

## 4.15 Togo

### 4.15.1 Migration trends

#### 4.15.1.1 Immigration

The National Population and Housing Census conducted in 2010 is the main source of data on immigration.<sup>1264</sup> It constitutes an important element of demographical data collection in Togo. The previous population and housing census was conducted over three decades ago, in 1981.

Data	Year	Absolute numbers	% of the Total Population
National Population and Housing Census (RGPH) <sup>1265</sup>	2010	241,212 foreigners <sup>1266</sup>	4.1%

##### 4.15.1.1.1 Characteristics of immigrants/foreigners

<b>Countries of origin:</b>	The overwhelming majority of foreigners (around 90%) are nationals of ECOWAS Member States, primarily Benin (67,665), Niger (61,126), Ghana (29,416), Nigeria (29,347), Burkina Faso (12,075), and Mali (7,641). <sup>1267</sup>
<b>Settlements:</b>	Foreigners mainly reside in the capital city, Lomé, as well as in the Maritime and the Plateaux regions.
<b>Socio-demographic profile:</b>	The 2010 census also shows a gender balance among foreigners (50.8% of males and 49.2% of females). <sup>1268</sup>
<b>Socio-economic profile and sectors of employment:</b>	Like nationals, most migrants are likely to be employed in the informal labour market. The number of stay/residence permits delivered annually between 2009 and 2011 was limited to approximately 2000. <sup>1269</sup> Despite the absence of a collated database on regular migrants, such numbers give an idea of the limited character of regular migration in Togo.
<b>Vulnerable groups:</b>	Trafficking in persons is primarily an internal phenomenon. <sup>1270</sup> Most foreign victims of trafficking in Togo are children from Ghana and Benin, who are forced into domestic servitude. <sup>1271</sup> There are indications of Nigerian women and girls being forced into prostitution. <sup>1272</sup>

<sup>1264</sup> Direction Générale de la Statistique et de la Comptabilité Nationale, RGPH4 Recensement Général de la Population 2010.

<sup>1265</sup> Recensement général de la population et de l'habitat.

<sup>1266</sup> Direction Générale de la Statistique et de la Comptabilité Nationale, *RGPH4 Recensement Général de la Population 2010, Volume 1: Résultats prioritaires*, Tableau 1.3: Répartition de la population résidente selon la nationalité et le sexe, 2013.

<sup>1267</sup> Ibid.

<sup>1268</sup> Ibid.

<sup>1269</sup> Kpodar, A., *Contribution à l'élaboration du DSRP II. Rapport des Comités sectoriels Justice, Droits de l'homme et Sécurité*, 2012, p. 24

<sup>1270</sup> U.S. Department of State, *Trafficking in Persons Report 2013*, 2013, p. 363.

<sup>1271</sup> Ibid.; UNESCO, *La traite des personnes au Togo: facteurs et recommandations*, 2007, p. 25.

<sup>1272</sup> UNESCO, 2007, op. cit., p. 25.

To date, no further relevant information has been published on the basis of the census' results. A special publication is currently being drafted by the General Directorate of Statistics and National Compatibility,<sup>1273</sup> which will provide additional information on immigration in Togo.<sup>1274</sup>

#### 4.15.1.2 Emigration

In order to understand the current challenges of migration management in Togo, it is useful to provide a brief historical overview of emigration flows. From the independence of the country in 1960 up until the 1980s, Togo benefitted from prosperous economic conditions. During this time, migration flows were dominated by the temporary movement of civil servants and students, with a view to strengthening the state's competencies.<sup>1275</sup> In the 1990s, severe human rights violations, widespread ethnic violence and political repression occurred. At the same time, the economic situation worsened. This led to mass population outflows, mainly towards neighbouring Ghana and Benin, and, to a lesser extent, to France and other European countries.<sup>1276</sup> Arguably, this period constitutes the most determinant phase in the modern history of Togolese migration. In 2005, renewed political violence led to additional flows of individuals fleeing the country for fear of persecution. During the past years, the political situation has become more stable and migration flows have become mostly motivated by economic reasons.<sup>1277</sup>

Data	Year	Estimates
University of Sussex, Development Research Centre (DRC), Global Migrant Origin Database	2005	Migrant stock not exceeding 300,000 <sup>1278</sup>
General estimates from national authorities (Data sources unidentified)	2013	Togolese officials commonly refer to a diaspora comprised of between 1,500,000 and 2,000,000 members

<sup>1273</sup> Direction Générale de la Statistique et de la Comptabilité Nationale.

