the status of magistrates in Togo³⁸ and by organic law n°97-04 on the organization and functioning of the Superior Council of the Magistracy (CSM).³⁹ It is composed of nine members, including three magistrates of the Supreme Court; four magistrates of the Courts of Appeal and Tribunals; one deputy to the National Assembly and one figure chosen by the President of the Republic.⁴⁰ The Superior Council of the Judiciary is operational.

The principles of the independence of the judiciary and the security of tenure of judges are proclaimed by the Constitution and confirmed by the organic law on the status of judges. The Council controls and decides annually on the promotion of magistrates and the transfer of judges to other functions, which are subject to the Council's opinion. The Council also acts as a disciplinary body for judges. In this respect, the Council has sanctioned several dishonest magistrates who have thus suffered disciplinary sanctions.

The High Court of Justice

The High Court of Justice of the State is the only court competent to hear offenses committed by the President of the Republic and former Presidents of the Republic (Article 127 new, Constitution of October 14, 1992, revised May 08, 2019). The High Court of Justice hears crimes and misdemeanors committed by members of the government and members of the Supreme Court (Article 128 new, Constitution of October 14, 1992, revised May 08, 2019).⁴¹

³⁸ Law n°2013-007 of February 25, 2013 amending organic law n°96-11 of August 21, 1996 establishing the status of magistrates in Togo; http://legitogo.gouv.tg/be/wp-content/uploads/2017/03/Pages-from-jo_2013-007Special-1.pdf, (17.11.2021).

³⁹ Organic Law No. 97-04 on the organization and functioning of the Superior Council of the Judiciary (CSM); <http://www.ilo.ch/dyn/natlex/docs/SERIAL/48602/39475/F316661764/organisation%20cour%20supreme.pdf>, (17.11.2021).

⁴⁰ DECREE 2015-057/PR of August 27, 2015 on the appointment of the members of the Superior Council of the Judiciary, http://jo.gouv.tg/sites/default/files/publications/JOS_28_08_15-60%C3%A8%20ANNEE%20N%C2%B022%20quarto.pdf#page=28, (17.11.2021).

⁴¹ New Article 128, Constitution of October 14, 1992, revised May 08, 2019, <http://www.assemblee-nationale.tg/actualites/412-r%C3%A9vision-de-la-constitution.html>, (17.11.2021).

The Court of Auditors

According to Article 107 of the Constitution, the Court of Auditors judges the accounts of public accountants and audits the accounts and management of public establishments and public companies. As part of the jurisdictional aspect of its mission, which began more than two years ago, the Court of Accounts has already issued a number of provisional decisions concerning the management of public accountants.

4.2.1 Good practices

The government has created and made operational several institutions and structures whose mission is to strengthen the fight against corruption and related offences:

- The National Assembly (NA) plays a leading role in external control of public finances and the fight against corruption in Togo. In addition to its legislative role (adoption of laws), the National Assembly has several missions including the monitoring, investigation and questioning of government members, which contribute to the fight against corruption;
- The Court of Auditors is also involved in external auditing of public finances, in education and capacity building and has also has a jurisdictional function in its mission. The government has expanded its scope with the recent prerogatives of evaluating the performance of institutions and the creation of regional courts of audit;
- The Mediator of the Republic has also seen its functions consolidated; from now on, it receives new tasks to carry out inquiries or investigations, to ensure the fairness, equity and quality of public services, and has full powers to receive the declaration of goods and assets of the persons concerned and which authorizes it to diligently investigate the fairness, equity and quality of public services;
- HAPLUCIA was created and is operational; it undertakes several education, awareness and capacity building activities, and promotes the legal framework and repression of acts of corruption with the referral of certain alleged cases of corruption to the courts;
- The Superior Council of the Magistracy undertakes some actions to promote ethics and deontology and disciplinary sanctions are imposed on defaulting magistrates;
- Public financial auditing is carried out by the Financial Control Department, the General Inspectorate of Finance (IGF) and the General State Inspectorate (IGE), which undertake internal evaluations of public expenditure management.

4.2.2 Deficiencies

- The appointment process of HAPLUCIA members resulted from a presidential decree without any competitive selection process, which would not be fully in line with Principle 4 of the Jakarta Declaration on Anti-Corruption Institutions that "*the heads of*

*anti-corruption institutions shall be appointed through a process that ensures their apolitical nature, impartiality, neutrality, integrity and competence."*⁴²

- Furthermore, Article 3 (1) and (3) of the law establishing HAPLUCIA expressed very weakly the investigative power of this institution even though Principle 1 of the Jakarta Declaration on Principles for Anti-Corruption Institutions (ILC)⁴³ clearly states that *"anti-corruption institutions must have clear mandates to fight corruption through prevention, education, awareness raising and investigation..."*.
- It should also be noted that HAPLUCIA seems to have little autonomy in recruiting staff, even though under Jakarta Principle 10, *"ILCs must have the authority to recruit and dismiss their staff in accordance with clear and transparent internal procedures"*. However, it appears from the law establishing HAPLUCIA (Article 12) that its own staff is recruited through a call for applications. Nevertheless, the newly formed institution's ability to recruit is poorly utilized because of its limited financial resources. The current staff of HAPLUCIA is largely made up of civil servants on secondment from the Ministry of the Civil Service, but their profile is not always in line with the technical missions of HAPLUCIA.
- The Court of Auditors also has some weaknesses, such as the absence of a code of ethics specific to the Court; a weak capacity to follow up on the implementation of recommendations from public finance management audit reports; and the weak operationalization of the Court's jurisdictional component.
- Finally, the administrative control bodies (IGE and IGF) also have some drawbacks. Indeed, there is a lack of hierarchy and recurring conflicts of competence between the IGE and the IGF. Togolese law has placed these two administrative control bodies at the same level of competence; there is no higher authority for administrative control in Togo, which may have an impact on the performance and quality of the work of such bodies.

4.3 Public Sector Employment (Art. 7.1)

In accordance with Article 7.1 of the UNCAC, Togo has adopted several laws to ensure transparency in public sector recruitment. These include:

- Law no. 2013-002 of January 21, 2013, on the general status of the civil service;⁴⁴

⁴² Principle 4, Jakarta Declaration on Principles for Anti-Corruption Institutions (ILC); https://www.unodc.org/documents/corruption/WG-Prevention/Art_6_Preventive_anti-corruption_bodies/JAKARTA_STATEMENT_fr.pdf, (17.11.2021).

⁴³ Principle 1, Jakarta Declaration on Principles for Anti-Corruption Institutions (ILC); https://www.unodc.org/documents/corruption/WG-Prevention/Art_6_Preventive_anti-corruption_bodies/JAKARTA_STATEMENT_fr.pdf, (17.11.2021).

⁴⁴ Law No. 2013-002 of January 21, 2013, on the general status of the civil service; <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/94277/110602/F-499698850/TGO-94277.pdf>, (23.11.2021).

- Decree No. 2015-120/PR of December 14, 2015 on the common provisions for the application of the general status of the Togolese civil service;⁴⁵
- Law No. 2013-007 of February 25, 2013 amending organic law No. 96-11 of August 21, 1996 establishing the status of magistrates;⁴⁶
- The organic law no. 98-014 of July 10, 1998 on the organization and functioning of the Court of Auditors;⁴⁷
- The decree no. 2009-049/PR concerning the application of the law n° 98-014 1998 concerning the organization and functioning of the Court of Auditors;⁴⁸
- The organic law no. 2009-003 of April 15, 2009 on the statutes of the magistrates of the Court of Accounts of Togo;⁴⁹
- The organic law no. 2020-003 24/01/2020 fixing the conditions of declaration of assets and property of high-ranking officials, senior civil servants and other public officials.⁵⁰

4.3.1 Good practices

- The organic law of December 10, 2020 establishing the composition and functioning of the services of the Mediator of the Republic gives **full powers to the Mediator of the Republic to conduct investigations into the** fairness, equity and quality of public services, to receive declarations of assets from public officials and to serve as an administrative authority for access to information. In order to implement this law, the government has adopted Order No. 2021-075/PMRT on the asset declaration form. On January 24, 2022, the Mediator of the Republic, Awa Nana-Daboya, declared her property and assets before the Constitutional Court.⁵¹ It has been announced that all members of the government will declare their assets in March 2022. According to

⁴⁵ Decree No. 2015-120/PR of December 14, 2015, on the common provisions for the application of the general statute of the Togolese civil service;

<https://www.ilo.org/dyn/natlex/docs/SERIAL/107906/133088/F1290539943/TGO-107906.pdf> (23.11.2021).

⁴⁶ Law No. 2013-007 of February 25, 2013, amending Organic Law No. 96-11 of August 21, 1996, establishing the status of magistrates; <https://www.ilo.org/dyn/natlex/docs/SERIAL/94364/117759/F-1704196607/TGO-94364.pdf>, (23.11.2021).

⁴⁷ Organic Law No. 98-014 of July 10, 1998 on the organization and operation of the Court of Accounts; <https://www.courdescomptes.tg/wp-content/uploads/2017/03/Loi-organique-n%C2%B0-98-014-du-10-juillet-1998-portant-organisation-et-fonctionnement-de-la-Cour-des-comptes-du-Togo.pdf>, (23.11.2021).

⁴⁸ Decree No. 2009-049/PR implementing Law No. 98-014 1998 on the organization and operation of the Court of Accounts; <https://www.courdescomptes.tg/wp-content/uploads/2017/03/Decret-2009-049-CdC.pdf>, (23.11.2021).

⁴⁹ Organic Law No. 2009-003 of April 15, 2009 on the statutes of the magistrates of the Court of Accounts of Togo; <https://www.courdescomptes.tg/wp-content/uploads/2017/03/Loi-organique-n%C2%B0-2009-003-du-15-avril-2009-portant-statut-des-magistrats-de-la-Cour-des-comptes-du-Togo-1.pdf>, (23.11.2021).

⁵⁰ Organic Law No. 2020-003 24/01/2020 establishing the conditions for the declaration of assets and property of high ranking officials, senior civil servants and other public officials;

https://jo.gouv.tg/sites/default/files/JO/JOS_29_01_2020%20-65E%20ANNEE%20N%C2%B0%2003%20TER.pdf#page=2, (23.11.2021).

⁵¹ Togo: the Mediator of the Republic declares his property and assets; <https://www.togofirst.com/fr/gouvernance-economique/2501-9293-togo-le-mediateur-de-la-republique-declare-ses-biens-et-avoirs>, (09.02.2022).

sources, only one case of a dispute concerning the access to information was brought before the Ombudsman and was settled out of court.

- **The effective declaration of assets by certain government officials:** all officials of the anti-corruption body (HAPLUCIA), the Togolese Revenue Office (OTR) and the Court of Auditors have already declared their assets. The process of generalizing the declaration of assets by all government officials is well underway.
- **Operationalization of certain technical inspectorates of the ministries:** certain ministerial inspectorates have been created and operationalized, in accordance with Decree 2011-178/PR establishing the general principles of organization of ministerial departments and Decree No. 2012-006/PR of March 7, 2012 on the organization of ministerial departments.⁵²
- **Strengthening of the administrative control of the State with the creation of certain structures of internal administrative control such as:**
 - a. **The General State Inspectorate (IGE),** whose missions have been strengthened by Decree No. 2019-125/PR of September 18, 2019 on the powers, organization and functioning of the General State Inspectorate (IGE).⁵³ Article 1 of the said decree states that "*the General State Inspectorate is an administrative control body of public finances placed under the authority of the President of the Republic.*" The General State Inspectorate is entrusted with a general and permanent mission of control, audit, investigation, evaluation and promotion of good governance (Article 2, Decree No. 2019-125/PR of 18 September 2019).

The IGE is responsible, among other things,⁵⁴ for monitoring compliance with the laws and regulations governing administrative, financial and accounting operations in all public services of the State, local authorities, public establishments and any national body entrusted with a public service mission, for studying the quality of the operation and management of these services, and for verifying the proper use of public funds and the regularity of the operations of authorizing officers and public accountants.

- b. **The General Inspectorate of Finance (IGF)** has also been given the missions of administrative control of the State. Indeed, Article 3 of Decree No. 2019-026

⁵² Decree No. 2012-006/PR of March 7, 2012 on the organization of ministerial departments, <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/99196/118300/F-854352824/TGO-99196.pdf>, (23.11.2021).

⁵³ DECREE No. 2019-125/PR OF SEPTEMBER 18, 2019 on the powers, organization and operation of the State General Inspectorate (IGE), https://jo.gouv.tg/sites/default/files/JO/JOS_30_10_2019-64E%20ANNEE-N%C2%B026%20QUARTO.pdf#page=23, (23.11.2021).

⁵⁴ The IGE is also responsible for proposing all measures likely to strengthen the quality of public action, including central and decentralized administrations, local authorities and their public establishments, institutions of the Republic, diplomatic and consular missions abroad, public enterprises and national public establishments, as well as legal entities under private law receiving financial assistance from the State or other public bodies (Article 3, *Decree No. 2019-125/PR of 18 September 2019*). In the case of the military administration, the control of the General State Inspectorate only covers the administrative and financial management of this institution and the establishments that depend on it.

/PR of 20/02/19 on the powers, organization and functioning of the General Inspectorate of Finance,⁵⁵ states that "the General Inspectorate of Finance carries out financial and accounting control, auditing and evaluation of administrative and management procedures of national public institutions, public enterprises and all other bodies under supervision or beneficiaries of public financial assistance. It "exercises control over the operations carried out by the authorizing officers and public accountants; it ensures the regularity and conformity of the operations carried out and verifies the substantiality of public expenditure, in particular the service actually provided.

It controls the proper functioning of central departments, external services of all ministries, local authorities, national public establishments and all organizations receiving financial assistance from the State, its branches or its partners. It makes proposals to improve their performance. This text continues: "it assesses the quality and performance of the management of authorizing officers and public accountants. In this respect, it ensures that the latter apply the laws, ordinances, decrees and other regulatory acts, as well as the execution of directives from the minister in charge of finance relating to the administrative, accounting and financial functioning of the ministries' attached and decentralized services. It verifies the inventories of equipment and supplies, as well as the staffing of all the organizations under its control."

