

## Togolese Republic

(*République Togolaise*)



**Capital:** Lomé

**Inhabitants:** 5.700.000 (2005)

**Area:** 56.785 km<sup>2</sup>

### 1. Introduction



Togo is a West African nation. It has international borders with Burkina Faso in the north, Benin in the east, the Atlantic Ocean (Gulf of Guinea) to the south and Ghana to the West. Southern Togo is characterised by a low and narrow coastal strip of land and interior lagoons. The country covers a surface area of 56,790 km<sup>2</sup> and has 6,150,000 inhabitants.

The current decentralisation process started in 1991 when the transitional government of the High Commission of the Republic decided to address the country's political problems and budgetary constraints with a liberally-inspired project combining privatisation, decentralisation and the opening of new democratic spaces. To achieve this, the country created a Ministry of Decentralisation at the same time as it passed laws on decentralisation and constitutional reform in October 1992.

The Constitution of the 4<sup>th</sup> Republic, adopted on 14 October 1992, is the

principle founding text for decentralisation in Togo. It breaks with the age-old tradition of strong State centralisation. Indeed, Chapter XII, relating to Local Authorities and Traditional Chieftainship, organises the country into local authorities on the basis of decentralisation whilst respecting national unity. It also allows local authorities to freely administer themselves through councils elected by universal suffrage, under the conditions laid down by the law. It recognizes three levels of decentralisation, including municipalities, prefectures, and regions. Only municipalities have actually been created, but their actions are proving difficult to implement, whilst the other local authorities (prefectures and regions) have yet to come into existence.

### 2. Territorial structure

The territorial division in Togo consists of municipalities, prefectures and regions. The administrative and territorial organisation of Togo has always been known for its stability, but this stability has not encouraged the implementation of all the institutions created since 1981. Notably, the municipalities (and to a greater degree, the prefectures) have never been able to freely manage themselves; that is to say, to enjoy effective autonomy.



Article 2 of Law No. 2007-011 of 13 March 2007 provides that:

"The national territory is divided into local authorities, each of which possesses legal status and financial autonomy.

The local authorities are:

- The Municipality;
- The Prefecture;
- The Region."

In Togo, there are:

21 urban municipalities  
333 rural municipalities,  
30 prefectural councils,  
5 regional councils.

The municipality of Lomé has a particular status with urban subdivisions (*arrondissements*) that enjoy autonomy of management and are administered by urban subdivision mayors, who are also deputies to the Mayor of the city of Lomé.

All of these constituencies are local authorities and administrative constituencies of State authorities; the municipality is only the headquarters of a local authority. For the municipalities we distinguish between rural and urban municipalities. Urban municipalities are made up of urban subdivisions and are home to the prefectures. The 1998 Law bringing decentralisation to Togo used this division to decide on the number of local authorities.

There are no determining criteria for rural municipalities. All the main prefectures are located in urban municipalities. Lomé, the capital, is governed by a particular status. However, the text relating to this status has still not been adopted. The law makes the transition from rural to urban status dependent on local development efforts. Rural municipalities are usually made up of villages. However, the absence of pertinent criteria for their creation means that none exist to date. Prefectures are divided into municipalities. The 5 regions consist of 30 prefectures following a pre-electoral distribution.

### 3. Institutions

The Constitution states that local authorities are freely administered by elected councillors under the conditions established by law. On this basis, local councils in Togo are elected by direct universal suffrage.

In theory, local elections are multi-party. The Law of 1998 relating to decentralisation states that regional, municipal and prefectural councils must be made up of members elected by the populations of the jurisdictions in question. Only the method for electing regional councillors is specified. The law requires them to be elected by proportional ballot. However it says nothing about the method for electing municipal councillors and councillors of prefectures.

