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## **TOGO: QUIET, THERE'S AN ELECTION !**

The manifest aim of the Togolese government is to bleed the independent press dry and force it out of existence.<sup>1</sup>

### **1. INTRODUCTION**

During the first three months of 2003, as far as Amnesty International knows, no march or meeting organised by the opposition has passed without incident. Some of these gatherings have purely and simply been banned and others have been repressed by the security forces, who have made dozens of arrests. During the same period, two journalists were summoned by the Minister of Communication and Civic Education with the aim of intimidating them; two radio stations were briefly prevented from broadcasting; and the authorities told correspondents of the main international press agencies present in the country (AFP, BBC, Reuters and RFI) that they were suspended until further order. This ban was ended a few days later. These facts clearly illustrate the Togolese authorities' intention to use intimidation and force to silence all dissident voices in the weeks before the presidential election to be held in June 2003.<sup>2</sup>

Since January 2003, Amnesty International has recorded 15 cases of attacks on the freedom of expression in Togo, nine of which occurred in February. That means there was an average of one case of intimidation, arrest or torture of political opponents, journalists or human rights defenders every three days in that month

This new wave of repression at the beginning of 2003 reflects an increase in the number of protests being made by journalists and members of opposition parties

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<sup>1</sup> “*Memorandum sur les crimes contre la presse indépendante au Togo / Memorandum on the crimes against the independent press in Togo*”, published by l'Association togolaise des éditeurs de presse privée (ATEPP), Togolese Association of Private Press Editors, May 2002.

<sup>2</sup> On 10 April 2003, the government issued a decree announcing that the presidential election will be held on 1 June 2003.

after changes to the electoral code and Constitution in 2002. Many Togolese and foreign observers consider that these legislative changes were a manoeuvre aimed at allowing President Eyadéma to be re-elected to the country's highest office, although the President has himself publicly said he would not stand for re-election. Part of the opposition and certain sectors of civil society have clearly affirmed that they will mobilise all their forces against attempts by the regime, which has been in government since 1967, to keep power.

All candidates must officially register their intention to stand for election by 1<sup>st</sup> of May "*at the latest*". At the time of writing, the names of candidates are not yet known and it is not known if the President, Etienne Gnassingbé Eyadéma, will stand for re-election. However, Amnesty International fears that this election campaign, already characterised for some months now by increasing repression of the freedom of expression and freedom to demonstrate, will lead to serious confrontations and human rights violations.

Amnesty International's fears are based on the fact that, for years, each election in Togo has been marked by systematic recourse to intimidation and the violent repression of all criticism. This was especially so at the time of the 1998 presidential election and the October 2002 legislative elections, which were boycotted by most opposition parties.

The increase in the number of attacks on the freedom of expression since the beginning of 2003 illustrates this exacerbation of tension on the eve of elections. This document's objective is not to compile an exhaustive list of the very many attempts to use intimidation, arrests and torture to silence all opposition. It aims to give a few recent examples, in order to show the methods used by the authorities to repress the opposition. It aims to highlight how the situation has deteriorated since the beginning of 2003.

In this electoral year, which is traditionally a troubled period in Togo, Amnesty International appeals to the different Togolese parties and to the international community to do everything possible to avoid a repeat of the unrest suffered by the country in 1998, unrest that could plunge the country into chaos and force the civilian population into exile.

## **2. TENSION INCREASES AS THE 2003 PRESIDENTIAL ELECTION APPROACHES**

The last presidential election, in June 1998, witnessed massive human rights violations, which Amnesty International denounced in a document entitled: *Togo: State of terror* (Index AI : AFR 57/001/1999), published in May 1999. The legislative elections that followed, in March 1999, were boycotted by most opposition parties. Faced with this impasse, the government and all opposition parties agreed to invite “*facilitators to help Togo create the conditions for an objective and constructive dialogue between the country's different political forces*”.<sup>3</sup>

Thanks to mediation by these facilitators, nominated by the European Union (EU), France, Germany and the *Organisation internationale de la Francophonie* (OIF), International Francophone Organisation, a joint document, known as the Lomé Framework Agreement, was signed in July 1999. This agreement highlighted the need for new elections in Togo and specifically stated that “*the President of the Republic has announced his decision to dissolve the National Assembly, in March 2000, as authorised by the Constitution, and, bring forward elections in order to allow the different political currents to be represented in the National Assembly*”.

To ensure total transparency in future elections, the signatories to this agreement agreed to create a “*Commission Electorale Nationale Indépendante (CENI), National Independent Electoral Commission, charged with organising and supervising elections, together with the Ministry of the Interior and other state services*”. The agreement envisaged parity representation of government and opposition parties on the CENI.

The CENI was the key to the successful implementation of the Lomé Framework Agreement and, therefore, to national reconciliation through the ballot box. However, disagreements were quick to arise about the composition and role of this commission. The opposition understood that the CENI would independently conduct and control the whole electoral process and that it would announce the results of the forthcoming election. The government wanted the Ministry of the Interior to be responsible for organising the elections and the constitutional court for announcing the results.