- **Efforts to digitalize public services:** These include the implementation of the e-Government project which ensures a high-speed internet connection to administrative buildings; the improvement of the flow of information with the implementation of a governmental messaging system and collaborative work tools for government officials; the digital ecosystem which includes the implementation of a country portal⁵⁶ from which all governmental websites are accessible as well as the website www.service-public.gouv.tg, which lists the administrative procedures and soon the creation of online businesses; connecting with local communities through the implementation of E-Village and citizens. Finally, Togo is about to develop its digital transformation

⁵⁵ DECREE N° 2019-026 /PR of 20/02/19 on the attributions, organization and functioning of the General Inspectorate of Finance, https://jo.gouv.tg/sites/default/files/JO/JOS_04_04_2019-64E%20ANNEE%20N%C2%B0%2007%20TER.pdf, (23.11.2021).

⁵⁶ The country portal, www.togo.gouv.tg, (09.12.2022).

strategy, called "Togo Digital 2025".⁵⁷ This activity is part of the West African Regional Program for the Development of Communication Infrastructures (WARCIP - TOGO).⁵⁸

4.3.2 Deficiencies

- The non-operationalization of the Superior Council of the Civil Service, which by virtue of its mission, plays a very important role in the transparency of the civil service and in particular of public recruitment;
- In addition, the draft code of ethics and professional conduct for the public service has been validated in a stakeholder workshop but has not yet been adopted by the Council of Ministers;
- Administrative and/or financial control of public finances in Togo is carried out by the Directorate of Financial Control, the General Inspectorate of Finance (IGF) and the General State Inspectorate (IGE). This administrative control is also characterized by a non-harmonized framework with overlapping and conflicting responsibilities.

4.4 Political Financing (Art. 7.3)

Togo adopted Law No. 2013-013 of June 07, 2013 on the public financing of political parties and election campaigns,⁵⁹ which repealed Law No. 2007-018 of July 16, 2007 on the public financing of political parties.

According to Article 1 of this law, the state allocates aid for the financing of political party activities and election campaigns. The amounts of public aid for financing the activities of political parties and electoral campaigns are set by the Finance Act. Unless otherwise provided for in this Act, the conditions and procedures for the distribution of the State's contribution shall be determined by decree of the Council of Ministers.

Political parties are required to keep regular financial management accounts and stock accounts within the framework of the resources allocated by the State for the financing of political parties and election campaigns (Article 2). In addition, political parties, alliances, coalitions or groupings of parties are required to account, in a financial report and an activity report, for the use of public funds from which they benefit, including financial assistance from the State.

⁵⁷ "Togo Digital 2025," a digital transformation strategy in the making, <https://www.togofirst.com/fr/tic/1802-4962-togo-digital-2025-une-strategie-de-transformation-numerique-en-gestation> (09.02.2022); Togo will have a digital transformation strategy, "Togo Digital 2025," <https://www.republiquetogolaise.com/tic/1902-4060-le-togo-va-se-doter-d-une-strategie-de-transformation-numerique-togo-digital-2025>, (09.02.2022).

⁵⁸ West African Regional Program for Infrastructure Development Communication (WARCIP - TOGO), <https://numerique.gouv.tg/wp-content/uploads/2020/02/AMI-Strategie-Transformation-Togo-Digital-2025.pdf>, (09.02.2022).

⁵⁹ Law No. 2013-013 of June 07, 2013 on the public financing of political parties and election campaigns; http://legitogo.gouv.tg/be/wp-content/uploads/2017/03/Pages-from-jo_2013-014Bis-3.pdf, (15.12.2022).

Any party or group of political parties, any candidate and any list of candidates having benefited from the State subsidy for electoral campaigns, is required to file a financial report with the Court of Auditors, within three months after the publication of the final results of the elections (Article 3).

This law also specifies that the Court of Auditors shall rule, three months after their submission, on the financial reports of political parties or groupings of political parties and on the regularity of the campaign expenses of political parties or groupings of political parties and candidates. Failure to comply with the Court of Auditors' ruling may result in the loss of the right to a state subsidy for the next election campaign or for the financial year following the ruling, or in the partial or total reimbursement of the sums received, or both (Article 4).

Under the terms of Article 7 of this law, State aid for financing the activities of political parties and groupings of parties is distributed in proportion to the representativeness of each of them, in the following manner:

- a) 70% of the State's financial aid is allocated to legally constituted political parties and groupings of parties based on the following alternative criteria: having obtained at least 5% of the votes cast nationally in the last legislative elections; having obtained at least five elected representatives in the last legislative elections; having obtained at least 10% of the votes cast nationally in the last local elections;
- b) 30% of the State's financial aid is allocated to legally constituted political parties and groupings of parties in proportion to the number of women elected in legislative and local elections.

In addition, the law requires the State to contribute to the financing of election campaigns of political parties and groups of political parties as well as candidates or lists of candidates in the context of legislative and presidential elections. The amount of this contribution is set out in the finance law for the year of the election in question. If it has not been provided for in the Finance Act for the current fiscal year, this amount is set by decree in the Council of Ministers. For the presidential election, this funding is distributed as follows: 60% of the amount of the State's financial contribution is divided equally among all candidates; 40% of the amount of the State's financial contribution is divided proportionally to the votes obtained among the candidates who obtained at least 10% of the votes cast. For legislative elections, the conditions of eligibility to receive the State's contribution and the methods of distribution are set by decree in the Council of Ministers (Article 10).

By Decree No. 2013 - 046/PR of June 13, 2013 the government set the amount of public funding for the campaign for the legislative elections of July 25, 2013, the terms and conditions and of its distribution and made available to political parties an amount of 450,000,000 FCFA (about EUR 686,000).

4.4.1 Good practices

- Since 2013, Togo has effectively provided subsidies to political parties for both the day-to-day activities of political parties and their election campaigns.
- The Court of Auditors audited the 2013 legislative campaign funds.⁶⁰ The general objective pursued by this audit is to educate and train the leaders of political organizations on the need to produce financial statements and employment accounts. The allocation for this funding is contained in Decree 2013 - 046/PR of June 13, 2013. The allocation of this fund is made on an equal basis according to Article 2 of the said decree, between the parties or groupings of political parties to which the parliamentary groups and non-affiliated members of parliament currently sitting in the National Assembly are affiliated.
- According to the audit report of the Court of Auditors, public funding per parliamentary political party is FCFA 50,000,000 (about EUR 76,000) for the National Alliance for Change (ANC); FCFA 50,000,000 for the Action Committee for Renewal (CAR); FCFA 50,000,000 for the Union of Forces for Change (UFC); FCFA 50,000,000 for the Union for the Republic (UNIR), for a total of FCFA 200,000,000 (EUR 306,000). In addition, public funding for extra-parliamentary groups (in CFAF) amounted to 99,500,000 (EUR 152,000).
- Finally, under the terms of Decree No. 2013 - 046/PR of June 13, 2013, the 150,000,000 CFA francs (EUR 229,000) representing the remaining public funding of the campaign, will be distributed after the legislative elections of July 2013 according to the number of seats obtained. At the end of this election, we note that: the UNIR party obtains, 68.13% of the seats; the "Let's Save Togo Collective" (CST) ANC - Alliance of Democrats for Integral Development (ADDI), 20.87% of the seats; the *Coalition Arc-en-ciel* (Rainbow Coalition), 6.60% of the seats; UFC, 3.30% of the seats and the *Sursaut National* (National Revival), 1.10% of the seats.

4.4.2 Deficiencies

- According to the Court of Auditors, this audit revealed a number of shortcomings. Indeed, some political parties produced information on the origin of the funds collected. But, in general, the accounts do not include supporting documents concerning resources relating to membership fees, income from activities, donations and bequests.
- The Court of Auditors considers that the absence of supporting documents does not allow it to rule on the regularity of this part of the campaign account. In addition, the Court notes the absence of a nomenclature for breaking down campaign account expenses. The accounts presented are, for the most part, summaries of expenses. The

⁶⁰ The Court of Auditors of Togo; Control of campaign funds: 2013 Legislative; Final report; <https://www.courdescomptes.tg/wp-content/uploads/2017/03/Controle-des-fonds-de-campagne.pdf>, (15.12.2021).

absence of a nomenclature for the breakdown of expenses and an accounting standard for the charges justifies these errors and the poor choice of charge items.

- Finally, the Court indicates that the examination of the supporting documents for the expenses revealed significant irregular expenses. These irregularities relate to: the absence of a causal relationship between the expenditure and the search for votes among voters: purchase of PVC pipes, repairs and maintenance of vehicles, motor pumps, generators, refrigerators and purchase of spare parts, payment of water and electricity bills, pharmacy expenses, purchase of metal sheets, gravel, sand, medical visits, etc. - expenses incurred outside the campaign area.⁶¹

4.5 Codes of Conduct, Conflicts of Interest and Asset Declarations (Art. 7.2, 7.4, 8.1, 8.2, 8.5, 8.6, 12.2)

Togo has a set of legislative texts that define the conditions of ineligibility of candidates for elective public office as well as the conditions of eligibility. Indeed, according to Article 52 of the Constitution,⁶² *"any member of the armed forces or public security forces who wishes to be a candidate for the office of deputy must first resign from the armed forces or public security forces. In this case, the interested party may claim the benefit of the rights acquired in accordance with the statutes of his corps."* In addition, this article specifies that *"the term of office of senators is six years, with the possibility of a second term. An organic law shall determine the number of senators, their allowances, the conditions of eligibility or appointment, the rules on incompatibility and the conditions under which vacant seats shall be filled."*

In addition, Article 62 of the Constitution provides that *"no one may be a candidate for the office of President of the Republic unless he or she: is exclusively of Togolese nationality by birth; is at least 35 years of age on the date of filing of the candidacy; has full civil and political rights; is in a general state of physical and mental well-being duly attested to by three sworn doctors appointed by the Constitutional Court; and has been residing in the national territory for at least twelve months."* Article 63 further states that *"the functions of President of the Republic are incompatible with the exercise of the parliamentary mandate, of any professional representative function of a national nature, and of any private or public, civil or military employment or any professional activity."*

In addition, Article 103 of the Constitution provides that *"the functions of a member of the Constitutional Court are incompatible with the exercise of any elective mandate, any public,*

⁶¹ Court of Auditors of Togo; Control of campaign funds: 2013 Legislative; Final report; <https://www.courdescomptes.tg/wp-content/uploads/2017/03/Contrôle-des-fonds-de-campagne.pdf>, (15.12.2021).

⁶² Togolese Constitution of the Fourth Republic (Consolidated version, updated with the constitutional law of May 15, 2019 and all previous constitutional revisions), [https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/38025/110367/F782774626/TGO-38025%20\(VERSION%20CONSOLIDEE\).pdf](https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/38025/110367/F782774626/TGO-38025%20(VERSION%20CONSOLIDEE).pdf), (15.12.2022).

civil or military employment, any professional activity as well as any function of national representation."

Article 111 of the Constitution states that *"the functions of a member of the Court of Audit are incompatible with being a member of government, the exercise of any elective mandate, any public, civil or military employment, any other professional activity, as well as any function of national representation."*

Article 118 of the Constitution further provides that *"active magistrates may not hold other public offices or engage in lucrative private activities outside the cases provided for by law, nor may they engage in public political activities."*

The parliamentary lawyer shall not appear in any capacity in criminal, civil or administrative proceedings which involve the interpretation and application of a law of which he has been the author, nor shall he deal with cases in which he has been consulted as a parliamentarian, nor shall he give the magistrates a personal interpretation of the law of which he has been the author. All of the above prohibitions apply whether the lawyer acts personally or through a partner, associate or employee.

In the area of public procurement, there are also certain conditions of ineligibility and/or incompatibility. Indeed, on June 25, Togo enacted by Decree No. 2019-097/PR on the code of ethics and professional conduct in public procurement,⁶³ the WAEMU Directive on Ethics and Professional Conduct in Public Procurement and Public Service Delegations. Article 22 of the said decree obliges contracting authorities to ensure *"that any public official under their authority, whatever his functions and hierarchical position, refrains from soliciting, claiming, accepting, receiving or offering any benefit-in-kind or in cash, in return for not fulfilling or in any way fulfilling the obligations of his office."*

Finally, it should be noted that Law No. 2015-006 of 28/07/2015 establishing the High Authority for the Prevention and Fight against Corruption and Related Offenses⁶⁴ has provided for certain incompatibilities. Indeed, the article of this law states that "members of the High Authority from the administration are placed in a position of secondment in order to exercise their function on a full-time basis, except for those who are engaged in academic activities to continue their research and teaching activities." The other members must commit themselves to devote themselves fully to the mandate conferred upon them.

⁶³ Decree No. 2019-097/PR on the code of ethics and professional conduct in public procurement; http://jo.gouv.tg/sites/default/files/JO/JOS_11_10_2019-64E%20ANNEE%20N%C2%B0%2024%20BIS.pdf, (15.12.2022).

⁶⁴ Law No. 2015-006 of 28/07/2015 establishing the High Authority for the Prevention and Fight against Corruption and Related Offenses, <http://news.alome.com/documents/docs/LOI-HauteAutorite-corruption.pdf>, (15.12.2022).

The duties of a member of the High Authority are incompatible with any elective office, any professional, national or local representation, as well as any governmental or executive function related to local authorities, public enterprises and any judicial function. Members of the High Authority may not be members of a supervisory board or a board of directors. Article 6 of the Act further states that each member shall produce, on taking up his or her duties, a declaration on his or her honour attesting that he or she has no conflict of interest or incompatibility in accepting the mission entrusted to him or her, as well as a declaration of assets.

Regarding the declaration of assets, it should be noted that the Togolese authorities understood very early on the need to declare assets, which is enshrined in Article 145 of the Constitution of October 14, 1992. In addition, the government has adopted the organic law 2020-003 24/01/2020 setting the conditions for the declaration of assets and property of high-ranking officials, senior civil servants and other public officials.⁶⁵

The government also adopted organic law no. 2021-005 of 1^{er} April 2021, which sets out the composition and functioning of the services of the Mediator of the Republic.⁶⁶ This law gives the Mediator full powers to receive the declaration of assets and property of the persons concerned and authorizes him to conduct investigations into the fairness, equity and quality of public services.

The declaration of property and assets is made in physical or digital form. It shall be filed with the Constitutional Court, the Mediator of the Republic or his delegates by the declarant or his duly mandated representative. They shall be assisted by a sworn clerk and assessor, appointed by decision of the Mediator of the Republic or by the President of the Constitutional Court for the declaration of property and assets of the Mediator of the Republic (new Article 10). Failure to submit the initial, amended or final declaration of assets, despite formal notice, is punishable by a fine of 500,000 to 5,000,000 FCFA (i.e., EUR 7,600) (new Article 19).⁶⁷

4.5.1 Good practices

- The effective declaration of assets by some government officials: all officials of the anti-corruption body (HAPLUCIA), the Togolese Revenue Office (OTR) and the Court of Auditors have already declared their assets. The Public Procurement Regulatory

⁶⁵ Organic Law 2020-003 24/01/2020 establishing the conditions for the declaration of assets and property of high ranking officials, senior officials and other public agents, https://jo.gouv.tg/sites/default/files/JO/JOS_29_01_2020%20-65E%20ANNEE%20N%C2%B0%2003%20TER.pdf#page=2, (15.12.2021).