<sup>1274</sup> Direction Générale de la Statistique et de la Comptabilité Nationale, *RGPH4 Recensement Général de la Population 2010, Volume V: Mouvement naturel et migration de la population*, forthcoming.

<sup>1275</sup> Radji, S., *La stratégie d'optimisation des transferts de fonds de la diaspora au Togo*, Banque africaine de Développement, République togolaise, 2012, p. 8.

<sup>1276</sup> Gu-Konu, E. Y., 'Une migration transfrontalière inédite en Afrique de l'ouest. Les réfugiés togolais au Bénin', in Gu-Konu, E. Y. et. al., *Migrations internationales en Afrique de l'ouest. Aspects et problèmes*, URA/UNB-ORSTOM, 1993, p. 11; Galloway, M., *Return Migration to Togo. Monitoring the Embeddedness of Returnees*, 2008, pp. 5-6. According to Galloway, "During the crisis in the early 1990s, about 300,000-350,000 Togolese (mainly from the Lomé area) fled into the neighbouring countries Ghana and Benin".

<sup>1277</sup> Radji, S., 2012, op. cit., p. 8.

<sup>1278</sup> University of Sussex, Development Research Centre, 'Global Migrant Origin Database', 2007.

## 4.15.1.2.1 Characteristics of emigrants/nationals abroad

Countries of destination/ residence:	<ul style="list-style-type: none"> <li>• Togolese officials commonly refer to a diaspora distributed as follows: two-thirds in Africa (mostly in West and Central African states) and one third outside of the continent, mostly in France, Germany, Italy, and the U.S. Such estimates, which are not based on specific sources, are to be taken with caution.</li> <li>• According to the DRC database, the Togolese migrant stock is primarily located in West and Central African states. Among these, Nigeria dominates, followed by Benin, Burkina Faso, Guinea, Gabon, and Ghana.<sup>1279</sup></li> <li>• The number of Togolese residents in OECD countries appears to be low. The OECD migration database identifies Germany (10,219 registered Togolese nationals in 2011), France (9,371 in 2009), Italy (4,422 in 2010), and Belgium (2,708 in 2010) as the only significant countries of destination among OECD Member States.<sup>1280</sup> The predominance of Germany is somehow surprising given that France is usually considered the main country of destination for Togolese nationals in the EU. This may be explained by two factors. First, and contrary to data on France, Italy, and Belgium, German statistics include asylum seekers. Second, it is likely that numerous Togolese who came to France during the 1990s eventually obtained French nationality. It must also be noted that the OECD database fails to provide data concerning Togolese migrants in the U.S. and Canada.</li> </ul>
Education level/ sectors of employment:	<ul style="list-style-type: none"> <li>• According to ICMPD, the highly-skilled emigration rate amounted to 20% in 2000.</li> <li>• It is believed that Togo faces considerable brain drain, primarily in the education and health sectors.</li> <li>• There is, among OECD countries, a great discrepancy between the emigration rate of nurses and that of doctors, the former being estimated at 4%, and the latter at 40.5%.<sup>1281</sup></li> </ul>
Remittances:	<ul style="list-style-type: none"> <li>• The World Bank and the Central Bank of West African States (BCEAO) datasets provide similar estimates on remittances. For the year 2010, the former provided an estimate of USD 337 million<sup>1282</sup> and the latter, a slightly lower estimate of USD 314 million.</li> <li>• According to the BCEAO, such an amount represented 14 times the amount received ten years ago.<sup>1283</sup></li> <li>• The same source indicates that remittances are primarily sent from EU Member States (31.1%), the U.S. (16.5%), and the West African Economic and Monetary Union (WAEMU) region (15.9%).<sup>1284</sup> This geographical estimate has understandable limitations, given that the proportion of informal transfers from different countries and regions of destination of migrants remain unknown.</li> <li>• With regard to what remittances are used for, consumption purposes as well as community projects, such as schools, clinics, and water systems dominate.<sup>1285</sup> Investments comprise between 3% and 7% of remittance inflows.<sup>1286</sup></li> </ul>

<sup>1279</sup> Ibid.

<sup>1280</sup> OECD, 'International Migration Database'. The OECD migration database collects information on stay/resident permits and population registers.

<sup>1281</sup> OECD, 'Immigrant Health Workers in OECD Countries in the Broader Context of Highly Skilled Migration' in *International Migration Outlook – SOPEMI 2007*, 2007, p. 215.