These disagreements lead to delays that prevented implementation of the electoral calendar fixed by the Lomé Framework Agreement. The legislative elections

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<sup>3</sup> See Lomé framework agreement, signed on 29 July 1999.

that had been brought forward were postponed twice. They were called for October 2001, then postponed until March 2002, but only finally took place in October 2002, without the participation of the opposition parties, who boycotted the election.

Several unilateral government decisions, especially the amendment of the electoral code in February 2002, and of the Constitution in December 2002, ended any hope of national dialogue and agreement. Amongst the stumbling blocks that led to the current impasse were:

- The new demand for presidential candidates to have a single nationality and permanent residence in Togo of at least one year. This aimed to prevent the candidacy of one of the main opposition leaders, Gilchrist Olympio, President of the *Union des forces de changement* (UFC), Union of Forces for Change, who has lived in exile since an attempt to assassinate him was made in May 1992.
- The replacement of the CENI, in May 2002, by a college of seven judges nominated by the constitutional court. This decision was taken unilaterally by the then Prime Minister, Agbeyomé Messan Kodjo, and sparked indignation on the part of some opposition parties, given the clear lack of independence of Togolese judges, who are all nominated by the country's political authorities.
- The abolition of the limit of two presidential mandates made by the December 2002 amendment to article 59 of the 1992 Togo Constitution. This article had stated that: "*The President of the Republic is elected by direct universal suffrage for a mandate of five years, and is only eligible for re-election to one further term of office. In no circumstances can anyone exercise more than two mandates*". Under the terms of this article, President Eyadema, elected successively in 1993 and 1998, could not be a candidate. The amendment of this article, in December 2002, made it possible for President Eyadema to run for another term of office.

These various measures provoked protests from several opposition parties, journalists and civil society, who felt these decisions were part of a concerted strategy by the Togolese authorities to block the electoral process envisaged by the Lomé Framework Agreement.

For almost four years, the electoral process provided for in the Lomé Framework Agreement, has been ceaselessly questioned by the various political parties, placing Togo in a state of permanent political confrontation. As in the past,

this tension lead the government to adopt a policy of intimidating and repressing peaceful opposition. This was especially marked during the legislative elections in October 2002 and is being repeated in this election year.

As the presidential election of June 2003 approaches, Amnesty International notes that there has been a disquieting worsening of this repression and fears that there will be a repeat of the massive human rights violations that took place in Togo during previous elections.

### **3. A NEW WAVE OF REPRESSION**

On 18 March 2003, Togolese security forces arrested about 30 people, including one woman and her young child, which she was carrying on her back, all of whom were participating in a weekly meeting of the UFC federation, of the 2<sup>nd</sup> arrondissement of Lomé. This peaceful meeting was being held at the home of this opposition party's local representative.

A few days previously, the authorities banned a march planned for 15 March 2003 by leaders of *Nouvelle dynamique populaire* (NDP), New Popular Dynamic, a movement of young activists from several opposition parties, created in January 2003.

These are just two of the most recent examples of a systematic policy to repress dissidence, instigated by the Togolese authorities at the beginning of the year, following the discontent provoked by the December 2002 amendment to the Constitution.

The authorities have also questioned, detained or tortured more than 30 opponents since January 2003. This shows the persistent nature of the politics of intimidation and repression adopted by the authorities at the beginning of this election year.

#### **3.1 The arrest, intimidation and torture of political opponents**

Seeking to stifle all dissident voices at any price, the Togolese authorities have arrested individuals engaged in distributing pamphlets or suspected of producing them. They have also arrested activists who were peacefully attending the weekly meeting of an opposition party.

Two individuals were arrested in February 2003 at Sokodé, in central Togo, for distributing a pamphlet published by *Quelle solution pour le Togo?*, *Seeking a*

*Solution for Togo?*, a movement created at the beginning of 2002, with the particular aim of drawing attention to the impunity of those guilty of human rights violations. These two individuals, the identity of whom Amnesty International does not want to reveal for security reasons, were arrested on 6 February 2003, after a gendarme saw one of them photocopying one of the movement's pamphlets. They were charged with "disturbing public order". Their case was heard on 26 February 2003 and the court discharged them.

Amnesty International has also received reports of several cases of torture of political opponents, committed since the beginning of 2003 by Togolese security forces. Marc Palanga, President of the UFC federation in Kozah (a constituency in northern Togo), was tortured by members of the Togolese army in February 2003, along with five other members of his party, at the Landja military camp in Kara. The authorities did not give any reason for their arrest and released them, without charge, eight days later, on 17 February 2003.

However, five days later, Marc Palanga was again arrested at Sokodé, in central Togo, where he had gone to receive medical treatment for the torture he had suffered. He was placed under police custody at the Kara police station, and has been secretly detained there since then. No official charges have been made against him. Reports received by Amnesty International indicate that he has been tortured again and that his life is in serious danger.

Another UFC member, Mazama Katassa, is currently secretly detained at the Kara police station. He was arrested on 26 February 2003, at Satoboua, in central Togo. As with the other UFC members mentioned above, no official reason has been given for his arrest.

Amnesty International believes that Marc Palanga and Mazama Katassa were arrested and are detained only because of the peaceful activities they were involved in on behalf of the UFC. The organisation considers them to be prisoners of conscience and requests their immediate and unconditional release.