⁶⁶ Organic Law No. 2021-005 of April 1, 2021 establishing the composition and functioning of the services of the Mediator of the Republic; <https://assemblee-nationale.tg/wp-content/uploads/2021/03/mediateur-loi-AN.pdf>, (15.12.2021).

⁶⁷ Organic law no. 2021-005 of 1st April 2021 establishing the composition and functioning of the services of the Mediator of the Republic, cited above.

Authority (ARMP) took the opportunity of the International Anti-Corruption Day, celebrated every December 9, to officially launch on December 10 in Lomé, the popularization of the code of ethics and professional conduct in public procurement. After the launch in Lomé, other dissemination and exchange sessions were organized throughout the country to ensure its appropriation. The effective application of the code has started with several sanctions imposed on actors who do not respect the code.

- The Decree on the Code of Ethics and Conduct of Public Procurement was adopted in July 2019. In 2020, the government began its popularization throughout the territory, which is swept by the 2020-2021 health crisis, which has delayed its widespread application.

4.5.2 Deficiencies

- The generalization of the declaration of assets to all public officials is still very weak. Although organic law 2020-003 24/01/2020 establishing the conditions for the declaration of assets and property of high-ranking officials, senior civil servants and other public officials has incorporated the relevant provisions of the three anti-corruption conventions, the declaration of assets and property is not yet effective. The amended law only dates from June 17, 2021. Article 22 of the amended law states that "decrees of the Council of Ministers shall specify and complete, if necessary, the procedures for organizing the declaration of assets and property," but such decrees have not yet been adopted.
- In addition, there is a lack of criminal statistics: Togo does not have a digitized database on criminal statistics to better assess the degree of enforcement of sanctions for violations of rules and codes of ethics.
- The organic law n°2003-21 of December 9, 2003, amended in October 2020 by the organic law on the composition, organization and functioning of the services of the Mediator of the Republic, gives the Mediator full powers to receive the declaration of goods and assets of the persons concerned, but this declaration is not yet effective.

4.6 Reporting Mechanisms and Whistleblower Protection (Art. 8.4 and 13.2)

Under Article 3 of Law No. 2015-006 of 28/07/2015 establishing the High Authority for the Prevention and Fight against Corruption and Related Offenses, in terms of cooperation with the judicial authorities, the High Authority may collect any information relating to acts of corruption or other related offenses and refer them, with discretion, to the competent judicial authorities, keeping confidential, under penalty of criminal prosecution, the identity of the whistleblowers if they have made a request, by ensuring that the presumption of innocence is respected. This Article further provides that the High Authority shall ensure the protection

of any person who reports to the competent authorities, in good faith, any facts concerning established offences.

The law provides that the High Authority shall forward substantiated complaints to the competent public prosecutor for investigation and, if necessary, to initiate public action. In the case of a slanderous denunciation, the confidentiality and anonymity of the informant may not be guaranteed. In compliance with the rights of the defence and the principle of adversarial proceedings, the High Authority may be summoned by the Public Prosecutor's Office or intervene to make its written or oral observations.⁶⁸

4.6.1 Good practices

- ANCE-TOGO has made operational three centers for legal assistance and citizen action (CAJAC)⁶⁹ which have strengthened awareness and civic engagement through the denunciation of corruption cases of which a total of 200 cases were reported to the CAJACs and 150 other corruption cases were reported to other structures such as HAPLUCIA, the OTR and the ARMP.
- In addition, several hotlines have been made operational to report cases of corruption. A total of three hotlines are operational, including the Ministry of Security and Civil Protection (1014), HAPLUCIA (8277), ARMP (80 00 88 88) and ANCE-Togo (8287). These three numbers have received nearly four hundred cases of denunciation of petty corruption.
- According to the annual report of ARMP 2019, this institution has received in 2019 a total of eleven denunciations, including five by email, five by means of letters and one through its hotline; compared to nine denunciations in 2018; twenty in 2017 and fifty in 2016.⁷⁰
- Of the two hundred cases of denunciations that were recorded by the ANCE-Togo hotline in 2019, 26% are victims of corruption who are unemployed, 15% are retirees, 12% are farmers, 12% are small business owners, 9% of senior executives and 8% are civil servants.⁷¹

4.6.2 Deficiencies

⁶⁸ ANCE-Togo, Centers for Legal Assistance and Citizen Action (CAJAC); <http://news.alome.com/documents/docs/LOI-HauteAutorite-corruption.pdf>; https://www.youtube.com/watch?v=Tbm_QLhB1ug, (15.12.2021).

⁶⁹ Law No. 2015-006 of 28/07/2015 on the creation of the High Authority for the Prevention and Fight Against Corruption and Related Offenses; https://jo.gouv.tg/sites/default/files/publications/JOS_28_07_15-60%C3%A8%20ANNEE%20N%C2%B020.pdf#page=7, (15.12.2021).

⁷⁰ Sources, ARMP Annual Activity Report 2019, http://armptogo.com/phocadownload/rapport_activite/Rapport_activite_2019_ARMP.pdf, (12/15/2021).

⁷¹ ANCE-Togo, Bilan des Centres d'assistance juridique et d'action citoyenne (2021), <https://togotopnews.com/2021/08/26/cajac-lance-togo-fait-le-bilan-apres-2-ans-de-mise-en-oeuvre/>, (15.12.2021).

- Togo does not yet have a whistleblower protection law. The culture of whistleblowing is still weak in Togo despite the efforts of civil society organizations to raise awareness.

4.7 Public Procurement (Art. 9.1)

Article 9, paragraph 1 of the UNCAC requires States Parties to take "the necessary measures to establish appropriate systems of procurement based on transparency, competition and objective criteria for decision-making and effective, inter alia, to prevent corruption."

Togo has adopted several legislative and regulatory texts on the transparency of public procurement. These include Law N°2009-13 of June 30, 2009 on public procurement and public service delegation⁷² which led to the establishment of bodies for the award, control and regulation of public contracts and public service delegation. Togo has also adopted Decree 2009-277 of November 11, 2009 on the Code of Public Procurement and Delegation of Public Services,⁷³ Decree No. 2019-097/PR of 08/07/19 on the Code of Ethics in Public Procurement,⁷⁴ Decree No. 2019-096/PR of July 8, 2019 on the regulation of delegated public works and project management in the Togolese Republic and Decree No. 2018-062/PR of 21/03/18 on the regulation of electronic transactions and services in Togo, which accelerates the exchange of documents and information between public administrations and facilitates E-commerce. This is an important asset to operationalize the dematerialization of public procurement.

In addition, Togo has set up regulatory, control and enforcement bodies for public procurement:

The Public Procurement Regulatory Authority (ARMP)

The Public Procurement Regulatory Authority (ARMP) is an independent administrative authority that enjoys functional and institutional independence in all matters relating to its missions. Its mission is to ensure the proper regulation of the public procurement system and public service delegation agreements.⁷⁵ Its headquarters are in Lomé. Regional offices may be created, as needed, by decision of the ARMP's Regulatory Council.

⁷² Law n°2009-13 of June 30, 2009 on public contracts and public service delegation <https://www.otr.tg/index.php/fr/impots/reglementations-fiscales/textes-fiscaux-nationaux/lois/35-loi-n-2009-013/file.html>, (15.12.2021).

⁷³ Decree 2009-277 of November 11, 2009 on the Public Procurement and Public Service Delegation Code, <https://www.otr.tg/index.php/en/documentation/sur-les-impots/textes-fiscaux-nationaux/decrets/29-decret-n-2009-277-pr/file.html>, (20.12.2021).

⁷⁴ Decree No. 2019-097/PR OF 08/07/19 on the code of ethics and professional conduct in public procurement https://jo.gouv.tg/sites/default/files/JO/JOS_11_10_2019-64E%20ANNEE%20N%C2%B0%2024%20BIS.pdf, (20.12.2021).

⁷⁵ Public Procurement Regulatory Authority (ARMP), missions and duties; <http://armp.tg/missions-et-attributions/>, (20.12.2022).

The National Directorate for Public Procurement Control

Under Article 23 of Decree No. 2017-112/PR establishing the powers of the Minister and the organization and functioning of the Ministry of Economy and Finance; the National Directorate for the Control of Public Procurement is the national control body for public procurement and public service delegations.

The National Directorate of Public Procurement Control carries out a priori control over the procedure for awarding public contracts and delegations of public services. As such, it is responsible for receiving, examining and validating provisional plans for the awarding of public contracts and delegations of public services which are prepared each year by any contracting authority and ensures their publication; and, among other things, to issue an opinion of no objection on the tender documents before they are issued.⁷⁶

Contracting Authority

Under the terms of Article 6 of Decree No. 2009-277/PR on the Public Procurement and Public Service Delegation Code, the contracting authority appoints a person responsible for the contract, who is in charge of implementing the procedures for awarding and executing public service contracts and delegations. This person is assisted by a Public Procurement Commission and a Public Procurement Control Commission.

The Public Procurement Control Commission (CCMP), under the responsibility of the person in charge of public contracts, is tasked with controlling the regularity of the procedure for awarding public contracts and public service delegations (art. 8).

The person responsible for public procurement is the person empowered to sign the contract or delegation on behalf of the contracting authority. He/she is responsible for conducting the procurement procedure from the selection of the latter to the appointment of the contractor and the approval of the final contract or delegation.

4.7.1 Good practices

The public procurement system is strengthened by the Integrated Procurement Management System (IPMS), which has been set up and is operational for monitoring public orders. In addition, other assets have been noted such as:

- Improved data collection tools;

⁷⁶ Annual Report 2021, Public Procurement Regulatory Authority (ARMP), http://armp.tg/wp-content/uploads/2021/03/Rapport_activite_2019_ARMP.pdf, (15.12.2021)

- Ongoing development of ARMP's policy and strategic plan 2020-2025;⁷⁷
- Quality control, statistical data collection and processing;
- Increase in the number and value of contracts approved in 2019 through open bidding procedures represent 80.1% and 80.5% of all contracts respectively (according to the international standards of the Procurement Management System Evaluation Methodology (MAPS)⁷⁸ and the Public Financial Management Performance Assessment Methodology (PEFA),⁷⁹ the amount of contracts resulting from open procedures must represent at least 80% of the total amount of approved contracts); restricted consultations represent only 7.1% and direct agreement 12.8%;
- Completion of the 2nd review of the public procurement system.
- The legal framework for public procurement is being overhauled; a preliminary draft law has been validated by all the players and is being discussed by the government.

TABLE 5: Statistics on ARMP Dispute Resolution Committee (CRD) decisions on public procurement disputes in 2019⁸⁰

QUARTER	SUBSTANTIVE DECISIONS	SUSPENSION DECISIONS	TOTAL
1st quarter	11	11	22
2nd quarter	11	7	18
3rd quarter	9	6	15
4th quarter	8	2	10
Total	39	26	65

A total of sixty-five decisions were issued by the Dispute Resolution Committee in 2019. Of these, there were twenty-six suspension decisions and thirty-nine substantive decisions. ARMP's Dispute Resolution Body issued twenty-two decisions in the first quarter compared to eighteen in the second quarter, fifteen in the third quarter and ten in the fourth quarter. These statistics clearly indicate that the law on transparency in public procurement is effectively implemented and that the bodies are also functional.

4.7.2 Deficiencies

- The institutional framework for public procurement has a number of weaknesses, including the weak capacity of procurement bodies at the national, regional and local

⁷⁷ Ongoing development of ARMP's policy and strategic plan 2020-2025, <https://www.togofirst.com/fr/gestion-publique/2306-5784-togo-vers-l-elaboration-d-un-plan-strategique-quinquennal-pour-les-marches-publics>, (15.11.2021).

⁷⁸ Methodology for Assessing Procurement Systems (MAPS); <https://www.mapsinitiative.org/methodology/MAPS-methodologie-evaluation-systemes-passation-marches.pdf>, (15.11.2021).

⁷⁹ Public Financial Management Performance Assessment Methodology (PEFA); <https://www.pefa.org/sites/pefa/files/assessments/reports/TG-Mar09-PFMPR-Public.pdf>, (15.11.2021).

⁸⁰ Activity Report, Public Procurement Regulatory Authority (ARMP), 2019; http://armptogo.com/phocadownload/rapport_activite/Rapport_activite_2019_ARMP.pdf, (15.11.2021).

levels, as well as of service providers; the outdated legal framework for public procurement (the draft reform of the texts on public procurement was approved in a stakeholder workshop but has not yet been adopted); and cumbersome public procurement procedures.

- In addition, ARMP estimated that the contracting authorities spent an average of 206 calendar days, or about seven months, to carry out the procedures for awarding public works and supply contracts. For procedures relating to professional services (e.g., recruitment of consultants), this period is estimated at 304 days, or about 10 months.⁸¹ Finally, the lack of dematerialization of ARMP services and public procurement management procedures in Togo, the low automation of data collection tools, the lack of institutionalization of the support unit for the person in charge of public procurement (PRMP) and the lack of a mechanism for qualifying companies are serious handicaps to the efficiency of public procurement in Togo.

4.8 Management of Public Finances (Art. 9.2, 9.3)

The promotion of budgetary transparency has been at the heart of government policy for several years. Thus, the government has set up bodies for administrative and a priori control of expenditures and a posteriori control including audits of annual accounts. These bodies are the General Inspectorate of Finance (IGF) and the General State Inspectorate (IGE), whose control has been strengthened in recent years as a result of investigations in public services and autonomous public institutions.

In addition, there is the Court of Auditors, which regularly prepares reports on the execution of the Finance Law and submits them to the National Assembly. In addition to the above-mentioned control institutions, other bodies have also been set up to combat fraud, money laundering and the financing of terrorism, notably CENTIF, the Central Office for the Repression of Illicit Drug Trafficking and Money Laundering.

Furthermore, the government has also set up the Single Treasury Account (CUT) system at the Central Bank, which will allow the centralization of all cash resources (autonomous administrative entities will only have accounts at the Central Bank, and these accounts will be sub-accounts of the Single Treasury Account). In addition, in compliance with WAEMU community rules, public-private partnership (PPP) frameworks that will avoid the use of the pre-financing system and the inherent risks.