Table 1: Administrative organisation and decentralisation

| Territorial division |       |     |                |                |                     |                  |                              |
|----------------------|-------|-----|----------------|----------------|---------------------|------------------|------------------------------|
| Category             |       | No. | Local<br>Auth. | Adm.<br>Const. | Deliberative body   | Executive body   | Trustee/<br>decentr.<br>body |
| Region               |       | 5   | Yes            | Yes            | Regional council    | Executive office | Governor                     |
| Prefecture           |       | 30  | Yes            | Yes            | Prefectural council | Executive office | Prefect                      |
| Municipalities       | Rural | 333 | Yes            | No             | Municipal council   | Mayor            | Prefect                      |
|                      | Urban | 21  | Yes            | No             | Municipal council   | Mayor            | Prefect                      |



Yet since the Law of 1998 was adopted, there has never been a local election which would enable a measurement of the difference between theory and practice. Municipal councillors elected since 1987 were replaced in 2001. In fact, the Law of 1998 was modified to create special delegations for municipalities. These special delegations consist of 11 people designated by the Head of State. They are charged with managing the daily business of the municipality until new elections are held.

The other extreme of Togolese government policy concerns traditional institutions. Their integration into the administrative and political systems in Togo seems to correspond to an acceptance of the legitimacy of traditional power at the local level.

#### 4. Relations between central and local authorities

The Constitution designates municipalities, prefectures and regions when referring to local authorities.

The Ministry of Decentralisation exerts strong trusteeship over local levels of government. The new legislation established a system of *a posteriori* control over the actions of local authorities by the administrative jurisdiction. Of course, the State's trusteeship is still present (the prefect for the prefectures and the municipalities, the governor for the regions), but its control is limited to verifying that the local action is legal and if this is not the case, referring it to a formal review judge.

When we consider that since Togo acceded to independence in 1960, the administrative jurisdiction has barely functioned, we can wonder before which court the formal review should be

presented. Bear in mind that in addition, local elections have not been held and that the municipalities are administered by special delegations named by the central authority.

#### 5. Financing for local authorities

Local taxation is relatively varied according to the law: it consists of taxes and local duties created by the law, whose rates are set by local councils subject to the approval of the trustee authority, within the upper limit fixed by the finance law.

On the other hand, local authorities can neither create, nor freely set the amount of taxes and local duties, and they have only slight involvement in the process of registering all taxable persons and materials, and in tax collection. It is primarily the General Directorate of Taxes that controls the entire fiscal chain.

However, where specific taxable activities take place in the municipality, prefecture or region, the local council can, by deliberation, create the taxes and duties that relate to it, subject to the approval of the trusteeship authority.

The law provides local authorities with their own budgets implemented by their executive bodies. The legislature defines the local budget as being the act by which all the resources and costs of local authorities are covered. It obeys the general principles of budgetary law, notably yearly recurrence, unity, universality and the speciality of credits.

However, in reality, since 2001 the resources of Togolese municipalities have been in regression. The municipality of Lomé is particularly affected by this situation as it mobilises more than 70% of municipal resources. The result of this regression is an operating deficit. In 2003,



the operational expenditure of the municipality of Lomé stood at 2.45 billion whereas its income is 2.05 billion, giving a deficit of 404 million. In 2004, total operating costs stood at 2.15 billion whereas it had raised resources of 1.9 billion. Thus, for the second consecutive time, the capital registered an operating deficit of 13%. Other municipalities spend beyond their means, and in some cases the deficit recorded is very significant, such as Badou and Bassar, whose operating costs exceed their resources by 65% and 34%, respectively.

State subsidies to local authorities are constantly shrinking, a phenomenon which affects investment levels. Only Lomé, and a few other municipalities on an exceptional basis, continue to receive subsidies, and they are proportionally much lower than in the past.

In 2003, the municipality of Lomé had no investment resources and did not build any installations. Total investment spending by the municipalities amounts to 50 million.

In 2004, the local authorities raised 363 million in investment resources, 89% of which was destined for the municipality of Lomé. But the capital uses only 27% of this investment capacity. This situation is due to the municipality's operating deficit.