The repression against opposition political party representatives is not something new. In August 2001, Yawovi Abgoyibo, President of the *Comité d'action pour le renouveau* (CAR) Action Committee for Renewal, was given a six months custodial sentence for "defamation of character" at the end of an unfair trial<sup>4</sup>.

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<sup>4</sup> See especially the Amnesty International press release of 26 November 2001: *Togo : Le Président Eyadéma doit libérer les prisonniers d'opinion Togo / President Eyadéma must release prisoners of conscience*, (Index AI : AFR 57/019/2001)

Similarly, in August 2002, the authorities arrested Claude Améganvi, Co-ordinator of the *Parti des travailleurs* (PT), Workers' Party and *Quelle solution pour le Togo?* Claude Améganvi was arrested by the security forces as he was leaving an interview with the then Minister of the Interior, Security and Decentralisation, Sizing Walla, during which he asked for the release of two teachers, *Quelle solution pour le Togo?* activists, Djoura Tiguéna and Takana Badjessa. These two individuals were arrested in July 2002, for distributing a pamphlet calling on the population to pay homage to the memory of Tavio Amorin, member of the *Haut Conseil de la République* (HCR), High Council of the Republic, an organ elected by the *Conférence Nationale*, National Conference. Tavio Amorin was executed in July 1992, and the assassins remain unpunished to this day. Detained at the Kara civil prison, these two individuals were tried, in the absence of their lawyer, by the court of first instance at Kara, in August 2002, for “*disturbing public order*”, and were sentenced to twelve months imprisonment (ten months suspended).<sup>5</sup>

Claude Améganvi was charged with “*defamation of character*” in September 2002 and sentenced to four months imprisonment. He was accused of sending Julien Ayi, director of the *Nouvel Echo* newspaper, an article that mentioned the Head of State's fortune (see below, section 3.4). Claude Améganvi's sentence was increased on appeal and he was finally given a six months custodial sentence. He was released in February 2003.

### 3.2. Bans on opposition marches and meetings

To Amnesty International's knowledge, no march convened by an opposition party has been authorised since the beginning of 2003.

On 13 January 2003, the *Coalition des forces démocratiques* (CFD), Coalition of Democratic Forces, which at the time brought together the main opposition parties, called a public meeting at the Béni Glato stadium in Lomé to commemorate the 40<sup>th</sup> anniversary of the assassination of Togo's first president, Sylvanus Olympio, killed in January 1963. The opposition has made this date a “*day of national contemplation*” since 1991, although this date is officially considered to be a “*day of national liberation*” because the military group lead by the current president took power on

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<sup>5</sup> See the Amnesty International press release of 12 August 2002: *Togo : Amnesty International demande la libération de Claude Améganvi et deux autres prisonniers d'opinion / Togo : Amnesty International requests the release of Claude Améganvi and two other prisoners of conscience* (Index AI : AFR 57/008/2002).

this date. On 12 January 2003, the day before the CFD meeting, the Ministry of the Interior banned it on the pretext that it could create unrest. The CFD finally decided to cancel the meeting.

On 25 January 2003, the Togolese authorities banned a day of prayer for peace in Togo, organised by CAR, that was to be held at the Pius XII centre. There was no court or administrative order banning this event but it was made impossible by the presence of armed security forces, who occupied the venue in the morning in order to prevent access to those wanting to participate in the event. In order to avoid disturbances, CAR leaders decided to ask participants to withdraw to the party's headquarters, where the day of prayer was finally able to take place.

On 22 February 2003, NDP leaders organised a march in Lomé, to protest against the amendment to the Constitution made in December 2002, which abolished the limitation of presidential mandates to a maximum of two. The NDP demanded the restoration of the electoral code, which had initially been prepared by consensus in April 2000. The demonstrators also demanded a solution to the crisis in Togo. Here again, on the eve of the event, the security forces occupied the venue where the meeting was to be held. Demonstrators were brutally dispersed by gendarmes and police using truncheons. Several people were injured, some of them seriously. The NDP had informed the Minister of the Interior, at least ten days in advance, of its intention to organise this demonstration and the Ministry had said nothing. It was only at the event itself that the security forces warned the NDP leaders that the march had been banned.

Since its creation in January 2003, the NDP has been a target for intimidation by the authorities. Its President, Gilbert Atsu, and other members of the NDP executive, were summoned by the information services for a morality investigation. Police officers searched the homes of NDP leaders and their meeting places, apparently to verify whether they were in possession of arms. The executive members were then taken to police stations where their finger prints were taken.

The authorities banned another NDP attempt to organise a rally on 15 March 2003. The aim of this march was to protest against the fact that the authorities were allowing demonstrations organised by groups and parties that supported the government, while refusing opposition supporters the right to demonstrate and the right of assembly. The march was banned by the Minister of the Interior, apparently on the grounds that he had not approved the new organisation and it was not therefore allowed to organise activities. NDP leaders wrote to the Minister of the Interior to put their case but the Minister confirmed the ban on the meeting. The demonstration was

maintained but faced with the deployment of the security forces on the eve of the event, the NDP leaders asked demonstrators to disperse calmly.