The government has also adopted several WAEMU directives, including the Directive on the Code of Transparency in Public Finance Management. In compliance with this WAEMU directive, Togo has adopted Law No. 2014 - 009 on the code of transparency in public finance

⁸¹ Public Procurement Regulatory Authority (ARMP), Annual Report, http://armp.tg/wp-content/uploads/2021/03/Rapport_activite_2019_ARMP.pdf, (15.12.2021).

management.⁸² This law includes several relevant provisions intended to promote transparency in public financial management, including:

- citizens, as taxpayers and users of public services, are clearly and regularly informed about all aspects of governance and the management of public funds;
- citizens are enabled to exercise their right of scrutiny over the finances of all public administrations in public debate (Article 2);
- taxpayers are provided with broad, regular and in-depth information on taxation and its evolution (Article 4);
- contracts between the public administration and public or private enterprises, including natural resource enterprises and enterprises operating public service concessions, are clear and made public (Article 9);
- relations between the public administration and public enterprises are governed by clear and publicly accessible provisions (Article 10);
- the timely publication of information on public finances is defined as a legal obligation of the public administration (Article 45).

4.8.1 Good practices

Togo has made some commendable efforts to digitize public financial management, including:

- Progressive implementation of Directive N°08/2002/CM/UEMOA on measures to promote the use of cashless means of payment by the Central Bank of West African States (BCEAO);⁸³
- Progressive implementation of BCEAO instructions, in particular Instruction No. 01/2003/SP on the promotion of cashless means of payment; Instruction No. 008-05-2015 governing the conditions and procedures for the exercise of the activities of electronic money issuers and the establishment of efficient and modern payment systems for WAEMU Member States, in particular, through the STAR-UEMOA,⁸⁴ the SICA-UEMOA⁸⁵ and the GIM-UEMOA;⁸⁶
- Some efforts to digitize (by means of transfers) state payments to individuals (salaries, allowances and other cash benefits owed by the state to individuals), digitalized payments and collections, carried out within the framework of government programs that gradually contribute to the sound, efficient and transparent management of public financial resources;

⁸² Law No. 2014 - 009 on the code of transparency in public finance management; https://finances.gouv.tg/wp-content/uploads/files/2018/07%20-%20Juillet/loi_n%C2%B0_2014_-_009_portant_code_de_transparence_dans_la_gestion_des_finances_publicques.pdf, (15.12.2021).

⁸³ BCEAO Directive N°08/2002/CM/UEMOA on measures to promote the use of bank accounts and cashless means of payment, on measures to promote the use of bank accounts and cashless means of payment http://www.uemoa.int/sites/default/files/bibliotheque/pages_-_directive_08_2002_cm.pdf, (17.12.2021).

⁸⁴ Central Bank of West African States (BCEAO); <https://www.bceao.int/fr/content/star-uemoa>, (17.12.2021).

⁸⁵ Central Bank of West African States (BCEAO); <https://www.bceao.int/fr/content/sica-uemoa>, (17.12.2021).

⁸⁶ The WAEMU Electronic Money Interbank Group (GIM-UEMOA); <https://www.gim-uemoa.org/>, (17.12.2021).

- The implementation of the Program Budget, which is a tool for programming and rational management of public finances that seamlessly integrates the planning functions, programming and budgeting, making it possible to establish a balance between the annual nature of the budget and the multi-year nature of the expenditures of the State and its partners.

4.8.2 Deficiencies

- The law on budget transparency has not yet been fully implemented due to a lack of specific regulations. Thus, the publication of budget documents within the required timeframe according to international best practices still remains a challenge. These best practices require the publication of all budget documents within 15-30 days of their adoption by the bodies from which they originate (Ministry of Economy and Finance, Court of Auditors, National Assembly). Some documents are published with great delay and others are not published at all. The systematic preparation and publication of citizens' budgets within the timeframe required by international standards also remains a challenge.
- In addition, despite the government's efforts, there is little financial information, contrary to the standards of the WAEMU, the OECD and the International Budget Partnership (IBP), which require that the press, social partners and, in general, all civil society actors be heavily involved in the dissemination of information and in the public debate on governance and public finance management.
- According to the standards of the International Budget Partnership (IBP), all vulnerable groups (the elderly, women's groups, structures specializing in budget transparency, indigenous peoples, the media, universities and research centers, etc.), as well as the general public, must be involved in the entire budget process and, in particular, must participate in the work of the committees of the National Assembly and make a speech at the session for the adoption of the national budget. Finally, the states are asked to create fora or online platforms to promote public participation at each stage of the budget process by setting up a system to collect public opinions and give feedback to such opinions and to systematically publish citizen budgets. According to PBI, there is a low level of public participation in the budget process in Togo.⁸⁷

4.9 Access to Information and Participation of Society (Art. 10, 13.1)

Public access to public information and documentation plays a very important role in promoting good governance and fighting corruption. The United Nations Convention against

⁸⁷ International Budget Partnership (IBP), "Managing COVID funds, The accountability gap", May 2021 https://internationalbudget.org/covid/wp-content/uploads/2021/05/Report_English-2.pdf, (19.12.2021).

Corruption (UNCAC)⁸⁸ also states in its Article 13 that the participation of society should be enhanced by improving transparency and promoting public input into decision-making processes and ensuring that the public has effective access to information.

Togo adopted the 1901 law on freedom of association⁸⁹ which provides a framework for the activities of civil society. This legal framework has encouraged the creation of many CSOs and political parties. In addition, Law No. 2011-10 of May 16, 2011⁹⁰ sets out the conditions for the exercise of freedom of assembly and peaceful public demonstration. In addition to these laws, there are two complementary regulatory texts that govern the life of Non-Governmental Organizations (NGOs). These are Decree No. 92-130/PMRT of 27 May 1992,⁹¹ setting the conditions for cooperation between NGOs and the government, and Inter-ministerial Order No. 002/MPAT/MEF of 20 March 1997,⁹² which form the basis of the legislative and regulatory framework for NGOs in Togo.

According to Article 1 of this decree, *"non-governmental organizations (NGOs) are national, international and foreign non-political and non-profit associations, created by private initiative, bringing together private individuals or legal entities, non-commercial, with a view to carry out an activity of general interest, solidarity or voluntary cooperation for development."*

As for interministerial order No. 002/MPAT/MEF of March 20, 1997, it defines the content of the standard program agreement proposed by the Government to each category of NGO in accordance with Article 9, paragraph 3 of Decree No. 92-130/PMRT of May 27, 1992. Thus, under the terms of this order, each category of NGO commits itself in accordance with its statutes:

- To participate in the implementation of grassroots development actions in accordance with its Program Agreement;
- To conclude, within the framework of its annual programs with the ministerial departments concerned, technical execution letters with a precise description of the projects (title, location, beneficiaries, direct effects, costs, etc.);

⁸⁸ United Nations Convention against Corruption (UNCAC), United Nations (2003); https://www.unodc.org/res/ji/import/international_standards/united_nations_convention_against_corruption/uncac_french.pdf, (19.12.2021).

⁸⁹ Law n°40-484 of July 1, 1901 relating to the contract of association (J. O. T. 1946 - Page 328), https://investirautogo.tg/media/loi_1901.pdf, (09.02.2022).

⁹⁰ Law No. 2011-010 of May 16, 2011 on the conditions for the exercise of freedom of assembly and peaceful public demonstrations as amended by Law No. 2019-010, <https://assemblee-nationale.tg/wp-content/uploads/2021/10/MANIFESTATION-loi-AN.pdf>, (09.02.2022).

⁹¹ Decree No. 92-130/PMRT of May 27, 1992, establishing the conditions of cooperation between NGOs and the government, https://jo.gouv.tg/sites/default/files/annee_txt/1992/Pages%20from%20jo_1992-016.pdf#page=318, (09.02.2022).

⁹² Joint Order N°002/MPAT/MEF of March 20, 1997 defining the content of the program agreement, <https://www.otr.tg/index.php/en/accueil/les-entites/commissariat-des-impots/81-les-impots-et-vous/344-exoneration-de-divers-droits-impots-et-taxes-ou-enregistrement-a-titre-gratuit.html>, (09.02.2022).

- To send to the Ministries concerned by the said program periodic activity reports indicating the levels of execution;
- To pay taxes, duties and indirect taxes on its operations and transactions under the conditions of common law.

4.9.1 Good practices

- The government attaches great importance to the protection of freedoms and access to information and public documentation. Thus, the law 2016-006 March 30, 2016⁹³ on freedom of access to information and public documentation was adopted. The implementing decree for this law was adopted in the Council of Ministers on May 5, 2017.
- The Act contains several relevant provisions. Access to information and documents of public bodies is unrestricted, subject to exceptions and time limits set out in the Act (Article 4). The right of access to public information and documents is subject to intellectual property rights (Article 6). Access to information or a document of a public body is free of charge unless there is a charge for transcribing, reproducing or transmitting the document (Article 9).
- Some civil society organizations are active in the fight against corruption in Togo. These include the National Alliance of Consumers and the Environment (ANCE) and the National Contact of Transparency International, which is considered the most active in this field, the Alternative Leadership Group (ALG) and the League of Independents for Transparency (LIT). In addition to these CSOs, there are also some awareness-raising initiatives by the Togolese Media Association against Corruption and Money Laundering (MéToCoB).
- According to the Reporters Without Borders (RSF) ranking, Togo's press freedom score in 2021 was 74/180. Press offenses have been decriminalized since 2004, and professional journalists' organizations have a significant capacity to mobilize in defense of the press when it is attacked.⁹⁴ The report also states that there are zero journalists killed in 2021, zero citizen journalists killed in 2021, and zero staff killed in 2021.

4.9.2 Deficiencies

- Access to public information and documentation is still a challenge in Togo. The law is not yet fully implemented. Many actors (citizens, media and researchers) seem to be unaware of this law because it has not been sufficiently publicized and therefore not well known. According to the 2018 Global Right to Information Rating index, Togo

⁹³ Law 2016-006 30/03/2016. on the freedom of access to information and public documentation, http://jo.gouv.tg/sites/default/files/publications/JOS_30_03_16-61%C3%A8%20ANNEE%20N%C2%B010.pdf#page=14, (09.02.2022).

⁹⁴ Reporter Without Borders (RSF) 2021 ranking, <https://rsf.org/fr/togo>, (09.02.2022).

scored 70 points and ranks 95th out of 123 countries⁹⁵ in terms of access to information and public documentation.

- The *Global Right to Information Rating Index* has strongly criticized this law for not meeting international standards and practices.⁹⁶ Indeed, international standards and practices in this area now require the establishment of an administratively and financially autonomous authority for access to public information and documentation to adjudicate access to information requests. Even though the Mediator of the Republic⁹⁷ has taken on this role, citizens know little about this law because it has not been widely publicized, and statistics on the implementation of this law are still very low.
- The rate of exercise of the right of access to information by journalists and citizens in Togo thus remains very low due to the lack of knowledge of this right. In 2021, a source close to the Mediator of the Republic said that only one case of refusal of access to information was brought before the Mediator's office and settled out of court.
- The absence of a whistleblower protection law limits the media's involvement in the fight against corruption. Indeed, in the absence of a special law to protect whistleblowers, some media outlets that have denounced cases of corruption are subject to the ordinary law on slanderous denunciation and are thus systematically condemned to penal sanctions and/or fines for lack of evidence. This is the case of the Publication Director of the newspaper *l'Alternative* who, after shocking revelations on alleged massive embezzlement of money in the oil sector involving certain public officials⁹⁸ was sentenced as well as his newspaper, on November 4, 2020 by the Court of First Instance of First Class of Lomé, to pay a total of 6 million CFA francs (about 9,170 Euros) after being found guilty of defamation of Mr. Fabrice Adjakli, a member of the Committee for Monitoring Fluctuations in the Prices of Petroleum Products (CSFPPP). The Court also ordered Mr. Ayité and his newspaper *l'Alternative* to pay a fine of 2 million CFA francs (about 3000 Euros) each, as well as 2 million CFA francs for moral damages. The Court also ordered Mr. Ayité and the newspaper *l'Alternative* to publish the entire judgment for a period of fifteen days, under a fine of twenty

⁹⁵ Global Right to Information Rating index (2018), <https://countryeconomy.com/government/global-right-information-rating/togo>, (27.11.2021). This index ranks countries by giving them a score from 0 to 150 based on the strength of its legal framework that guarantees the right to information. According to this index, Togo is therefore among the countries whose legislation is less likely to guarantee the right to information.

⁹⁶ *Id.*

⁹⁷ Mediator of the Republic, <https://www.aomf-ombudsmans-francophonie.org/togo-mediateur-de-la-republique-du-togo/>, (27.11.2021).

⁹⁸ Convicting "petrolgate" journalist of defamation would be disastrous, RSF says, <https://rsf.org/fr/actualites/affaire-du-petrole-gate-au-togo-la-condamnation-du-journaliste-lorigine-des-revelations-enverrait-un>; See also Import of oil / The underside of a great scandal: Fabrice Adjakly, accomplice of Vitol, disappears with several billions; <https://www.togoactualite.com/importation-du-petrole-les-dessous-dun-grand-scandale-fabrice-adjakly-complice-de-vitol-disparait-avec-plusieurs-milliards/>, (09.02.2022).

thousand CFA francs (approximately 45 euros) per day.⁹⁹ The Board of the newspaper *l'Alternative* has already appealed the decision.

- The fight against corruption in Togo is fraught with several obstacles. First, the legal framework is inadequate. Indeed, the EU's Roadmap for Engagement with Civil Society in Togo,¹⁰⁰ notes certain inconsistencies in the legal framework governing civil society organizations in Togo, notably the vagueness of the legal framework in light of the current evolution of CSOs and its inadequacy to meet the needs of networks, associations are, according to the definition of Article 1 of the law of 1901, a group of "natural persons", whereas networks and umbrella organizations are made up of associations, NGOs and/or networks, and therefore legal entities.
- There is also a fragmentation of texts. In addition to the law of July 1, 1901, several other regulatory texts (decrees and orders) mentioned above, are part of the legal framework. The law governing associations, which dates from July 1901, is very outdated. Attempts to reform it have failed due to multiple disagreements among the actors. In addition, there is no formal law that defines the conditions of CSO participation, which makes it impossible to identify clear criteria for the involvement of civil society actors in a given state structure. Nor is there a formal framework for dialogue between the State and CSOs (as is the case in several countries in the subregion) through which the latter formally participate in decision-making and receive feedback.¹⁰¹
- As a result, the EU Roadmap notes that, with the exception of some, Togolese CSOs do not participate sufficiently in public life, whether in budgetary, financial, international trade, environmental or other matters.¹⁰²
- Mechanisms for broad public consultation (fora, online platform, etc.) to gather citizens' opinions on major development issues or during the adoption of certain texts are still weak, despite the government's efforts. There is also very little civic and civil society participation in the fight against corruption in Togo, due to a lack of civic education in the fight against corruption, the lack of a culture of whistleblowing, and the lack of a law protecting whistleblowers.