<sup>1282</sup> World Bank, *Migration and Remittances Factbook 2011*, 2011.

<sup>1283</sup> Radji, S., 2012, op .cit., p. 11.

<sup>1284</sup> Ibid.

<sup>1285</sup> Bouka, Y., *Etude sur l'optimisation de la contribution de la diaspora à l'investissement privé au Togo*, 2012, p. 55.

<sup>1286</sup> Radji, S., 2012, op .cit., p. 11.

**Vulnerable groups:**

- International trafficking involves numerous countries of destination, from West and Central African to EU Member States, the U.S., and the Middle East.
- The phenomenon is nevertheless primarily concentrated in West and Central Africa.
- Women are trafficked to Nigeria and Burkina Faso and subjected to domestic servitude or forced prostitution.
- Children are trafficked in Nigeria, Benin, Côte d'Ivoire, Niger, Burkina Faso, Gabon, and the Democratic Republic of Congo, and subsequently exploited in agricultural and domestic work, as well as in street markets.<sup>1287</sup>

**4.15.2 Migration policy**

The interest of Togolese national authorities in migration management is recent. It is only in the past few years that initiatives have been developed with the support of regional and international organisations. Existing policies, legislation, and projects remain limited with regard to both immigration and emigration management. Most of the government’s efforts aim at the increased participation of the Togolese diaspora in the development of the country, as well as, to a lesser extent, reducing and ultimately eliminating child trafficking.

The closest Togo has come to the development of a national migration policy is the Migration and Development Strategy, which – at the time of writing – is being drafted under the framework of the ICMPD-led Migration EU Expertise (MIEUX) project. Simultaneously, the government is planning to incorporate migration-related issues within sectoral policies, such as employment and gender. The current national development plan<sup>1288</sup> includes several references to migration, mainly in regard to the economic involvement of the diaspora and child trafficking.

**4.15.2.1 Institutional framework on migration**

*Governmental stakeholders involved*

Ministry	Agency, Directorate, Unit	Responsibilities
Ministry of Security and Civil Protection <sup>1289</sup>	Directorate General of National Documentation <sup>1290</sup>	Immigration management
	National Commission for the Reception and Social Reinsertion of Trafficked Children <sup>1291</sup>	Fight against trafficking in persons
Ministry of Labour, Employment, and Social Security <sup>1292</sup>	National Employment Agency <sup>1293</sup>	Matching labour demand and supply Certifying work contracts of foreign workers as well as those concluded by Togolese migrant workers

<sup>1287</sup> U.S. Department of State, 2013, op. cit., p. 363.

<sup>1288</sup> *Stratégie de croissance accélérée et de promotion de l'emploi 2013-2017* or 'SCAPE'.

<sup>1289</sup> *Ministère la Sécurité et de la Protection civile.*

<sup>1290</sup> *Direction générale de la Documentation nationale.*

<sup>1291</sup> *Commission Nationale d'Accueil et de Réinsertion Sociale des Enfants Victimes du Trafic.*

<sup>1292</sup> *Ministère du Travail, de l'Emploi et de la Sécurité sociale.*

<sup>1293</sup> *Agence Nationale de l'Emploi.*

Ministry of Foreign Affairs and Co-operation <sup>1294</sup>	Directorate for Togolese Abroad <sup>1295</sup> Unit in charge of the Diaspora Programme <sup>1296</sup>	Relations with nationals abroad, including their protection
Ministry of Planning, Development, and Territory Planning <sup>1297</sup>		Elaborating and monitoring the implementation of the national development plan

Other public institutions concerned with migration include the Directorate General of Statistics and National Accounts<sup>1298</sup>, the Ministry of Economy and Finances,<sup>1299</sup> and the Ministry of Social Action, Women Promotion, and Alphabetisation.<sup>1300</sup>

#### *Inter-institutional coordination*

Migration management in Togo is undertaken by distinct ministries and public institutions, with there being little consultation and cooperation between them. The only institutionalised inter-ministerial institution is the unit in charge of the Diaspora Programme. Although its purpose is currently limited to the implementation of a specific project, this institution, initially operating under the authority of the services of the Prime Minister and now functioning within the Ministry of Foreign Affairs and Cooperation, should eventually be granted more permanent functions and operate under the title of the National Agency for Togolese Abroad.<sup>1301</sup>