Another opposition meeting was banned in March 2003, leading to unrest and arrests. On 8 March 2003, in Lomé, the Togolese security forces forcibly prevented access to a room where an “*informal debate*” had been organised by the UFC. A few hours before this meeting was due to begin, the security forces occupied the premises and closed off all surrounding roads giving access to the meeting place. When the opposition party leaders arrived, the security forces told them the meeting had been banned, even though there is no legal provision regulating this type of gathering. A disturbance broke out and the security forces violently dispersed UFC supporters using truncheons and teargas, and arresting several individuals, who were finally released after two days in police custody.

The security forces also forcibly repressed the weekly meeting of a local group of the UFC federation in the 2<sup>nd</sup> arrondissement in Lomé, which was being held at the home of one of the local party leaders. On the evening of 18 March 2003, at approximately 20.00 hours, about 30 people were arrested by the security forces as they were participating in this meeting. This group, which included at least one woman, who was carrying her young child on her back, were taken to the national police station. According to witnesses, all the men were detained in a cell measuring approximately ten square metres and apparently received no food or water. The following morning, the detainees were taken to their homes where the security forces carried out a search. They were all released, without charge, on 19 March 2003, towards 22.00 hours. No official reason was given for their arrest.

These examples of bans on demonstrations and meetings by opposition supporters during the first three months of 2003 clearly show the authorities' intention to prevent any criticism of the government in the run-up to the presidential election of June 2003.

This systematic recourse to repression was highlighted in November 2002 by the United Nations Human Rights Committee, which stated that it was “*concerned at reports that peaceful demonstrations organised by civil society are regularly prohibited and violently dispersed by the authorities, while marches in support of the President of the Republic are regularly organised by the authorities.*”<sup>6</sup>

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<sup>6</sup>UN Document CCPR/CO/76/TGO

The fears expressed by this United Nations agency are particularly relevant in the context of events in the first months of 2003 when, as we have seen, all peaceful opposition demonstrations have been systematically banned or repressed.

### **3.3 Intimidation of human rights defenders and members of civil society**

In February 2003, l'Action des chrétiens pour l'abolition de la torture au Togo (ACAT-Togo), Christian Action to Abolish Torture in Togo, was the target for intimidation, following the publication of its report on the human rights situation in the country. The report denounced attacks on the freedom of expression and stated: "*in Togo, government intimidation has muzzled the public, which, for fear of reprisals, dare not speak publicly on political issues for fear of getting into trouble. Even journalists, whose job it is to inform the public and make a critical analysis of what is going on in the country, are frequently intimidated, harassed and arrested while carrying out their work*".

This document was distributed to members of the European Parliament who were due to participate, several days later, in "*an exchange of views on the human rights situation*" with Togolese authorities in Brussels, in the presence of ACAT representatives. A few days before this meeting in Brussels, which took place on 19 February 2003, the President of ACAT-Togo, Yannick Bigah, was summoned by the Minister of Justice, who received him in the presence of the Minister of the Interior. These two ministers demanded an explanation of the report. During their interview, Yannick Bigah was threatened with legal proceedings, and was accused of having written a defamatory political document and of using human rights for political ends. On the same day, the President of ACAT-Togo was summoned to meet the Head of State, Gnassingbé Eyadéma.

Fearing for his safety, Yannick Bigah fled the country. Other members of ACAT-Togo, who have since received anonymous calls and been followed by unidentified people, have also had to go into exile. In addition to this intimidation, in the days following the Brussels meeting, ACAT-Togo was attacked by the national media, which sought to discredit this organisation. It was not the first time that the Togolese authorities have attacked ACAT-Togo members. In 1999, the then President of ACAT-Togo, Arsène Bolouvi, had to flee the country because he was suspected of providing information to Amnesty International for its report: *Togo : State of Terror*.

Even when members of Togolese civil society, concerned for the country's political situation in the run-up to the presidential election in 2003, tried to meet outside Togo, the Togolese authorities sought to prevent the meeting. Towards the

middle of March 2003, the Togo government refused to sign an agreement, through which the European Union agreed to fund a meeting of several Togolese associations in Dakar, on the grounds that this type of consultation should be held in Togo. The objective of the meeting in Senegal was to discuss “*the contribution of civil society and the Diaspora to building democracy, and to the rehabilitation and development of Togo*”.

The Togolese government also seems to have put pressure on the Senegalese authorities to stop this meeting. On 17 March 2003, two days before the start of the conference, the Senegalese Ministry of the Interior summoned Alioune Tine, the general secretary of the Senegalese organisation, la *Rencontre africaine pour la défense des droits de l'homme* (RADDHO), African Meeting for the Defence of Human Rights, which was supporting the initiative. Alioune Tine was told that the Senegalese government did not want the meeting held in Dakar. The next day, the coordinator of the conference, Daniel Komlan, a Togolese citizen, was taken in for questioning and kept in police custody for several hours. However, faced with the mobilisation of Senegalese civil society, the meeting was finally able to take place.

### 3. 4 Muzzling the media

Togolese journalists and media who have maintained an independent stance since the signature of the Lomé Framework Agreement in 1999, have been intimidated, arrested and banned for commenting on the political dissension about the electoral process.