⁹⁹ Togo: Sentencing of Mr. Ferdinand Mensah Ayité, director of publication of the newspaper *l'Alternative*, <https://www.fidh.org/fr/themes/defenseurs-des-droits-humains/togo-condamnation-de-m-ferdinand-mensah-ayite-directeur-de>, (09.02.2022).

¹⁰⁰ TOGO EU Roadmap for Engagement with Togolese Civil Society 2014 - 2017; <https://europa.eu/capacity4dev/file/103681/download?token=iDw7QyGm>, (25.11.2021).

¹⁰¹ Burkina Faso has established a framework for annual consultations between the government and civil society. In addition, civil society is a member of the ASCE-LC Orientation Council (Article 34 of Law 004-2015) and the ARCOP Regulatory Council (Article 12), which are two bodies that guide anti-corruption policies and the regulation of public procurement. UNODC, Burkina Faso Country Report; Uganda and Lao People's Democratic Republic review of Burkina Faso's implementation of Articles 5-14 and 51-59 of the UN Convention against Corruption for the 2016-2021 cycle; The country has also adopted Law 064-2015/CNT on freedom of association.

¹⁰² TOGO EU Roadmap for Engagement with Togolese Civil Society 2014 - 2017; <https://europa.eu/capacity4dev/file/103681/download?token=iDw7QyGm; page 6>, (25.11.2021).

- Finally, CSOs are severely lacking in technical and material resources (specialization and expertise to convince decision-makers), and in human resources; they have very little capacity for resource mobilization and networking.

4.10 Judiciary and Prosecution Services (Art. 11)

The Public Prosecutor's Office plays a very important role in the fight against corruption in Togo because it is responsible for investigating cases and setting in motion corruption cases. The government of Togo has carried out several reforms in the justice sector in order to make the judiciary the pillar of the fight against corruption.

These reforms have led, among other things, to the adoption on March 30, 2021 of the law on the automation of criminal records. This law allows to submit online, the application, payment and processing of criminal records, simply by connecting via smartphone, tablet or computer. Then, the law n°2021-007 of April 21, 2021 on the new code of civil procedure was adopted.¹⁰³ This law introduces several innovations, including setting the amount of "small claims" in civil matters at a maximum value of 500,000 (EUR 762,000) in capital or 50,000 FCFA (EUR 76,000) in annual income. It also introduces the possibility for the parties in a trial to question each other or witnesses and provide a transparent legislative framework for the organization and operation of the civil procedure.

In the same vein, on October 24, 2019, Law No. 2019-015 on the Judicial Organization Code was adopted,¹⁰⁴ which brings important innovations to the proper administration of justice. Indeed, the new law reaffirms the major fundamental legal principles concerning in particular the independence and impartiality of judges, the separation between the prosecution, investigation and judicial functions. These major principles also include equal access to justice and the right of to have one's case heard and decided within a reasonable time. The new law also defines a new judicial map, with the corollary of the creation of high courts in each administrative region, in place of the first and second class courts of first instance, and of courts of first instance with civil and correctional jurisdiction in place of the third class courts of first instance which have a prison. It introduces the double degree of jurisdiction in criminal matters by the creation of criminal courts and criminal courts of appeal with, as a corollary, the abolition of the Assize Courts and in administrative matters by the creation of administrative chambers at the level of the high courts.

¹⁰³ Law No. 2021-007 of April 21, 2021 on the New Code of Civil Procedure, http://jo.gouv.tg/sites/default/files/JO/JOS_21_04_2021-66E%20NEE%20N%C2%B0%2021%20BIS.pdf#page=1, (27.11.2021).

¹⁰⁴ Law No. 2019-015 on the Judicial Organization Code, https://jo.gouv.tg/sites/default/files/JO/JOS_30_10_2019-64E%20ANNEE-N%C2%B026%20QUARTO.pdf, (27.11.2021).

In addition, in the area of commercial justice, commercial chambers have been set up at the Court of First Instance and the Court of Appeal of Lomé. In total, this law created 5 high courts, 9 courts of first instance with criminal and civil jurisdiction and 16 courts of first instance with civil jurisdiction.

4.10.1 Good practices

- Judicial security has been strengthened with the construction or rehabilitation of infrastructures that have improved the working environment for judges. In the area of legal security, legislation has been modernized with the adoption of certain texts (new Penal Code, Personal and Family Code, Law on the Abolition of the Death Penalty, Land Code, etc.). In addition, several tools have also been developed but are not systematically used or updated (computerized prison management software, legislative database "Legitogo").
- The Superior Council of the Magistracy (CSM) has elaborated and promoted ethical and integrity standards with the adoption and popularization of the directive N°001/2013/C.S.M., on the ethics and deontology of the magistrate and the guide of the rights and obligations of the litigant.
- The capacities of magistrates and court officers have been strengthened with the creation and operationalization of the Judicial Careers Training Center (CFPJ), which has trained more than 2,000 justice professionals.¹⁰⁵

4.10.2 Deficiencies

The National Development Plan (NDP)¹⁰⁶ indicates that the concerns of litigants remain. Thus, the judicial system still presents some weaknesses such as:

- (i) the remoteness from judicial services and the lack of knowledge of judicial procedures by the population;
- (ii) insufficient staffing in some jurisdictions resulting in delays in the processing of some cases;
- (iii) limited access to justice and judicial protection for vulnerable groups;
- (iv) the insufficient capacity of magistrates to handle land-related cases;
- (v) the existence of corrupt acts,
- (vi) the lack of confidence on the part of the litigant, due to the difficulties of accessing the justice system,
- (vii) the lack of efficiency in the processing of files,

¹⁰⁵ Judicial Careers Training Center (CFPJ), <http://cfpj.tg/site/>, (19.10.2021).

¹⁰⁶ National Development Plan (NDP), 2018-2022; <https://www.togofirst.com/media/attachments/2019/04/02/-pnd-2018-2022.pdf>, (19.10.2021).

- (viii) the normative/legislative corpus is out of step not only with certain current situations but also with the international instruments to which Togo is a party, and
 - (ix) Insufficient staffing (magistrates): the number of magistrates declined from 3.5 in 2015 to 3.4 magistrates per 100,000 inhabitants in 2016.¹⁰⁷
- In addition, one can add to this list the absence of a financial prosecutor's office, the absence of an economic and financial brigade to support investigations related to acts of corruption, the poor availability of criminal statistics, and the weak evaluation system/performance measurement framework. According to international best practices, the magistrate must work within a performance measurement framework (performance indicators and evaluation; obligations and convincing results to be achieved each year).
 - The General Inspectorate of Jurisdictional and Penitentiary Services was also created to ensure the proper functioning of justice and jurisdictional control of administrative action, but this institution does not have sufficient technical and human resources to do its work.
 - The CSM has a number of limitations relating to the weak application of sanctions and the outdated texts governing the Council (the government has begun to reform the CSM but this reform has not yet been completed due to several differences of opinion among the stakeholders). Finally, it is worth noting the existence of material, financial and human weaknesses.
 - In addition, the High Court of Justice of the State is not yet operational. Thus, the high-level officials and senior officials of the State can only be subject to disciplinary sanctions and cannot therefore respond to the criminal plan.

4.11 Private Sector Transparency (Art. 12)

Article 12 of the UNCAC calls on States Parties to take measures to promote standards and procedures, such as codes of conduct, to safeguard the integrity of private entities; promote transparency among private entities; prevent the misuse of regulatory procedures for private entities, including those relating to subsidies and licenses granted by public authorities; prevent conflicts of interest by imposing restrictions on private sector employment of public officials after they leave the public sector; take steps to ensure effective auditing in the private sector; enforce accounting and auditing standards; and prohibit the tax deductibility of expenses that constitute bribes.

Article 5(2) of the African Union Convention on Preventing and Combating Corruption (AUC) provides that States Parties shall commit themselves to strengthening national control

¹⁰⁷ National Development Plan (NDP), 2018-2022;
<https://www.togofirst.com/media/attachments/2019/04/02/-pnd-2018-2022.pdf>, (27.11.2021).

measures to ensure that the establishment and activities of foreign companies in the territory of the State Party are subject to compliance with the national legislation in force. Article 11(2) provides that States Parties shall establish mechanisms to encourage the participation of the private sector in the fight against unfair competition, and to ensure compliance with procurement procedures and property rights.

Article 19 of the AUC states that States Parties shall cooperate with the home countries of multinationals to criminalize and punish the practice of kickbacks and other forms of corruption in international business transactions; encourage regional, continental and international cooperation to prevent corrupt practices in international business transactions.¹⁰⁸

In addition, in order to improve business, the Government has also ratified the revised Treaty of the Organization for the Harmonization of Business Law in Africa (OHADA) of October 17, 2008¹⁰⁹ by the law authorizing ratification adopted by the National Assembly in its ordinary session of December 14, 2009. The purpose of this treaty is to harmonize business law in the States Parties through the elaboration and adoption of simple, modern common rules adapted to the situation of their economies, through the implementation of appropriate judicial procedures, and through the encouragement of recourse to arbitration for the settlement of contractual disputes.

The revised Uniform Act relating to the law of commercial companies and economic interest groups adopted on January 30, 2014 in Ouagadougou (Burkina Faso),¹¹⁰ which stems from this treaty, regulates several aspects relating to the transparent management of private companies, the governance of private companies, and the role and responsibility of the auditors. Indeed, according to Paragraph 1 of Article 718 of the said text, the statutory auditor carries out all verifications and monitoring that he or she deems appropriate and may be provided, on the spot, all documents that he or she deems useful for the performance of his or her mission and in particular all contracts, books, accounting documents and registers of minutes.

Togo is also a member of the OHADA Treaty, which adopted the Uniform Act on Accounting Law and Financial Reporting on January 26, 2017 in Brazzaville, Congo.¹¹¹ The OHADA

¹⁰⁸ African Union Convention on Preventing and Combating Corruption (AUC), 11 July 2003; [https://au.int/sites/default/files/treaties/36382-treaty-0028 - african union convention on preventing and combating corruption f.pdf](https://au.int/sites/default/files/treaties/36382-treaty-0028_-_african_union_convention_on_preventing_and_combating_corruption_f.pdf), (27.11.2021).

¹⁰⁹ Revised Treaty of the Organization for the Harmonization of Business Law in Africa (OHADA) of 17 October 2008; <http://www.droit-afrique.com/upload/doc/ohada/Ohada-Traite-OHADA-modifie-2008.pdf>, (27.11.2021).

¹¹¹ The Revised Uniform Act Relating to the Law of Commercial Companies and Economic Interest Groups adopted on January 30, 2014 in Ouagadougou (Burkina Faso); <http://www.droit-afrique.com/upload/doc/ohada/Ohada-Acte-Uniforme-2014-Societes-commerciales-GIE.pdf>, (27.11.2021).

¹¹² Treaty of the Organization for the Harmonization of Business Law in Africa (OHADA) which adopted the Uniform Act on Accounting and Financial Reporting, adopted on January 26, 2017 in Brazzaville, Congo;

Accounting System requires that accounting play a greater role as an information tool for both management and the firm's other partners.

Togo has ratified several international and regional instruments on accounting standards. The African Union Convention on Combating Corruption, to which Togo is a party, explicitly addresses adequate accounting and auditing standards. It emphasizes that an effective way to counter mismanagement of corporate funds is, in effect, to make accounts transparent, thereby increasing confidence in the financial management of a company.¹¹²

4.11.1 Good practices

- Reforms in the field of business law have led to the improvement of corporate governance and the simplification of procedures with the creation of the Center for Business Formalities (CFE)¹¹³ which centralized all formalities in a single window.
- In addition, the digitization of the Register of Trade and Movable Credit (RCCM) which is the automation of the Register of Trade and Movable Credit (RCCM) or the RCCM's informed and digitized database. This database contains information on all companies based in Togo.¹¹⁴

4.11.2 Deficiencies

- **Lack of adherence by Togolese companies to the ISO 37001 standard or corporate anti-bribery standard:** No Togolese company adhered to the ISO 37001 standard (adopted in 2016)¹¹⁵ or anti-bribery management systems standard during this study. This standard defines requirements and provides guidance for management systems designed to help organizations prevent, detect, and combat corruption, and comply with anti-corruption laws and their voluntary commitments applicable to their activities. This lack of interest in the anti-corruption management system reflects the reluctance of Togolese companies to implement and enforce anti-corruption standards.
- **Weak voluntary anti-corruption initiatives in private companies:**

<http://www.oneccatogo.tg/wp-content/uploads/2018/02/Acte-Uniforme-relatif-au-Droit-Comptable-janvier-2017.pdf>, (20.11.2021).

¹¹² African Union Convention on Preventing and Combating Corruption (AUC), 11 July 2003; [https://au.int/sites/default/files/treaties/36382-treaty-0028 - african union convention on preventing and combating corruption f.pdf](https://au.int/sites/default/files/treaties/36382-treaty-0028_-_african_union_convention_on_preventing_and_combating_corruption_f.pdf), (20.11.2021).

¹¹³ Center for Business Formalities Entreprises (CFE); https://service-public.gouv.tg/service_concerne/centre-de-formalites-des-entreprises-cfe/, (20.11.2021).

¹¹⁴ Register of Trade and Movable Credit (RCCM); <https://rccm.tg/>, (20.11.2021).

¹¹⁵ ISO 37001 or anti-corruption management system in companies; <https://www.iso.org/fr/standard/65034.html>, (20.11.2021).