In the absence of State subsidies, the municipalities are turning to the private sector. Economic operators implanted in the municipalities provide them with substantial support. Their activities are varied. Some help with road surfacing, invest in the implantation of bus stations and in the modernisation of Lomé International Airport. In the same way, the support of the World Bank is quite remarkable. The World Bank and private companies facilitated the creation of an agency for market management (*Etablissement Public Autonome des*

*Marchés de Lomé – EPAM*), an experiment which will be extended to other towns in Togo. Through a partnership with the Chamber of Commerce and Industry of Togo (CCIT) and the Regional Solidarity Bank (BRS), the municipality of Lomé organises information and awareness-raising workshops demonstrating all the advantages of creating a business. The UNDP supports the Togolese government in the process of preparing the Poverty Reduction Strategy Papers (PRSP), which is part of the HIPC (Heavily Indebted Poor Countries) initiative. It is preparing Togo to benefit from the additional poverty fighting resources that it will eventually receive. The intervention of the UNDP in Togo takes the form of a number of programmes.

## 6. Local staff

The Ministry responsible for Local Authorities does not maintain staff information and it is difficult to give a level of qualification by category for local authority personnel. It should be specified that Lomé alone has 779 employees, of which 10 are civil servants.

Table 2: Local staff

| Total number of local authority staff | Legal regime (public law, private law or mixed) | Recruitment procedure for senior managers  |
|---------------------------------------|---|--|
| 1,647                                 | Togolese civil service law, by assimilation     | Competitive examinations for senior managers<br>Direct recruitment for support workers |

Sources: General Directorate for Civil Service

The general trend observed is that more than 90% of local authority employees are on permanent contracts.



## 7. Local responsibilities and powers

Intermediate-level decentralised bodies have been given decision-making and executive tasks to be shared with local level bodies. In addition, the latter have received additional tasks of consultation and control. The finance function remains an exclusively national responsibility. Nevertheless, intermediate-level decentralised bodies have not nearly received the resources necessary to meet their new responsibilities, local bodies have not received a sufficient level of resources either, and finally, the degree of autonomy in the use of resources each body does possess is quite low.

Law No. 2007-011 of 13 March 2007, Article 53 for Municipalities and Article 138 for Prefectures provide for the transfer of responsibilities and powers as resumed in the following table:

The responsibilities and powers that can be transferred to local authorities have been clearly defined by Law 2007-011 of 13 March 2007, but execution has yet to get underway to such an extent that we are unable to even discuss the means available. The State itself impedes the transfer of responsibilities and powers, with its cumbersome administration and its indecision. We have seen a slow evolution of legal and legislative texts (Law 98-006 of 11 February 1998) which have ended up becoming obsolete.

## 8. Conclusion

The process of Togolese decentralisation has not gone beyond the stage of legislative announcements. There exists no implementation strategy, whether in terms of information on the process (provided for but not executed) or training and support for its organisation (which has not even been provided for). Furthermore, the *de facto* devolution that has occurred suffers from three principal constraints: a) the absence of a framework for consultation, b) weakness at the local level and c) weakness at the intermediate level.

The reduction in political tension in the highest offices of the State, embodied by inter-Togolese dialogue, should help to encourage the decentralisation process. As with preceding years, the major issue of the new phase of decentralisation remains its implementation. The commitment of the new government to the democratisation of the country seems to be in favour of decentralisation.

Will the implementation of the Global Political Agreement (APG) signed by Togolese political actors in 2006 help to resolve the problems of decentralisation in Togo?

Table 3: Local responsibilities and powers

| Planning and support for the local economy | Potable water, waste, drainage | Safety (administrative and judicial law enforcement) | Town planning and habitat | Basic services (health, basic education) | Sport and leisure | Culture and tourism | Transport |
|--|--------------------------------|--|---------------------------|--|-------------------|---------------------|-----------|
| x  | x                              | x  | x                         | x  | x                 | x                   | x         |