On 17 January 2003, Abass Saïbou, director of the weekly publication *Le Regard*, was summoned by the Minister of Communications after publication of an article mentioning a meeting between the Minister of Communication and his press colleagues, in which the case of the journalist and director of *Courrier du citoyen*, Sylvestre Nicoué<sup>7</sup>, arrested in December 2002, was discussed. Two weeks later, on 3 February 2003, Abass Saïbou was again summoned, this time by the Director of Public Security, about an article which quoted comments made to him by the Minister of Communication, Pitang Tchalla, at a meeting on 17 January 2003, where officials of the *Haute Autorité de l'Audiovisuel et de la Communication* (HAAC), High Audio-Visual and Communication Authority were also present. The Minister was said to have admonished him for refusing to associate himself with a new government initiative seeking closer relations with the media and was said to have threatened him.

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<sup>7</sup> At the end of 2002, Sylvestre Nicoué, journalist at the *Courrier du citoyen*, published an article entitled “*Empêcher Eyadéma de gouverner / Stop Eyadéma from Governing*”. Sylvestre Nicoué is still detained as this document goes to press. Amnesty International asked the authorities why he had been detained but has not so far received a reply.

The Minister claimed this article was defamatory. To the knowledge of Amnesty International, no legal proceedings have been taken in this affair.

In this pre-electoral period, the Togolese authorities seem particularly concerned to control all information that could harm their image. In March 2003, a Togolese journalist confided to Amnesty International that “*hardly a week goes by without the Minister of Communication summoning a journalist to ask for an explanation about an article*”.

A few days later, Amnesty International learned of another example of harassment of journalists. On 27 March 2003, Basile Agboh, Director of the weekly *Akéklé-Scorpion*, was summoned by the Minister of Communication for publishing an insert which mentioned the “*suspension until further notice*” of international media correspondents in Togo (AFP, BBC, Reuters and RFI). This suspension was said to have been imposed because of official discontent at the fact that these journalists had not covered the forum on elections in Africa organised in Lomé a few days earlier.

To Amnesty International’s knowledge, the international media correspondents in Togo were only verbally suspended by the Minister of Communication, who maintained the suspension informally until the beginning of April 2003.

Radio France Internationale (RFI) had already been censored a few months earlier, in September 2002, when the authorities jammed the radio station for broadcasting an interview with the former Togolese Prime Minister, Agbéyomé Messan Kodjo. The latter resigned in a storm and denounced the government’s authoritarian practices in a written declaration entitled “*Il est temps d’espérer / It is time to hope*”. It was only in February 2003 that RFI was once again able to broadcast on FM in Togo.

During the first three months of 2003, two private radio stations were also temporarily prevented from broadcasting. On 28 February 2003, the authorities closed down *Tropik FM* to prevent the broadcast of a political debate on: “*The Presidential Election: participation or boycott?*” Two weeks later, the radio station was authorised to broadcast again.

This ban on *Tropik FM* may have been relatively short, but another private radio station *Radio Victoire* has been banned for more than a year. It was forced to cease broadcasting in February 2002 and has had its broadcasting equipment confiscated. HAAC considered its programmes to be “*controversial, leading their*

presenters to make impassioned and defamatory comments, discrediting the constitutional and administrative authorities". *Radio Victoire* had still not received authorisation to restart broadcasts at the end of April, when this report was published.

In another case, the director of a church radio station, *Radio Maria*, was summoned by HAAC on 4 April 2003 for having broadcast on several occasions a bishop's letter regretting that "*the anticipated legislative elections [had] been organised unilaterally on 27 October 2002, and [that] far from being a solution, they [had] further exacerbated the political crisis*". The letter also criticised changes to the electoral system, which the bishop said had removed "*all CENI's independence, and therefore all its credibility*". HAAC officials protested against the repeated broadcast of this message by *Radio Maria*, but to this day, to Amnesty International's knowledge, it has not been a target for further intimidation.

More generally, during recent years, the authorities have constantly and persistently repressed or intimidated independent journalists who refuse to follow the government's political line.<sup>8</sup> This repression has been accompanied by a gradual intensification of the legal arsenal trained on the media. Several changes to the Press and Communications Code have been adopted since 2000, introducing more severe penalties for journalists and, consequently, further restricting the media. In November 2002, the United Nations Human Rights Committee expressed concern about these changes in the Code and found "*that the Press and Broadcasting Code had been amended over the past two years in a particularly repressive spirit*".<sup>9</sup>

While the Press Code initially adopted in 1998 only allowed suspended sentences for offences against institutions and persons (for example, in the case of defamation of character of public figures), the amendment made in February 2000 introduced custodial sentences for this type of offence.

In September 2002, Parliament further increased the sentences. For example, the prison sentence for defamation of the President of the Republic increased from six months (in 2000) to "*between one (1) and five (5) years, with no suspended sentences*".

The Press Code was also amended to include "*the suspension of publication for between one (1) and three (3) months*" for this same offence. This penalty was

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<sup>8</sup> See appendix, which is a non-exhaustive list of attacks on the freedom of the press since the beginning of 2002.

<sup>9</sup> Final observations of the Human Rights Committee on Togo, CCPR/CO/76/TGO, 11 November 2002

also extended to other media in September 2002 and therefore also includes suspension “of audio-visual communication for between one (1) and three (3) months”. This illustrates how each change in the Press Code increased the repressive power accorded to the authorities, increasing penalties and extending them to other media.