<sup>1294</sup> *Ministère des Affaires étrangères et de la Coopération.*

<sup>1295</sup> *Direction des Togolais de l'extérieur.*

<sup>1296</sup> *Unité de gestion du Programme Diaspora.*

<sup>1297</sup> *Ministère de la Planification, du Développement et de l'Aménagement du territoire.*

<sup>1298</sup> *Direction Générale de la Statistique et de la Comptabilité Nationale.*

<sup>1299</sup> *Ministère de l'Economie et des Finances.*

<sup>1300</sup> *Ministère de l'Action sociale, de la Promotion de la femme et de l'Alphabétisation.*

<sup>1301</sup> *Agence nationale des Togolais de l'extérieur.*

#### 4.15.2.2 Immigration: national policy framework and institutional practices

##### 4.15.2.2.1 General immigration provisions

Legislation/Policy Framework	Description
<p>Law No. 87-12 on Foreigners' Police, 1987<sup>1302</sup></p> <p>Decree No. 96-113 on General Conditions for Delivery of Visas, Stay Permits and Special Regimes, 1996<sup>1303</sup></p>	<p><b>Law, Art. 5</b> foresees three types of visas:</p> <ul style="list-style-type: none"> <li>• entry visas, the validity of which may vary from one day to six months;</li> <li>• stay visas, which may be valid for between one day and two years; and</li> <li>• exit visas.</li> </ul> <p><b>Decree, Art. 5</b> makes further distinctions between:</p> <ul style="list-style-type: none"> <li>• short-term stay visas – valid for a maximum of 90 days; and</li> <li>• long-term stay visas – valid for more than 90 days.</li> </ul> <p><b>Decree, Art. 8</b> states that continuous stay under either short- or long-term stay visas is limited to three months per semester. For a longer stay in the country, a stay permit has to be delivered.</p> <p><b>Law, Art. 6</b> distinguishes between three types of stay/residence permits: temporary resident stay permit<sup>1304</sup>, ordinary resident stay permit<sup>1305</sup>, and privileged resident stay permit.<sup>1306</sup></p> <p><b>Law, Art. 7:</b> The validity of the temporary resident stay permit shall not exceed the duration of validity of the "authorisations and visas obtained by the individual to stay in Togo". It can be extended for periods of one year.</p> <p><b>Law, Art. 8:</b> The ordinary resident stay permit is valid for three years, and is renewable.</p> <p><b>Law, Art. 9:</b> The privileged resident stay permit is initially delivered for a period of six years and can be renewed for periods of ten years. It is delivered to foreigners that have resided in Togo in a continuous manner for more than five years, as well as to spouses of Togolese nationals (without this requirement).</p> <p><b>Decree, Art. 4; Art. 12:</b> As a general rule, the delivery of visas and permits is submitted on condition of sufficient financial means, an extract of the police register, and a medical certificate.</p>

The legislation does not explicitly define entry and stay visas. It is most probable, given that Togolese immigration legislation is largely inspired by French administrative law that, following the French example, immigration in Togo is subject to the delivery of a long-term visa. The long-term visa serves as an 'immigration visa', the purpose of which is not simply to control entry but also stay and residence in the country. The main consequence of such a system is the requirement that application for an immigration status should be made abroad rather than upon arrival in the country.

Togolese immigration legislation contains a 'number of gaps. Conditions and procedures for the delivery of visas and permits, as well as the rights attached to the different immigration statuses are not clearly stated. More specifically, the legislation lacks provisions on family migration and the status of ECOWAS Member States' nationals.

<sup>1302</sup> *Loi No. 87-12 relative à la police des étrangers, 1987.*

<sup>1303</sup> *Décret No. 96-113 déterminant les conditions générales de délivrance des visas et cartes de séjour et fixant des régimes spéciaux, 1996.*

<sup>1304</sup> *Carte de séjour de résident temporaire.*

<sup>1305</sup> *Carte de séjour de résident ordinaire.*

<sup>1306</sup> *Carte de séjour de résident privilégié.*

Any overview of Togolese immigration legislation would not be complete without reference to the bilateral agreement on circulation and stay of persons<sup>1307</sup> concluded with France in 1996. The Convention includes similar provisions with regard to the entry and stay of Togolese in France and French nationals in Togo. The main provisions concern the delivery of the same permit to the family member in the framework of family reunification, and the possibility to obtain a 10-year residence permit after three years of stay in the country. While such provisions mainly target Togolese nationals in France, they also apply to French nationals in Togo.