- **Lack of formal adherence by Togolese companies to the 10th Principle of the United Nations Global Compact¹¹⁶ (2004):** This Compact commits companies not only to reject extortion and other forms of corruption, but also to develop concrete policies and programs to curb corruption in their sphere of influence. Businesses are invited to join the initiatives of governments, the various UN offices and civil society to create a more transparent and corruption-free global economy. Neither the Patronat nor the Chamber of Commerce and Industry of Togo has signed the Global Compact, which calls on companies to act against corruption in all its forms, including extortion and bribery.
- **Lack of adherence to Transparency International's voluntary initiatives on fighting corruption in the private sector, which are:**
 - (1) **The Integrity Pact (1993):¹¹⁷** allows for the establishment of one or more "integrity islands" for various projects or for all projects in the same sector, indicating a joint decision by the government and companies responding to a tender to refrain from corrupt practices. This reduces the high cost of corruption and its harmful effects on procurement;
 - (2) **The Business Principles for Countering Bribery (August 2004):¹¹⁸** The "Integrity Principles" provide a comprehensive reference for combating bribery and are designed so that they can be applied by a majority of companies to implement effective anti-bribery methods in their operations.
- **Weak integration of anti-corruption standards:** Although all Togolese companies have revised their bylaws to comply with OHADA standards, no company has adopted a code of conduct in line with international best practices. No Togolese company has adopted an anti-corruption plan or policy. However, some multinational companies and regional banks operating in Togo, such as ORABANK¹¹⁹, the ECOWAS Bank for Investment and Development (BIDC)¹²⁰ and the West African Development Bank (BOAD)¹²¹ already have

¹¹⁶ 10th Principle of the United Nations Global Compact - 2004; <https://www.un.org/fr/chronique/le-pacte-mondial-des-nations-unies-proposer-des-solutions-aux-d%C3%A9fis-mondiaux>, (20.11.2021).

¹¹⁷ Transparency International, Integrity Pact (1993); https://www.transparency.org/files/content/tool/Pacte_dIntegrite_Brochure_FR.pdf, (20.11.2021).

¹¹⁸ Transparency International, Business Principles for Countering Bribery (August 2008); https://images.transparencycdn.org/images/2008_BusinessPrinciplesSME_FR.pdf, (20.11.2021).

¹¹⁹ ORABANK, Ethics and Good Governance Committee; https://orabank.net/sites/default/files/5-approbation_du_rapport_du_pca_vise_aux_articles_831-2_et_831-3_de_laudscgie_0.pdf, (20.11.2021).

¹²⁰ ECOWAS Bank for Investment and Development (BIDC), Integrity Policy and Procedure for Preventing and Combating Corruption and Fraud; http://www.bidc-ebid.org/fr/wp-content/uploads/PIPCF_INTERACTIF_fr.pdf, (20.11.2021).

¹²¹ Policy and Procedures for Preventing and Combating Fraud and Corruption in the Operations of the West African Development Bank (BOAD); https://www.boad.org/wp-content/uploads/2016/11/procedure_anti-fraude_1.pdf; See also Policy for Preventing and Combating Corruption and Fraud in the Operations of the BOAD; <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.boad.org%2Fwp-content%2Fuploads%2F2016%2F10%2FPolitique-de-Lutte-contre-la-Corruption-et-la-Fraude->

an anti-corruption policy or code of conduct. As for BIA-TOGO, a member of the ATTIJARIWAFABANK GROUP,¹²² a process is currently underway for the adoption of an anti-corruption policy and a code of conduct applicable to all members of the group as well as adherence to the ISO 37001 standard or anti-corruption management systems.

In addition, the Patronat or the Chamber of Commerce have not yet taken the initiative to adopt or promote an integrity plan. The involvement of the private sector in the fight against corruption remains a real challenge. Finally, the companies surveyed do not have a whistleblower system to report corruption within their organization, as required by the Convention.

- **Weakness of accounting and auditing standards:** The relevance of all these provisions, the effective application of accounting and auditing standards in line with international standards remains a major challenge in Togo. In several private companies, audits are not systematically carried out each year and are left to the discretion of managers, in the absence of a legal obligation.

Many SMEs use simplified accounting standards (Simplified Accounting System (SCA)), which do not allow for a high level of transparency and comprehensive financial information. According to the African Peer Review Mechanism (APRM), the member countries of the OHADA Economic and Monetary Union of Africa have their own accounting systems called 'SYSCOA' and 'SYSCOHADA', but such systems are not comparable to International Financial Reporting Standards (IFRS) or International Accounting Standards (IAS).¹²³ The current system does not comply with international standards according to reports by the APRM and the United Nations Conference on Trade and Development (UNCTAD).

[VF.docx&wdOrigin=BROWSELINK](#); and the Regulation on the Implementation of the Policy and Procedures Manual for Preventing and Combating Corruption and Fraud in the Operations of the BOAD; <https://www.boad.org/wp-content/uploads/2016/11/mppcf.pdf> (20.11.2021)

¹²² The Attijariwafa Bank Group complies with the standards of the Foreign Account Tax Compliance Act (FATCA); <https://www.irs.gov/businesses/corporations/foreign-account-tax-compliance-act-fatca>; See also the group's anti-money laundering and counter-terrorism financing standards; <https://www.attijariwafabank.com/fr/conformite> (20.11.2021).

¹²³ International Accounting Standards (IAS); http://www.focusifrs.com/menu_gauche/normes_et_interpretations/que_sont_les_ias_ifrs/historique_de_l_ias, (09.02.2022).

B. Assessment of the Implementation of Chapter V

With specific reference to Chapter V of the UNCAC, the following points were commented on and analyzed:

5.1 Measures to Prevent Money-Laundering and Anti-Money Laundering (Art. 14, 52.1, 52.2, 52.3, 52.4, 52.5, 52.6, and 58)

Togo has been involved in the global fight against transnational crime since the beginning. By setting up a National Financial Information Processing Unit (CENTIF), Togo is in line with the Palermo Convention, the FATF Recommendations and the implementation of Directive No. 07/2002/CM/WAEMU of September 19, 2002 on the fight against money laundering in WAEMU Member States.¹²⁴ In 2009, the AML/CFT system was strengthened with the finalization of the main basic texts and the issuing of several decrees aimed at making the CENTIF operational.

CENTIF's action was based on the preliminary function and the processing of suspicious transaction reports, on the following legal bases:

- Law No. 2007-016 of July 6, 2007 on the fight against money laundering;
- Law n°2009-022 of September 7, 2009 on the fight against the financing of terrorism;¹²⁵
- Decree n°2008- 037/PR of March 28, 2008 on the creation, organization and functioning of a national financial information processing unit;¹²⁶
- Decree No. 2009-008/PR of January 14, 2009 appointing the members of CENTIF;¹²⁷
- Inter-ministerial Order n°0136/MSPC/MEF/MJRIR of August 11, 2009 establishing the monitoring committee for activities relating to the fight against money laundering and terrorist financing;
- Order n°171/MEF/CENTIF of August 13, 2009 establishing a model for reporting suspicious transactions, issued by the Minister of Economy and Finance, in accordance with Article 26 of Act n°2007-016 of July 6, 2007 on the fight against money laundering;
- Order n°293 MEF/CENTIF of November 25, 2009 appointing the correspondents of the National Financial Information Processing Unit.

¹²⁴ Directive n°07/2002/CM/UEMOA of September 19, 2002 relating to the fight against money laundering in the WAEMU Member States; <http://www.droit-afrique.com/upload/doc/uemoa/UEMOA-Directive-2002-07-blanchiment.pdf>, (28.11.2021).

¹²⁵ Law n°2009-022 of September 7, 2009 on the fight against the financing of terrorism; https://jo.gouv.tg/sites/default/files/JO/JOS_04_05_2018-63e%20ANNEE%20N%C2%B0%2007.pdf, (28.11.2021)

¹²⁶ Decree n°2008- 037/PR of March 28, 2008 on the creation, organization and functioning of a national financial information processing unit; https://centif.tg/files/loi_13.pdf, (28.11.2021).

¹²⁷ Decree N°2009-008/PR of January 14, 2009 appointing the members of CENTIF; http://centif.tg/?p=qui_sommes_nous, (28.11.2021).

In addition, Togo has strengthened its AML/CFT system with the adoption of several initiatives, including the adoption of Uniform Law No. 2018-004 of 04/05/2018 on the fight against money laundering and terrorist financing in the Member States of the West African Monetary Union (WAMU)¹²⁸, which takes into account the recommendations of the Financial Action Task Force (FATF) in the fight against money laundering and terrorist financing.¹²⁹

The country has also adopted several other regulatory texts such as the decree that establishes the competent authority and defines the procedure for administrative freezing;¹³⁰ the decree on the establishment, powers, composition and functioning of the National Committee for the Coordination of Anti-Money Laundering Activities and the Financing of Terrorism (CONAC);¹³¹ and the decree designating the competent authority and defining the procedure for administrative freezing.¹³²

Finally, Togo is also implementing several instructions from the Central Bank of West African States (BCEAO) relating to the fight against money laundering, including Instruction n°007-09-2017 on the procedures for the application by financial institutions (FIs) of the AML/CFT Uniform Law;¹³³ Instruction n°008-09-2017 setting the threshold for reporting cross-border physical transports;¹³⁴ Instruction n°009-09-2017 setting the threshold for payment of a claim in cash or bearer negotiable instruments¹³⁵ and Instruction n°010-09-2017 setting the threshold for reporting cash transactions to CENTIF.¹³⁶

The country has also incorporated into its legal corpus certain uniform laws that contribute to AML/CFT. These include the law on the punishment of offenses relating to cheques, bank cards and other instruments, electronic payment processes adopted by parliament on May 06, 2014; the law on the treatment of dormant accounts in the books of financial organizations of

¹²⁸ Uniform Act No. 2018 - 004 of 04 /05/2018 on the fight against money laundering and terrorist financing in the member states of the West African Monetary Union (WAMU), https://centif.tg/files/loi_12.pdf, (29.11.2021).

¹²⁹ Recommendations of the Financial Action Task Force (FATF) on Combating Money Laundering and Terrorist Financing (AML/CFT); [https://www.fatf-gafi.org/fr/publications/recommandationsgafi/?hf=10&b=0&s=desc\(fatf_releasedate\)](https://www.fatf-gafi.org/fr/publications/recommandationsgafi/?hf=10&b=0&s=desc(fatf_releasedate)), (29.11.2021).

¹³⁰ Decree Designating the Competent Authority and Defining the Procedure for Administrative Freezing, https://centif.tg/files/loi_12.pdf, (29.11.2021).

¹³¹ Decree on the creation and functioning of the National Committee for the Coordination of Anti-Money Laundering Activities and the Financing of Terrorism (CONAC) https://centif.tg/files/loi_13.pdf, (29.11.2021).

¹³² Decree Designating the Competent Authority and Defining the Procedure for Administrative Freezing, https://centif.tg/files/law_12.pdf, (29.11.2021).

¹³³ Instruction No. 007-09-2017 on the terms and conditions for the application by FIs of the Uniform AML-CFT Act https://centif.tg/files/loi_11.pdf, (11/29/2021).

¹³⁴ Instruction No. 008-09-2017 Setting the threshold for reporting cross-border physical transports https://centif.tg/files/loi_7.pdf, (29.11.2021).

¹³⁵ Instruction No. 009-09-2017 Setting the threshold for payment of a claim in cash or bearer negotiable instruments https://centif.tg/files/loi_9.pdf, (29.11.2021).

¹³⁶ Instruction No. 010-09-2017 Setting the Threshold for Reporting Cash Transactions to CENTIF https://centif.tg/files/law_10.pdf, (29.11.2021).

WAMU States adopted by parliament on June 12, 2014; and the laws on the identification and punishment of usury, legal interest rates in WAMU Member States approved at the National Assembly on November 18, 2014.

5.1.1 Good practices

- In 2020, Togo conducted a vulnerability study on the risks of money laundering and terrorist financing in Togo as part of the implementation of FATF Recommendation 1, which requires states to implement a risk-based approach to AML/CFT.

TABLE 6: Number of annual Suspicious Transaction Reports (STRs) received by category of reporter¹³⁷

Reporters	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
Credit institutions	7	21	27	24	52	33	52	74	172	215	677
Decentralized Financial Services (SFD)	0	1	2	0	2	0	0	0	1	1	7
Financial Authorities	0	19	4	3	1	1	0	1	0	1	30
Post	0	0	1	3	0	0	1	6	38	110	159
NGO	0	0	0	0	1	0	0	0	0	0	1
Other registrants	1	1	0	0	1	0	0	0	0	2	5
Total	8	42	34	30	57	34	53	81	211	329	879

Sources: Declarants, CENTIF-Togo, Annual Report 2018

The Unit also registered in 2018, one hundred and eleven suspicious transactions from two non-banking financial institutions as well as one from a financial agency and two from designated non-financial businesses and professions (EPNFD), one of which was carried out by a notary and the other by a lawyer.

The total amount of money involved in the declarations received is FCFA 80.2 billion (about EUR 122.2 million), an increase of 62% compared to FCFA 49.4 billion (EUR 75 million) during the previous year.

This increase in the total amount of the sums is due to an increase in the number of reports as well as an increase in the amounts involved in the suspicious transactions reported. Indeed, 7 reports with an amount at stake greater than one billion (EUR 1.5 million) account for 84% of the total sum of the 329 STRs, with a ceiling of 28.0 billion (EUR 42.6 million) for the highest amount, whereas in 2017 these STRs (nine) represented 80% of the value of the 211 STRs with 12.2 billion (EUR 18.5 million) as the highest amount.

¹³⁷ CENTIF-Togo, Annual Report 2018 https://centif.tg/files/rap_23.pdf, (29.11.2021).

TABLE 7: Treatment of 2018 STRs under review.

Status of STR	Number	Amount (millions of FCFA)	Amount (in euros)
Classified STR	0	0	0
STR in process	327	80 064,6	122,056.79 Euros
Reports to the Prosecutor	8	397,8	606,442.19 Euros

Source: CENTIF TOGO Annual Report, 2018

5.1.2 Deficiencies

- However, despite this well-developed legal and institutional framework, many challenges remain to be met in order to strengthen AML/CFT in Togo. Indeed, according to the Fourth Follow-up Report on the Mutual Evaluation of the AML/CFT System in Togo (May 2015), the scope of the deficiencies identified for Togo is very broad and corresponds to the reality of the country's challenges. This report found that Togo is rated non-compliant (NC) for 15 recommendations on money laundering and 3 special recommendations on terrorist financing; partially compliant (PC) for 20 recommendations on money laundering and 6 special recommendations on terrorist financing; largely compliant (LC) on money laundering for 4 recommendations and not applicable (NA) for one recommendation.¹³⁸

Togo must strengthen the implementation of existing AML/CFT measures, including:

- **Settlement of cash transactions:** Within WAEMU, measures have been taken to limit cash settlements through Directive n°08/2002/CM/UEMOA of September 19, 2002 on measures to promote the use of cashless means of payment and Regulation n°15/2002/CM/UEMOA of September 19, 2002 on payment systems. In accordance with these texts and more pragmatically, the instruction n°01/2003/SP of May 8, 2003 of the BCEAO relating to the promotion of cashless means of payment prohibits the use of cash for any financial transaction of an amount equal to or greater than 100,000 CFA francs (EUR 152,000). The new Togolese penal code prohibits cash payments above certain thresholds in certain transactions.¹³⁹

¹³⁸ GIABA, Fourth Follow-up Report on the Mutual Evaluation of Togo's Anti-Money Laundering and Combating the Financing of Terrorism System (May 2015); https://www.giaba.org/media/f/930_4th%20FUR%20Togo%20-%20French.pdf, (27.11.2021).