It was in this same spirit that the first changes to the Press Code, in February 2000, introduced new measures giving the Minister of the Interior the power to impose “administrative sanctions” and allowing him to seize newspaper editions simply by decree. This power of seizure by decree is in total contradiction with the Togolese Constitution, which states that “the distribution of any publication can only be banned by a judicial decision” (Article 26).

The September 2002 change in the Code further broadened the powers of seizure accorded to the Minister of the Interior. The power of seizure was extended to “the distribution or publication of false information, with the manifest aim of manipulating minds or distorting information”, a definition open to very broad interpretation and that could lead to a drift towards repression.

In addition to this legal arsenal, the authorities have also used the Penal Code to charge and, at times, convict journalists. For example, in June 2002, Basile Agboh and Maurice Atchinou, director and editor respectively of the weekly *Akéklé-Scorpion*, were arrested by the security forces. They had published an article reporting that the son of the Head of State, Ernest Gnassingbé, had issued death threats to the then Togolese Prime Minister, Agbéyomé Kodjo. Ernest Gnassingbé lodged a complaint against the newspaper for “defamation of character”<sup>10</sup>. The security forces were also looking for the director of *le Tambour*, Eric Johnson, who also published an article on this subject, but, to Amnesty International’s knowledge, this person has not been troubled further.

The authorities have even sentenced journalists to custodial sentences. In September 2002, two journalists, Julien Ayi, director and Névamé Klu, editor of the weekly *Nouvel Echo*, were convicted for “defamation of character”, after publishing an article about the alleged fortune of the Head of State. Julien Ayi received a four

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<sup>10</sup> Maurice Atchinou was released on the day after his arrest. Basile Agboh was charged with “the publication of false information and deformation of character” and held at the civil prison in Lomé. He was provisionally released after more than two months in detention. See the Amnesty International press release published on 7 June 2002: *Togo: Nouvelles attaques contre la liberté de la presse / New attacks on the freedom of the press* (AI Index AFR 57/007/2002)

month custodial sentence, increased to six months on appeal. Névamé Klu was sentenced in his absence to six months imprisonment.

Amnesty International is concerned about the recourse to custodial sentences for journalists who have done no more than peacefully exercise their right to freedom of expression. Meanwhile, in his January 2000 report, the United Nations special rapporteur for the promotion and protection of the right to freedom of opinion and expression had the occasion to point out that “*imprisonment as punishment for the peaceful expression of an opinion constitutes a serious violation of human rights*”.<sup>11</sup>

The authorities have also put pressure on publishers that are close to the government. On 24 July 2002, Apollinaire Mewenemesse, former director of the weekly *La Dépêche*, a newspaper close to the government, was arrested in Kara and taken to the national police station in Lomé where he was interrogated by the Minister of the Interior and the head of police. They wanted details of an article that appeared in his former newspaper, entitled: “*Deputy Péré frustrates a conspiracy implicating him in preparations for a coup d'état in Togo*”.<sup>12</sup> The Togolese authorities were apparently unaware that M. Mewenemesse was no longer the director of this newspaper and they released him without charge on 27 July 2002, although they insisted that he find the current director of *La Dépêche*. Amnesty International has no knowledge of any further developments in this affair.

This persistent intimidation of journalists has been denounced by the *Association togolaise des éditeurs de presse privée* (ATEPP), Togolese Association of Private Press Editors, which, in May 2002, on the international day of the freedom of the press, published a “*Memorandum on the crimes against the independent press in Togo*”:

*“The Togolese authorities do not hesitate to harass and verbally threaten the directors of the independent press, who they sometimes instruct to deny the truth, reveal the sources of their information and, sometimes, force them to ignore ethical rules”.*

With regard to censorship, the authorities have to a large extent resorted to seizing editions of newspapers by administrative decree. This practice was greatly facilitated by the two changes made to the Press Code in February 2000 and

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<sup>11</sup> UN Doc E/CN.4/2000/63, 18 January 2000

<sup>12</sup> In April 2002, Maurice Dahuku Péré, deputy and member of the central committee of the governing party, *Rassemblement du Peuple togolais* (RPT), Togolese People's Rally, criticised the practices of his party and called for a change in the mentality of the political class.

September 2002, which allowed the Minister of the Interior to issue such decrees at his discretion, providing a quick and effective way of muzzling the media.

In their Memorandum of May 2002, ATEPP said that since the change in the Press Code in February 2002, “*the Minister of the Interior has ordered twenty four (24) seizures of publications*”.

Amnesty International has recorded a dozen cases since the beginning of 2002. In only one month, April 2002, the organisation counted seven such seizures. These newspapers were seized because they discussed the human rights situation in Togo. The 4 April 2002 edition of the *Tribune du Peuple* was seized because it published the story of someone who had been tortured by the security forces. Four editions of newspapers were seized in the days and weeks that followed, purely because they reported on the letter written by the former President of the National Assembly, Maurice Dahuku Péré, criticising the internal functioning of the government party.