#### 4.15.2.2.2 Labour migration

##### *Access to national labour market*

Legislation/Policy Framework	Description
Decree No. 96-113 on General Conditions for Delivery of Visas, Stay Permits and Special Regimes, 1996	Sets the principle that foreigners seeking employment in Togo are required to obtain a work authorisation in addition to their stay permit.
Labour Code, 2006 <sup>1308</sup>	<p><b>Art. 47 of the Code:</b></p> <ul style="list-style-type: none"> <li>• specifies that the employer has to apply for a work authorisation and needs to obtain certification of the work contract from the Director of Employment<sup>1309</sup>;</li> <li>• lists the conditions for certification of the work contract: professional aptitude of the worker, conformity of the contract to imperative labour norms, and respect of the immigration legislation; and</li> <li>• states that the work contract certification is valid for a period of two years, and may be renewed once.</li> </ul>

The conditions and procedure of delivery, as well as the rights attached to the work authorisation, are partially elaborated in art. 47 of the Labour Code. It is not clear, however, whether the work authorisation and certification of the contract have to be obtained before or after entry of the individual on the national territory. Moreover, the very distinction between the two procedures – certification and delivery of the work authorisation – is not clearly established.

No conditions are specified regarding the delivery of the work authorisation. No mechanism is legally set up to designate the levels of need for foreign workers through taking into account the possible impact of their admission on the domestic labour force. A labour market test or a quota system is not foreseen. According to officials from the Ministry of Labour, the process of certification of work contracts does nevertheless give the opportunity, before authorising the employment of a foreigner, to ensure that there is not a competent local worker available.

The work contract certification is valid for a period of two years, and may be renewed once. In other words, migrant workers cannot stay for more than four years in the country. While the Labour Code provides for the possibility of derogations to this principle, without specifying their grounds, this remains a

<sup>1307</sup> *Convention relative à la circulation et au séjour des personnes.*

<sup>1308</sup> *Loi No. 2006-010 du 13 décembre 2006 portant code du travail.*

<sup>1309</sup> *Directeur général du travail.*

very strict provision.<sup>1310</sup> It must be noted that the Togolese legislation does not include provisions concerning the articulation of work authorisations/contract certifications and different stay permits. It is not clear whether a work authorisation/contract certification is simply required for foreigners holding a temporary resident stay permit or if it also applies to ordinary and/or privileged residents.

It should also be noted that the legislation does not provide a specific status for ECOWAS Member States' nationals.

#### *Rights within employment*

Legislation/Policy Framework	Description
Labour Code, 2006	<p><b>Art. 2</b> provides for equal treatment with nationals. Foreigners, regardless of their legal status, generally benefit from all obligations and rights of the labour legislation.</p> <p><b>Art. 11</b> includes an exception to the principle of equal treatment concerning trade unions: while all foreigners can join a trade union, only those “regularly residing on the national territory and enjoying civic rights” can fulfil administrative and executive functions.</p>

#### 4.15.2.2.3 *Irregular migration*

Legislation/Policy Framework	Description
Law No. 87-12 on Foreigners' Policy, 1987	<p><b>Art. 7</b> and <b>Art. 11</b> impose the duty to leave the country in case of rejection of a stay permit request or expiry of the permit.</p> <p><b>Art. 13</b> foresees withdrawal of the permit in case of imprisonment for a penal offence.</p> <p><b>Art. 16:</b> Imprisonment of two to six months and a fine are also considered in case of breach of the immigration legislation.</p> <p><b>Art. 17:</b> Fraudulent use of a stay permit is punished by three months' to one year's imprisonment and a fine.</p>

Law No. 87-12 on Foreigners' Policy of 1987 includes some provisions regarding irregular migration. It is notable that it does not include explicit grounds for refusal of entry and deportation.

Togolese authorities have practiced a tolerant approach towards irregular migration. Deportation and expulsion orders are rare and, according to officials interviewed for the purpose of the present study, only occur in case of criminal behaviour.

<sup>1310</sup> Labour Code, art. 47: [...] Le visa est valable pour une durée maximale de deux ans, renouvelable une fois. Cependant, des dérogations peuvent être accordées par le ministre en charge du travail sur demande de l'employeur [...].