¹³⁹ This is the case for: 1) any payment transaction, concerning ferrous or non-ferrous metals, ores and oil or gas products, concluded between traders and professionals; 2) any payment transaction exceeding 2,000,000 CFA francs (3,051 euros) per transaction, concluded by traders or professionals; 3) any payment transaction exceeding 5,000,000 CFA francs (7,629 euros) per transaction, concluded by individuals with traders or professionals. Article 1099 of the Code provides for a fine of 50,000 to 30,000,000 CFA francs (76 to 45,775 euros) for violations of these provisions.

Uniform Act n°2018-004 on the fight against money laundering and terrorist financing in WAEMU Member States limits the threshold for transactions that can be settled in cash or bearer negotiable instruments. This threshold is set at five million (5,000,000) CFA francs (about EUR 7,600) by Instruction n°009-09-2017 setting the threshold for payment of a transaction in cash or bearer negotiable instruments.

The national legal framework also provides for a system of systematic reporting of cash transactions of an amount equal to or greater than fifteen million CFA francs (approximately EUR 22,000), whether a single transaction or several transactions that appear to be linked, in accordance with the provisions of Instruction No. 010-09-2017 setting the threshold for reporting cash transactions to the CENTIF. The effectiveness of the implementation of these measures remains very limited because a large proportion of commercial transactions in Togo are settled in cash sometimes involving very large amounts.

- **Weak control of cross-border movements of cash and bearer negotiable instruments:** In recent years, significant cross-border movement of physical currency carried by travelers has been observed at General Eyadema International Airport (AIGE). The application of the provisions of Articles 12 and 111 of the Uniform Law as well as those of Instruction n°07-09-2017 setting the threshold for the declaration of physical cross-border movement of cash and bearer negotiable instruments would help to better understand and limit this phenomenon. These measures have not been fully implemented due to the lack of a regulatory text (decree) implementing the measures relating to the obligation to declare or communicate the physical cross-border transportation of cash and bearer negotiable instruments.¹⁴⁰

5.2 Measures for Direct Recovery of Property (Art. 53 and 56), Confiscation Tools (Art. 54), International Cooperation for the Purpose of Confiscation (Art. 51, 54, 55, 56 and 59) and The Return and Disposal of Assets (Art. 57)

The Togolese legal framework provides for the confiscation and freezing of assets laundered or constituting the proceeds of money laundering and terrorist financing.

Indeed, the Uniform Act No. 2018-004 of April 24, 2018 Law 2018 - 004 04/05/2018 on the fight against money laundering and terrorist financing in WAEMU Member States provides in Article 100, paragraph 1 that the competent authority shall order, by administrative decision, the freezing of property, funds and other financial resources of persons or entities involved in terrorist financing.¹⁴¹

¹⁴⁰ Annual Report, CENTIF TOGO, 2018; https://centif.tg/files/rap_23.pdf, (25.11.2021).

¹⁴¹ Uniform Act No. 2018-004 of April 24, 2018 Act 2018 - 004 04/05/2018 on the fight against money laundering and terrorist financing in the member states of the West African Monetary Union;

Article 100, paragraph 4 further states that the competent authority shall order, by decision, the freezing without delay of the property, funds and other financial resources of the persons or entities specified by the United Nations Security Council, under the resolutions relating to the fight against the financing of the proliferation of weapons of mass destruction. The financial institutions and any other person or entity holding the property, funds or other financial resources referred to in paragraphs 1, 3 and 4 above, shall freeze them immediately, without prior notification to the holders, upon notification of the said decision until otherwise decided by the UN Security Council or by another decision taken under the same procedure (Article 100, paragraph 5).¹⁴²

Togolese law also provides for the mandatory confiscation of proceeds from money laundering. In all cases of conviction for money laundering or attempted money laundering, the courts shall order the confiscation, for the benefit of the State, of the property that was used or intended to be used to commit the offence, of the proceeds of the offence, of the movable or immovable property into which such proceeds are transformed or converted and, to the extent of their value, legitimately acquired property with which such proceeds are involved, as well as the income and other benefits derived from these proceeds, from the property in which they are transformed or invested or from the property in which they are involved, to whomever such proceeds and property belong to, unless the owner establishes that he/she is unaware of their fraudulent origin.¹⁴³

With regard to the compulsory confiscation of funds and other financial resources linked to the financing of terrorism, in all cases of conviction for the offence of financing terrorism or attempt to do so, the courts shall order the confiscation for the benefit of the public treasury, of funds and other financial resources linked to the offence, as well as any movable or immovable property intended for, or having been used in the commission of the said offence. The State may allocate the funds and other financial resources, as well as the property referred to in paragraph 1 above, to a fund for the fight against organized crime, or to compensate the victims of the offences provided for in Article 8 of this law or their beneficiaries. The decision ordering confiscation shall identify and locate the funds, property and other financial resources concerned. Where the funds, property and other financial resources to be confiscated cannot be represented, their confiscation may be ordered in value (Art. 129).

https://jo.gouv.tg/sites/default/files/JO/JOS_04_05_2018-63E%20ANNEE%20N%C2%B0%2007.pdf#page=2, (25.11.2021).

¹⁴² Article 100, Uniform Law No. 2018-004 of April 24, 2018 Law 2018 - 004 04/05/2018 on the fight against money laundering and the financing of terrorism in the Member States of the West African Monetary Union; https://jo.gouv.tg/sites/default/files/JO/JOS_04_05_2018-63E%20ANNEE%20N%C2%B0%2007.pdf#page=2, (25.11.2021).

¹⁴³ Article 128, Uniform Law No. 2018-004 of April 24, 2018 Law 2018 - 004 04/05/2018 on the fight against money laundering and the financing of terrorism in the member states of the West African Monetary Union; https://jo.gouv.tg/sites/default/files/JO/JOS_04_05_2018-63E%20ANNEE%20N%C2%B0%2007.pdf#page=2 (25.11.2021).

In addition, Decree No. 2018-123/PR of August 3, 2018 designating the competent authority and defining the procedure for administrative freezing¹⁴⁴ has established the Minister of Finance as the authority in charge of administrative freezing. As such, he orders by decision for a period of six months that can be renewed, the freezing of all or part of funds and other property belonging to terrorists, terrorist organizations and persons or entities suspected of financing terrorism or supporting terrorist organizations (Article 2 of the decree). The administrative freeze is carried out without delay and without prior notification to the persons and entities concerned by the measure.

As for the institutions or structures that have to recover illicitly acquired goods, when it is a question of illicitly acquired goods, it is the State Inspectorate that carries out the recovery and intervention remains within national competence. But for cases of international corruption, it is the police and the gendarmerie that mostly intervene. When there is a suspicion of illicitly acquired goods, the procedure allows for the property to be seized and not confiscated; only the courts have the ability to settle the case.

5.2.1 Good practices

The Togolese law authorizes interested civil society to lodge a complaint against any act of money laundering by letter addressed to CENTIF. In this respect, ANCE has had to file complaints for money laundering to CENTIF in the past. Indeed, following the arrest of a drug trafficker of Vietnamese nationality in 2014 and holding more than eight thousand euros in cash, ANCE had filed a request for money laundering and laundering of the proceeds of crime. This request had been deemed admissible and investigations had been carried out, but in accordance with Togolese law, we had not been entitled to the results of the investigation.

5.2.2 Deficiencies

- The issue of the recovery of ill-gotten gains at the domestic level remains a challenge. There is not yet a specialized state institution in this area and there is a lack of awareness among actors on the challenges of transnational corruption; finally, there is a lack of material, technical and human resources in the area of asset recovery. There are no statistics on asset recovery in Togo.
- Furthermore, at the international level, Togo has not yet made use of the provisions of the UNCAC to recover its assets abroad, in accordance with the provisions of Article 57 of the UNCAC.

¹⁴⁴ Decree No. 2018-123/PR of 03 August 2018 designating the competent authority and defining the procedure for administrative freezing; https://centif.tg/files/loi_12.pdf, (25.11.2021).

V. Recent Developments

- **The effective start of the process of developing the national strategy to fight corruption and related offenses:** the diagnostic study has been approved and the strategy document is being drafted; civil society organizations are heavily involved in the development of the national anti-corruption strategy in Togo. Indeed, three CSO representatives (including ANCE) actively participate in the drafting process and represent CSOs on the Steering Committee that was set up and issue their opinions on all documents (terms of reference, planning workshops, draft documents of the diagnostic study, etc.). The diagnostic survey report was produced following a broad participatory consultation with all stakeholders (public sector, private sector and civil society). CSO representatives will also participate in the entire review process of the draft strategy document scheduled for January 2022.¹⁴⁵
- **The integration of the regional courts of auditors in the revised Constitution of May 15, 2019, expresses the government's desire to strengthen the external control of the state:** Under the terms of Article 107 of the Constitution,¹⁴⁶ the Court of Auditors and the Regional Courts of Auditors judge the accounts of public accountants. The Court of Auditors and the Regional Courts of Auditors exercise jurisdiction over the budgetary and financial discipline of authorizing officers and delegated authorizing officers, program managers, financial controllers, public procurement management bodies and public accountants. The organic law on the status of magistrates of the Court of Auditors and the Regional Courts of Auditors and the law on the organization and functioning of the Court of Auditors and the Regional Courts of Auditors¹⁴⁷ were adopted on October 7, 2021 and therefore have not yet been implemented.

With this development, the Court of Auditors will not only judge the accounts but also the performance of institutions. In addition, the presence of this Court in all regions will strengthen control and reduce corruption in the public sector.

¹⁴⁵ Togo: Launch of the process of developing the national strategy to fight corruption; <https://www.togofirst.com/fr/gouvernance-economique/2205-7892-togo-lancement-du-processus-d-elaboration-de-la-strategie-nationale-de-lutte-contre-la-corruption>, (13.12.2021).

¹⁴⁶ TOGOLIAN CONSTITUTION OF THE IVth REPUBLIC (Consolidated version, up to date of the constitutional law of May 15, 2019 and all constitutional revisions previous); [https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/38025/110367/F782774626/TGO-38025%20\(VERSION%20CONSOLIDEE\).pdf](https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/38025/110367/F782774626/TGO-38025%20(VERSION%20CONSOLIDEE).pdf), (13.12.2021).

¹⁴⁷ Organic Law on the Statute of the Magistrates of the Court of Accounts and Regional Courts of Accounts; <https://assemblee-nationale.tg/wp-content/uploads/2021/10/COUR-COMPTE-MAGISTRAT-STATUT-loi-AN.pdf>, (13.12.2021).

VI. Recommendations

1. Updating the legal framework

The legal framework for the fight against corruption is still incomplete and not harmonized with the international conventions to which Togo is a party, including the UNCAC, the African Union Convention against Corruption and the ECOWAS Protocol against Corruption.

The main legislative texts should be updated/revised to incorporate the relevant provisions of the various international conventions to which Togo is a party. In general, it would be necessary to:

- Identify, revise and harmonize legal and regulatory texts on the fight against corruption in Togo;
- Promote the integrated legal framework for the fight against corruption;
- Articulate the legal framework for the fight against corruption in Togo;
- Streamline judicial procedures for dealing with proven cases of corruption and related offences;
- Strengthen the application of sanctions in the case of a violation of the established rules.

2. Updating the institutional framework

The institutional framework for the fight against corruption also remains incomplete and not harmonized with the international conventions to which Togo is a party, notably the UNCAC, the African Union Convention against Corruption and the ECOWAS Protocol against Corruption. The institutional framework should be updated/revised, including:

- Strengthen the framework for consultation among anti-corruption actors;
- Strengthen the institutional framework for open government by joining several institutions working in this area (Open Government Partnership; CoST; Global Initiative for Fiscal Transparency (GIFT));
- Create and operationalize a supreme administrative control authority;
- Create and operationalize a State Judicial Agency in line with international standards (it should have legal, administrative and financial autonomy and not be attached to any ministry);
- Create and make operational a National Financial Prosecutor's Office (PNF);
- Create and make operational an Economic and Financial Brigade (BEF). The BEF to be set up should have units specialized in the new economic and financial offences and competencies extended to these new forms of economic and financial crime (cybercrime; computer offences, etc);

- Create and make operational an authority for access to information and public documentation or strengthen the existing mechanism within the Mediator of the Republic;
- Accelerate the operationalization of the High Court of Justice (the only court empowered to hear cases of corruption by senior State officials);
- Accelerate the process of reforming the Superior Council of the Judiciary (CSM); and strengthen the capacity of the General Inspectorate of Judicial and Penitentiary Services (IGSJP) to ensure the application of the code of ethics and the application of sanctions, in order to reduce the rate of corruption in the justice sector.

3. Strengthening the quality and performance of public services through digitalization

- Strengthen digital solutions (GovTech);
- Strengthen public financial management systems through digitization, including both (i) strengthening the digitization of public revenues and subsidies and (ii) strengthening the digitization of public expenditure management;
- Strengthening the governance of public enterprises through digitalization;
- Strengthen the governance of the public service through the digitalization of procedures and work tools;
- Strengthen the digitalization of public procurement and open contracting management;¹⁴⁸
- Strengthening public health governance through digitalization;
- Enhance the safety, security and transparency of traffic control operations through digitalization;
- Strengthen the governance of the digital justice sector;
- Digitalize the management of development projects;
- Strengthen the digitalization of the goods clearance process;
- Secure and digitalize the management of tax stamps.

4. Strengthen the fight against corruption in the private sector

- Adopt a law to strengthen the internal control of private companies;
- Support the adoption, dissemination and application of codes of conduct and integrity pacts in private companies or Transparency International's Business Principles for Countering Bribery;¹⁴⁹

¹⁴⁸ Public Procurement Data Standard (OCDS): <https://standard.open-contracting.org/latest/fr/>, (13.12.2021).

¹⁴⁹ Transparency International, Business Principles for Countering Bribery (August 2004); https://images.transparencycdn.org/images/2008_BusinessPrinciplesSME_EN.pdf, (13.12.2021).