On the morning of 18 November 2002, and on the orders of the Minister of the Interior, members of the security forces went to the printers where the weekly *Motion d'Information* was being produced and seized the edition before it could be put on sale. The three previous editions of this newspaper were also seized in the same way. It seems that the authorities were especially angry with this newspaper for publishing an article entitled “*En attendant le vote des bêtes sauvages / Waiting for the wild animals to vote*”, which criticised the way the last legislative elections were handled.<sup>13</sup>

These seizures lead to the arrest of some individuals in charge of the distribution of newspapers. In April 2002, two individuals were arrested while distributing copies of the newspaper *Le Regard*, in which the decision of the United Nations Commission to halt investigation of Togo under the terms of confidential procedure 1503 was criticised.

In their desire to control all opinion that they consider does not conform to their views, the authorities have also censored Internet sites by preventing access to them from Togo. This measure seems to have been taken for the first time in

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<sup>13</sup> The title of this article refers to the famous novel written by the Côte d'Ivoire writer, Ahmadou Kourouma, who portrays an imaginary dictator-president, whose *griot* (travelling poet and musician) predicts an election victory in the following terms : “*You will ask for a new mandate, in the certainty you will triumph and be re-elected. For you know, and you are sure that if, by chance, the people refuse to vote for you, the animals will come out of the bush, arm themselves with bulletins and will elect you with a huge majority.*” Ahmadou Kourouma “*En attendant le vol des bêtes sauvages / Waiting for the wild animals to vote*”, Paris, Editions du Seuil, 1998, p.358.

September 2002, when the information site *letogolais.com* published an interview with the former Prime Minister, Agbéyomé Kodjo, now in exile, who criticised the government in Togo. The authorities also prevented access from Togo to other sites, including that of the UFC.

#### **4. Conclusion**

Conscious of the fact that the unilateral changes to the electoral code and Constitution have provoked very strong dissatisfaction within opposition political parties and large sectors of civil society, including the episcopate, the Togolese authorities seem to have decided to clamp down on any criticism of the government. Constantly on the alert, the authorities have established a thought police, which monitors every stage in the emergence of dissident opinion, whether this is expressed by political parties or associations, or in the columns of newspapers, on the radio or even on the internet.

Opposition party activists, human rights defenders, members of civil society, journalists, printers, pamphlet and newspaper distributors, anybody in Togo or even abroad, as we have seen in the case of the planned March 2003 Dakar meeting, cannot express a dissident opinion for fear of reprisals or intimidation.

More than ten years after the holding of a national conference that was supposed to herald the advent of democracy and respect for human rights, the Togolese population, burdened by economic destitution, are witness to incessant power struggles and a series of unpunished crimes. The outcome of the presidential election is of capital importance. If all political opinions are not allowed to express themselves freely, as is strongly feared, given the intensified repression since the beginning of 2003, there is a major risk of seeing unrest that could once again cause a bloodbath in the country. In this context, the international community, especially France, has a big responsibility. Pressure needs to be put on all parties taking part in the presidential election to respect human rights. If this does not happen, the country could descend into chaos.

#### **5. Recommendations**

##### **5.1 To the Togolese authorities**

- Immediately and unconditionally release all prisoners of conscience, including Marc Palanga and Mazama Katassa;

- Immediately end torture in the country in accordance with the United Nations Convention Against Torture, to which Togo is a signatory, and, in particular, implement the United Nations Human Rights Committee recommendation: “regular and specific training should be conducted with a view to combating torture and inhuman and degrading treatment” (final observations of the UN report, November 2002);
- Open an impartial, independent and exhaustive inquiry into allegations of torture perpetrated by Togolese security forces and bring the people responsible to justice;
- Put an end to all intimidation, harassment and threats against journalists, and bring the Press and Communications Code into line with article 19 of the International Pact on Civil and Political Rights (PCPR) and the Togo Constitution;
- Ensure that human rights defenders in Togo, especially members of ACAT-Togo, are able to work without fear of arrest or intimidation, in accordance with the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society, and promote and protect the universally recognised fundamental rights and freedoms adopted by the General Assembly of the United Nations on 10 December 1998;
- Implement the recommendations of the Human Rights Committee set out in the final observations of its November 2002 report. These recommend that the Togolese authorities “ensure the safety of all member of civil society, particularly the members of the opposition, during the forthcoming elections”.
- Re-establish the right to peaceful assembly and guarantee that right, in practice, and without abusive restrictions, in accordance with article 21 of the Pact.

## 5.2 To the international community

- Put pressure on the Togolese authorities to immediately and unconditionally release prisoners of conscience, cease torture and respect their international commitments with regard to combating torture;

- Put pressure on the Togolese authorities to cease restrictions on the freedom of expression, guarantee the unrestricted exercise of the freedom of peaceful assembly and allow free and equal access to the national media for all parties in the election;
- Request the European Union, the *Organisation Internationale de la Francophonie*, International Francophone Organisations and others to help the Togolese authorities bring the Press and Communications Code into line with international standards;
- Highlight, during contacts with Togolese authorities, the need to guarantee the security of human rights defenders, including members of ACAT-Togo, and to ensure that human rights defenders in Togo can work without hindrance or fear of arrest or intimidation;
- Ask the European Union, through its representatives in third party countries, to give particular attention to the security of human rights defenders in Togo;
- Ask the European Union and others to create an effective system for the temporary and permanent protection of human rights defenders threatened with human rights violations in their country of origin or in neighbouring countries.