## 4.15.2.2.4 Migrants at risk

Legislation/Policy Framework	Description
Law No. 2005-009 on Child Trafficking <sup>1311</sup>	<p><b>Art. 10</b> prescribes penalties comprised of between two and five years in prison for perpetrators.</p> <p><b>Art. 11:</b> In case of aggravating circumstances – such as subjection of the child to worst forms of labour – penalties are of five to ten years' imprisonment.</p> <p><b>Art. 12:</b> Parents and legal guardians who facilitate trafficking of children are subject to penalties of six months' to one year's imprisonment.</p>

Law No. 2005-009 on Child Trafficking does not contain detailed provisions regarding protection of the victims and prevention of the crime. It refers to the creation of a national commission against trafficking.<sup>1312</sup> In practice, this institution, the National Commission for the Reception and Social Reintegration of Trafficked Children,<sup>1313</sup> was created in 2002 before the enactment of the law.

The Child Code adopted in 2007<sup>1314</sup> includes a comprehensive set of provisions in order to protect children at risk. It also incorporates, and in some instances, complements, the provisions of the Law on Child Trafficking.<sup>1315</sup>

Togolese policies focus on children at risk and less on adults. A law on trafficking of adults was drafted in 1999, but never adopted. In the absence of specific legal provisions, trafficking of adults falls under the Labour Code, which prohibits forced labour, and the Penal Code's provisions related to prostitution. These norms are rather inadequate. The Penal Code fails to provide satisfactory protection mechanisms for victims of trafficking forced into prostitution and the penalties applicable to forced labour (three to six months' imprisonment) are not sufficiently stringent to tackle the crime of trafficking.<sup>1316</sup>

The number of arrests of traffickers has risen over the past years, a trend arguably accounted for by the increased level of training of law enforcement officials. The National Commission for the Reception and Social Reinsertion of Trafficked Children has worked on developing the capacities of the administration, including border officials, so as to better identify trafficked children. A referral system has been put in place and the Ministry of Social Action, Women Promotion and Alphabetisation runs two shelters, providing legal, medical, and social services. It also cooperates with NGO-run shelters. Standard operating procedures have been set up for all shelters to ensure protection of the victims. National authorities have also developed awareness-raising campaigns using radio broadcasts and direct meetings with local communities, and training of relevant officials has also been organised.<sup>1317</sup>

<sup>1311</sup> *Loi No. 2005-009 relative au trafic d'enfants au Togo, 2005.* Although the title of the law refers to smuggling (*trafic* in French), its content focuses on trafficking.

<sup>1312</sup> Law on child trafficking, 2005, art. 8.

<sup>1313</sup> *Commission Nationale d'Accueil et de Réinsertion Sociale des Enfants Victimes du Trafic.*

<sup>1314</sup> *Loi No. 2007-017 du 6 juillet 2007 portant code de l'enfant.*

<sup>1315</sup> Child Code, 2007, art. 410 - art. 420.

<sup>1316</sup> UNESCO, *La traite des personnes au Togo: facteurs et recommandations*, 2007, p. 43 ; U.S. Department of State, 2013, p. 363.

<sup>1317</sup> U.S. Department of State, 2013, op .cit., p. 364.

### 4.15.2.3 Emigration

#### 4.15.2.3.1 Labour migration

##### *Identification of countries of destination and assessment of the national labour market*

National authorities are yet to identify competencies that can be promoted abroad, or those for which promotion should not be undertaken, although several projects are currently being implemented or envisioned in this respect. The ILO-led Project for the Support of Employment Promotion and Poverty Reduction (APERP) plans to create an Employment Observatory<sup>1318</sup> and publish a study on national labour market needs. The ICMPD's MIEUX project centres on the institution of an African Employment and Occupations Operational Index,<sup>1319</sup> as well as the identification and assessment of existing and potential new countries of destination.

##### *Recruitment system*

The National Employment Agency is charged with the responsibility of facilitating the placement of workers within the national and the international labour market. To date, its activities have been limited to the former. The MIEUX project has the objective of stimulating its role in the placement of workers abroad. The role which private employment agencies play as intermediaries for employment of Togolese workers abroad is not precisely known. National authorities do not possess the means to regulate and monitor private employment agencies. The legislation in this regard is also limited. The Labour Code simply recognises the possibility for such agencies to operate, although it does not specify whether their role shall be limited to the national labour market or may include placement abroad. It states that agencies may not collect fees from workers<sup>1320</sup> and requires that they communicate "information related to the placements undertaken" to the National Labour Agency.<sup>1321</sup>

In the absence of a licensing system, national authorities cannot ensure in advance that agencies meet minimum criteria to operate in accordance with workers' rights and interests. The capacities to monitor the activities of agencies are subsequently limited. As the provisions of the Labour Code do not permit effective management of the contemporary realities of labour emigration, amendments to the legislation have been drafted and are awaiting validation from the government and adoption by the Parliament.