- Support Togolese companies to adhere to the 10th Principle of the United Nations Global Compact;¹⁵⁰
- Support companies (public and private) to adhere to the ISO37001 standard¹⁵¹ (anti-corruption standard in business).

¹⁵⁰ 10th Principle of the United Nations Global Compact (2004); <https://www.un.org/fr/chronique/le-pacte-mondial-des-nations-unies-proposer-des-solutions-aux-d%C3%A9fis-mondiaux>, (17.12.2021).

¹⁵¹ Standard ISO37001 - Anti-corruption management system; https://www.iso.org/files/live/sites/isoorg/files/store/fr/PUB100396_fr.pdf, (17.12.2021).

VII. Annex

Documents and Policies

- ANCE-TOGO, Parallel Report 2018 Sustainable Development Goal, Review of Progress on Implementation of SDG16: Targets 16.4; 16.5; 16.6 and 16.10, https://knowledgehub.transparency.org/assets/uploads/kproducts/SDG_Parallel-Report_2018_Togo.pdf.
- National Justice Policy (PNJ), <https://justice.gouv.tg/node/392>.
- Strategy for the Involvement of the Stakeholders of the Court of Auditors of Togo, <https://www.courdescomptes.tg/wp-content/uploads/2019/12/Le-document-de-la-Strat%C3%A9gie-pour-lImplication-des-Parties-Prenantes-de-la-Cour-des-Comptes-du-Togo.pdf>.
- TOGO: Government Roadmap 2020-2025, <https://www.republicoftogo.com/content/download/77920/1952970/1> (09.02.2022).

Conventions, Directives, Laws and Decrees

- The Togolese Constitution of the Fourth Republic of October 14, 1992, as amended on May 15, 2019,
- Law n°1983-1 of March 2, 1983 instituting the Togolese code of criminal procedure;
- Organic Law n°96-11 of August 21, 1996 concerning the status of magistrates;
- Organic Law n°97-04 of March 6, 1997 on the organization and functioning of the Superior Council of the Judiciary;
- Organic Law n° 98-014 of July 10, 1998 on the organization and functioning of the Court of Auditors;
- Organic Law No. 2009-003 of April 15, 2009 on the statutes of the magistrates of the Court of Auditors of Togo;
- Organic Law No. 2014-013 of June 10, 2014 on finance laws. This law obliges the State to inform citizens about everything related to the governance and management of public funds (Article 2);
- Organic Law No. 2020-003 of January 24, 2020, establishing the conditions for the declaration of assets and property of senior officials and other public servants;
- Organic Law no. 2021-006 of 1^{er} April 2021 establishing the composition and functioning of the services of the Mediator of the Republic;
- Law No. 2007-010 of 1^{er} March 1, 2007 on the general status of the personnel of the Togolese armed forces;
- Law n°2009-013 on public procurement and delegation of public services;
- Law n°2012-016 of December 14, 2012 creating the Togolese Revenue Office, which groups and oversees customs and taxes. It contains in its organizational chart an anti-corruption department and all its agents declare their assets;
- Law No. 2012-018 of December 17, 2012 on electronic communications as amended by Law No. 2013-003 of February 19, 2013;
- Law n°2013-002 of January 21, 2013 on the general status of the Togolese civil service;
- Law No. 2013-007 of February 25, 2013, amending Organic Law No. 96-11 of August 21, 1996, establishing the status of magistrates;

- Law No. 2014-009 of June 1, 2014, on the code of transparency in public finance management;
- Law No. 2015-005 of July 28, 2015 on the special status of the National Police;
- Law No. 2015-006 of July 28, 2015 creating the High Authority for the Prevention and Fight against Corruption and Related Offenses (HAPLUCIA);
- Law No. 2015-010 of November 24, 2015 on the new penal code, which domesticates the relevant incriminations contained in the above-mentioned international legal instruments;
- Law No. 2016-006 of March 26, 2016 on freedom of access to information and public documentation;
- Law n°2017-007 of June 22, 2017 on electronic transactions;
- Orientation Law No. 2017-006 of 22 June 2017 on the information society (Iosito);
- Uniform Act No. 2018-004 of May 4, 2018 on the fight against money laundering and terrorist financing in WAEMU Member States;
- Law No. 2018-005 of June 14, 2018 on the land and property code;
- Law No. 2018-026 of December 07, 2018 on cybersecurity and the fight against cybercrime;
- the law n°2019-014 on the protection of personal data,
- Law no. 2019-015 of October 30, 2019 on the code of judicial organization;
- Law No. 2019-016 on the judicial regime applicable to audiovisual communications in the Togolese Republic;
- Act No. 2019-015 of October 24, 2019, on the Judicial Organization Code;
- Law No. 2021-005 of 1^{er} April 2021 on the automation of the criminal record;
- Law n°2021-007 of April 21, 2021 on the new code of civil procedure; Decree n°2009-005/PR of January 14, 2009 on the creation, organization and functioning of the supervisory body of the penitentiary administration;
- Decree No. 2009-277/PR of November 11, 2009 on the code of public contracts and delegation of public services;
- Decree No. 2010-108/PR of September 29, 2010 adopting the Reform Strategy Document;
- Decree 2011-058/PR of May 4, 2011 on the terms of monitoring of the State's financial operations;
- Decree No. 2015-120/PR of December 14, 2015 on common terms and conditions for the application of the general statute of the civil service;
- Decree No. 2015-054/PR of August 27, 2015 on the general regulations on public accounting;
- Decree No. 2016-043/PR of 1^{er} June 2016 regulating the issuance of urban planning documents;
- Decree No. 2017-104/PR of August 10, 2017 on the terms of application of Law No. 2016-006 of March 26, 2016 on freedom of access to information and public documentation;
- Decree No. 2019-125/PR of September 18, 2019, on the powers, organization and operation of the General State Inspectorate;
- Decree No. 2019-026/PR of February 20, 2019 on the powers, organization and operation of the General Inspectorate of Finance;
- The United Nations Convention against Corruption ratified by Law No. 06 of July 2005;

- The African Union Convention on Preventing and Combating Corruption, adopted by the Heads of State at the African Union Summit held in Maputo on July 11, 2003 and ratified by Law No. 2005-007 of May 18, 2005;
- The United Nations Convention against Transnational Organized Crime (UNTOC Convention) adopted on November 15, 2000 in New York, signed on December 12, 2000 and ratified on July 2, 2004;
- The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, adopted on November 15, 2000 in New York, signed by Togo on December 12, 2000 and ratified on May 8, 2009;
- The Protocol against the smuggling of immigrants by land, sea and air, adopted on 15 November 2000 in New York, signed by Togo on 12 December 2000 and ratified on 28 September 2010 and the Protocol against the illicit manufacturing of and trafficking in firearms, adopted in New York on 31 May 2001 and ratified by Togo on 17 July 2012;
- The ECOWAS protocol on the fight against corruption by law 2005-007 of 18 May 2005;
- Protocol A/SP1/12/01 on Democracy and Good Governance, additional to the Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security (Dakar, 21 December 2001);
- Directive N°01/2009/CM/UEMOA on the code of transparency in public finance management within WAEMU;
- Directive N°04/2005/CM/UEMOA on procedures for the award, execution and settlement of public contracts and public service delegations in the WAEMU;
- Directive N°05/2005/CM/UEMOA on the control and regulation of public procurement and public service delegations in the WAEMU;
- Directive No. 06/2009/CM/UEMOA on financial laws within WAEMU;
- Directive N°07/2009/CM/UEMOA on the general regulations on public accounting within WAEMU;
- Directive No. 08/2009/CM/UEMOA on the State budget nomenclature within WAEMU;
- Directive No. 02/2015/CM/UEMOA on the fight against money laundering and terrorist financing in WAEMU Member States;
- Directive N°04/2009/CM/UEMOA instituting a single window for filing financial statements in the Member States of the WAEMU;
- Directive No. 08/2002/CM/WAEMU on measures to promote the use of cashless means of payment.

Online Resources

- Stolen Asset Recovery Assistance (StAR) (2017): Getting the Whole Picture on Public Officials - A Practical Guide to Effective Financial Disclosure, <https://star.worldbank.org/sites/star/files/getting-the-full-picture-on-public-officials-how-toguide.pdf>.
- World Bank (2011): Asset Recovery Processes and Remedies 10 (adopted from the StAR Handbook for Practitioners on Asset Recovery), <http://pubdocs.worldbank.org/en/824561427730120107/AML-Module-5.pdf> CDE, StAR (2012): Identification and Quantification of the Proceeds of Corruption, <https://star.worldbank.org/star/sites/star/files/Quantification.pdf>.

- Council of Europe: Evaluations of the Group of States against Corruption (GRECO), <https://www.coe.int/fr/web/greco/evaluations>.
- Documents related specifically to UNCAC Chapter V on Asset Recovery ICAR (2013): Guide to the Role of Civil Society Organizations in Asset Recovery, https://cso.assetrecovery.org/sites/collective.localhost/files/documents/cso_guide_e.pdf.
- Financial Action Task Force on Money Laundering (FATF): Mutual Evaluations, <https://www.fatf-gafi.org/publications/mutualevaluations>.
- OECD: Istanbul Action Plan Against Corruption, <http://www.oecd.org/corruption/acn/istanbulactionplan/>. Open Government Partnership: Members, <https://www.opengovpartnership.org/our-members>.
- OECD: Anti-Corruption Network for Eastern Europe and Central Asia, <http://www.oecd.org/corruption/acn/>.
- OECD and ADB: Asia Pacific Anti-Bribery Initiative, <http://www.oecd.org/site/adboecdanti-corruptioninitiative/>.
- OECD, StAR (2011): Monitoring anti-corruption and asset recovery commitments: progress report and recommendations for action, <http://documents.worldbank.org/curated/en/183431468330969818/pdf/680190WP0Box360C00Accra0Commitments.pdf>.
- UNODC: More information on the UNCAC review mechanism is available at <https://www.unodc.org/unodc/en/corruption/implementation-review-mechanism.html>.
- UNODC: Review Mechanism Documents: See available Round 1 and 2 documents, <https://www.unodc.org/unodc/en/treaties/CAC/country-profile/index.html>.
- UNODC: Country Profiles, <https://www.unodc.org/unodc/en/corruption/countryprofile/index.html>.
- UNODC (2004): United Nations Convention against Corruption, https://www.unodc.org/unodc/en/corruption/tools_and_publications/UN-convention-againstcorruption.html.
- UNODC (2009): Technical Guide to the UN Convention against Corruption, <https://www.unodc.org/unodc/en/treaties/CAC/technical-guide.html>.
- UNODC (2009): Technical Guide to the United Nations Convention against Corruption, https://www.unodc.org/documents/treaties/UNCAC/Publications/TechnicalGuide/10-53540_Ebook_e.pdf.
- UNODC (2009): Resolutions and Decisions Adopted by the Conference of the States Parties to the United Nations Convention against Corruption - Resolution 3/1: Review Mechanism, <https://www.unodc.org/documents/treaties/UNCAC/COSP/session3/V1051986f.pdf>.
- UNODC (2009): Resolutions and Decisions adopted by the Conference of the States Parties to the United Nations Convention against Corruption - Resolution 3/1: Review Mechanism, <https://www.unodc.org/documents/treaties/UNCAC/COSP/session3/V1051985e.pdf>.
- UNODC (2012): Legislative Guide to the Implementation of the UN Convention against Corruption, <https://www.unodc.org/unodc/en/treaties/CAC/legislative-guide.html>.

- UNODC (2012): Legislative Guide for the Implementation of the United Nations Convention against Corruption, <https://www.unodc.org/unodc/en/treaties/CAC/legislative-guide.html>.
- UNODC (2012): Handbook on Mutual Legal Assistance and Extradition, <http://www.unodc.org/unodc/en/corruption/publications.html>.
- UNODC (2012): Manual on the International Transfer of Sentenced Persons, https://www.unodc.org/documents/organizedcrime/Publications/Transfer_of_Sentenced_Persons_Ebook_E.pdf.
- UNODC (2016): Guidance for Completing the Revised Draft Self-Assessment Checklist for Implementation of UNCAC Chapters II (Preventive Measures) and V (Asset Recovery), <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/20-24June2016/V1603598e.pdf>
- UNODC (2016): Guide to Completing the Revised Draft Self-Assessment Checklist on the Implementation of Chapter II (Preventive Measures) and Chapter V (Asset Recovery) of the UNCAC, <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/20-24June2016/V1603600e.pdf>.
- UNODC (2019): Best practices in identifying and compensating different types of victims in accordance with the Convention as well as third party challenges and their impact on asset recovery under Chapter V, <https://www.unodc.org/unodc/en/corruption/WG-AssetRecovery/session13.html>.
- UNODC, IFES and OSCE-ODIHR (2019): Expert Group Meeting - Transparency in Political Financing, https://www.unodc.org/documents/corruption/PragueEGM2019/Report_EGM_Transparency_in_Political_Finance_Prague.pdf.
- Organization of American States (OAS): Reports of the States Parties to the OAS Anti-Corruption Mechanism (MESICIC), <http://www.oas.org/en/sla/dlc/mesicic/paiseshome.html>.
- Organisation for Economic Co-operation and Development (OECD): Country Reports on the Implementation of the OECD Anti-Bribery Convention, <http://www.oecd.org/daf/anti-bribery/countryreportsontheimplementationoftheoecdantibriberyconvention.htm>.
- StAR: On the following web page, you can access a number of country-specific guides to asset recovery, <https://star.worldbank.org/ArabForum/asset-recovery-guides>.
- StAR (2010): Towards a Global Asset Recovery Architecture, <https://star.worldbank.org/star/sites/star/files/GlobalArchitectureFinalwithCover.pdf>
- StAR (2011): Asset Recovery Handbook: a guide for practitioners, <https://star.worldbank.org/star/sites/star/files/Asset Recovery Handbook.pdf> ;
- StAR (2011): Barriers to Asset Recovery: An Analysis of Key Barriers and Recommendations, <https://star.worldbank.org/star/sites/star/files/Barriers%20to%20Asset%20Recovery.pdf>.
- StAR (2012): Public Service, Private Interests - Accountability Through Disclosure of Income and Assets, <https://star.worldbank.org/resources/public-office-private-interests>.

- StAR (2012): Profiteers - Criminalizing Illicit Enrichment to Fight Corruption, <https://star.worldbank.org/publication/take-criminalizing-illicit-enrichment-fight-corruption>.
- StAR (2014): The Facts About Stolen Asset Recovery, https://star.worldbank.org/star/sites/star/files/few_and_far_the_hard_facts_on_stolen_asset_recovery.pdf.