**Appendix** : Attacks on the media since 2002

5 February 2002	<b>Radio Victoire</b>	Closed by order of HAAC, for refusing to interrupt two broadcasts of a debate open to listeners.
25 February	<b>Radio Lomé</b>	A journalist suspended following a broadcast that reported the slogans on placards held at a demonstration.
4 April	<b>Tribune du Peuple</b>	Edition seized for publishing the story of a person tortured by the security forces.
8 April	<b>Motion d'information</b>	Edition seized for publishing an article about students who fled to Benin after receiving threats in Togo.
9 April	<b>Le Regard</b>	Edition seized for publishing an article criticising the decision of the United Nations Human Rights Commission to halt the investigation of Togo under the terms of confidential procedure 1503. Abass Saïbou, director, had to go into hiding. Two distributors arrested and detained for a brief period.
9 April	<b>Tribune du Peuple</b>	Edition seized for publishing an article about a meeting held by the Head of State.
16 April	<b>Le Regard</b>	Edition seized for publishing an article reporting on the declaration by Maurice Dahuku Péré, deputy, then member of the Central Committee of the governing party, the RPT, and former President of the National Assembly, who criticised RPT methods and called for a change in the mentality of the political class.
22 April	<b>Combat du Peuple</b>	Edition seized for reporting the declaration by Maurice Dahuku Péré.
22 April	<b>Motion d'Information</b>	Edition seized for reporting the declaration by Maurice Dahuku Péré.
5 June	<b>Akéklé-Scorpion</b>	Basile Agboh, director and Maurice Atchinou, editor, arrested. Basile Agboh was charged with " <i>the publication of false information and defamation of character</i> ", after publishing an article stating that one of the Head of State's

		sons had allegedly issued death threats to the then Togolese Prime Minister, Agbeyomé Messan Kodjo.
5 June	<b>Le Tambour</b>	Eric Johnson, director, sought by the security forces for publishing the same information.
24 July	<b>La Dépêche</b>	Appolinaire Esso-we Mewénémessé, Former director, arrested because his former newspaper published an article entitled: <i>“Deputy Péré frustrates a conspiracy implicating him in preparations for a coup d’état in Togo”</i> . Appolinaire Esso-we Mewénémessé was released three days later.
24 July	<b>Radio Nana FM</b>	Director summoned after broadcasting a programme on sexual education. The broadcast was suspended.
2 August	<b>Agoo Na Mi</b>	Edition containing an article on the alleged fortune of President Eyadéma seized. The government lodged a complaint about the <i>“broadcast of untrue news”</i> .
3 August	<b>Nouvel Echo</b>	Edition containing an article on the alleged fortune of President Eyadéma seized. The government lodged a complaint about the <i>“broadcast of untrue news”</i> .
6 August	<b>Nouvel Echo</b>	Julien Ayi, director, arrested because his newspaper referred to the alleged fortune of President Eyadéma.  The security forces also sought to arrest Névamé Klu, the newspaper’s editor.
12 September	<b>Nouvel Echo</b>	Julien Ayi sentenced to four months imprisonment for <i>“defamation of character”</i> .  Névamé Klu sentenced, in his absence, to six months imprisonment for <i>“defamation of character”</i> .
21 October	<b>Motion d’information</b>	Edition seized for publishing an article entitled <i>“Waiting for the wild animals to vote”</i> .

5 November	<b>Tribune du Peuple</b>	Siliadin Kodjo, editor, arrested for denouncing the ban on the opposition demonstration planned for 28 September. Released later the same day after the intervention of newspaper editors.
5 December	<b>Nouvel Echo</b>	After appeal, Julien Ayi's sentence increased to six months imprisonment.
26 December	<b>Courrier du citoyen</b>	Sylvestre Nicoué, director, arrested for publishing an article titled " <i>Empêcher Eyadéma de gouverner / Stop Eyadéma from governing</i> ". Still in detention as this report goes to press.
17 January 2003	<b>Le Regard</b>	Abass Saibou, director, summoned by the Minister of Communication for publishing an article about a press meeting convened by the minister.
30 January	<b>Nana FM</b>	Transmitter seized by the security forces without any apparent motive.
2 February	<b>Le Regard</b>	Abass Saibou, director, summoned by the Director of Public Security for publishing an article which the Minister of Communication claimed was defamatory.
28 February	<b>Tropik FM</b>	Radio closed by order of HAAC on the eve of a debate on: " <i>Presidential election : participation or boycott</i> ". Authorised to resume broadcasting two weeks later.
25 March	<b>AFP, RFI, Reuters, BBC</b>	AFP, RFI, BBC and Reuters correspondents suspended until further notice by the Minister of Communication, who admonished them for not having covered a forum held in Lomé on the democratic process in Africa. Suspension lifted verbally a few days later.
27 March	<b>Crocodile</b>	Francis Amuzun, director, summoned by the Minister of Communication after publishing an article mentioning the suspension of the foreign correspondents. After keeping Agboh waiting for two hours, the Minister left without receiving him.
4 April	<b>Radio Maria</b>	Director summoned by HAAC, which admonished him for having broadcast several

		times a bishop's letter criticising recent changes in the electoral code.
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