The Labour Code also specifies that all foreign work contracts shall be approved by the Director of Employment.<sup>1322</sup> No further details are provided, such as, for instance, the conditions a foreign work contract has to meet for its approval. In practice, the means to monitor foreign contracts are limited as private employment agencies operate outside the scrutiny of public authorities and the National Employment Agency is yet to play the role of intermediary for workers seeking employment abroad.

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<sup>1318</sup> *Observatoire de l'emploi.*

<sup>1319</sup> *Répertoire opérationnel africain des métiers et des emplois* or ROAME.

<sup>1320</sup> Labour Code, 2006, art. 197. It must be noted that while the principle of free placement services is conceivable within the domestic market, especially when most private employment agencies are temporary work agencies, it is generally not realistic in the context of labour migration.

<sup>1321</sup> *Ibid.*, art. 198.

<sup>1322</sup> *Ibid.*, art. 45.

#### 4.15.2.3.2 Migration and development

The elaboration of a policy in the field of migration and development in Togo is only at an early stage. Responsibilities in this regard are mainly shared between the Directorate of Togolese Abroad and the unit in charge of the Diaspora Programme, with both being under the authority of the Ministry of Foreign Affairs and Cooperation.

The activities of the Directorate of Togolese Abroad remain limited, although study visits have been organised to Mali and Senegal as well as Europe and the U.S., and NGOs engaged in the mobilisation of the diaspora for the national development have been provided with technical support.

The Diaspora Programme is supported by UNDP and the African Development Bank. Its managing unit is charged with the following responsibilities:

- mobilising diaspora competencies to reinforce national institutional capacities;
- improving the investment climate in Togo;
- developing initiatives with a view to engaging the Togolese diaspora in the economic and social development of the country; and
- facilitating the reintegration of returning migrants.

The unit could eventually be granted more permanent functions and operate under the title 'National Agency for Togolese Abroad'.

A landmark in the elaboration of a migration and development policy was the adoption of a Strategic Plan for the Mobilisation of the Togolese Diaspora<sup>1323</sup> in 2013. The document includes the following proposals:

- the creation of a High Council for Togolese Abroad to formally recognise members of the diaspora as interlocutors of national authorities;<sup>1324</sup>
- the institution of a National Agency for Togolese Abroad in charge of the relationship between the state and the Togolese diaspora;
- the organising of forums of the diaspora on a regular basis;
- the improvement of the channelling of remittances into national development through the creation of an Investment Fund for Togolese Abroad;<sup>1325</sup>
- the encouraging of members of the diaspora to invest in Togo;
- the improvement of public awareness on programmes related to the diaspora;
- the assisting of professional and social reintegration of returning migrants; and
- the development of decentralised cooperation with diaspora members for local development.<sup>1326</sup>

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<sup>1323</sup> *Plan stratégique pour la mobilisation de la diaspora togolaise.*

<sup>1324</sup> *Haut Conseil des Togolais de l'extérieur.*

<sup>1325</sup> *Fond d'investissements des Togolais de l'extérieur.*

<sup>1326</sup> Unité de gestion du Programme Diaspora Togo, Plan stratégique pour la mobilisation de la diaspora togolaise, 2013, p. 42.

#### 4.15.2.3.3 Migrants' protection

##### *Information dissemination*

Togo has yet to organise comprehensive information programmes to provide migrants and potential migrants with information on the different aspects of migration processes and living/working conditions in countries of destination. Some information sharing activities have been organised by a local NGO, Visions Solidaires, which operates a centre called *Maison des citoyens du monde* in Lomé.

##### *Protection in countries of destination*

Protection activities undertaken by diplomatic and consular posts mainly concern child victims of trafficking. Togo has concluded agreements with several ECOWAS Member States, namely Benin, Burkina Faso, Ghana, and Nigeria, to organise cooperation with regard to referral and repatriation.<sup>1327</sup> Repatriated children are reunited with their families and/or benefit from protection measures proposed by shelters.<sup>1328</sup> No specific protection measures have been adopted for adult victims of trafficking.<sup>1329</sup>

##### *Social security agreements*

Togo has signed and ratified the regional social security convention (CIPRES Convention).<sup>1330</sup> At bilateral level, a social security convention was concluded with France in 1971, followed by several protocols and administrative arrangements. The convention does not include coordination provisions regarding medical care. However, under Protocol No. 1, workers can benefit from maintenance of cash payments with regard to medical insurance for a period of six months.

### 4.15.3 International, regional, and bilateral cooperation

#### *International conventions*

Among the most relevant international conventions protecting human rights, Togo has ratified:

- the International Covenant on Civil and Political Rights (1966);
- the International Covenant on Economic, Social and Cultural Rights (1966);
- the Convention on the Elimination of All Forms of Discrimination against Women (1979);
- the Convention on the Rights of the Child (1989);
- 28 ILO Conventions (Togo has ratified one of the two specific ILO conventions on migrant workers: C 143 (1975)); and
- the United Nations Convention against Transnational Organized Crime (2000) and its Protocols on trafficking in persons and smuggling of migrants.

<sup>1327</sup> UNESCO, 2007, op .cit., p. 48.

<sup>1328</sup> See section 4.15.2.3.3.

<sup>1329</sup> See section 4.15.2.2.4. and section 4.15.2.3.3.

<sup>1330</sup> *Convention multilatérale de sécurité sociale de la Conférence interafricaine de la prévoyance sociale.*

Togo has also signed, but not yet ratified, the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990).

In addition to these global conventions, Togo is bound by ECOWAS texts, including its Treaty (1975) and its subsequent protocols regarding free movement of persons, residence and establishment.

#### *Agreements related to the fight against trafficking in persons and smuggling of migrants*

With regard to the fight against transnational organised crime, including the smuggling of migrants, a Memorandum of Understanding was concluded with Ghana in 2009 and a tripartite cooperation organised with Ghana and Burkina Faso in 2011. Togo has also concluded bilateral agreements with Benin, Burkina Faso, Ghana, and Nigeria to coordinate protection of child victims of trafficking and their repatriation.<sup>1331</sup>

#### *Bilateral agreements with France*

Outside West and Central Africa, agreements have been concluded with France. While no bilateral labour agreement has been signed, a social security convention was concluded in 1971,<sup>1332</sup> as well as two agreements related to entry, stay, and residence:

- the 1996 Agreement on circulation and stay of persons<sup>1333</sup> which includes two principal derogations to the common French immigration legislation. It foresees the delivery of the same stay/residence permit to family members in case of family reunification (instead of a temporary stay permit under French administrative law), and the possibility to obtain a 10-year residence permit after three years of stay in the country (instead of five years under French administrative law); and
- the 1996 Convention of establishment which protects investments and property rights of French and Togolese migrants. It also includes some provisions regarding cooperation measures in case of expulsion and return of migrants in an irregular situation.

#### *The Spanish Funds/ECOWAS*

Togo has received assistance from the Spanish Funds/ECOWAS, notably with a view to developing and implementing a migration policy within the Ministry of Women Promotion. The activities of two local NGOs, *Visions Solidaires* and MARS, have also been supported through these funds.

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<sup>1331</sup> UNESCO, 2007, op .cit., p. 48.

<sup>1332</sup> See section 4.15.2.3.3.

<sup>1333</sup> *Convention relative à la circulation et au séjour des personnes.*

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### 4.15.5 List of interlocutors

Name of respondent	Position	Institution
Koutob-Naoto, T.	Judge	Ministry of Justice <sup>1334</sup>
Afokpa, K. V.	Director, International Cooperation, Togolese Abroad	Ministry of Foreign Affairs and Cooperation <sup>1335</sup>
Viagbo, I.	Director of Studies, Research, and Statistics, General Directorate of Labour	Ministry of Labour, Employment, and Social Security <sup>1336</sup>
Doevi, A. D.	Director of Population Planning	Ministry of Planning, Development, and Territory Planning <sup>1337</sup>
Akakpovi, Y.	Director of Passports and Identity Cards	Ministry of Security and Civil Protection <sup>1338</sup>

<sup>1334</sup> *Ministère de la Justice.*

<sup>1335</sup> *Ministère des Affaires étrangères et de la Coopération.*

<sup>1336</sup> *Ministère du Travail, de l'Emploi et de la Sécurité sociale.*

<sup>1337</sup> *Ministère de la Planification, du Développement et de l'Aménagement du territoire.*

<sup>1338</sup> *Ministère la Sécurité et de la Protection civile.*