
Media Foundation for West Africa

TOGO

Submission to the UN Universal Periodic Review

**Twelfth session of the UPR Working Group of the
Human Rights Council**

October 2011



Executive Summary

In this submission, **Media Foundation for West Africa** provides information under sections [B, C and D] as stipulated in the *General Guidelines for the Preparation of Information under the Universal Periodic Review*.¹

- Under section B, **Media Foundation for West Africa** gives an overview of the media landscape and legal framework in Togo
- Section C highlights **Media Foundation for West Africa's** concerns about press freedom violations, attacks on journalists and the use of criminal sanctions against the media
- In section D, **Media Foundation for West Africa** makes a number of recommendations for action by the government. Each section sets out recommendations to address the areas of concern.

¹ Contained in Human Rights Council Decision 6/102, Follow-up to Human Rights Council resolution 5/1, section I adopted 27 September 2007.

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B. Media Landscape and legal framework:

Togo is estimated to have more than 90 radio stations of which nearly a dozen are faith-based, 9 television channels, one of which is public, and more than 250 newspapers about thirty of which appear more or less regularly. The High Authority for Audiovisual and Communication (HAAC) is the country's media regulatory body while the Togolese Media Observatory (OTM), is the media self-regulatory body, established by journalists themselves in 1999. The High Authority of Audiovisual and Communications (HAAC) was established by the constitution to provide for the freedom of the press, ensure ethical standards, and allocate frequencies to private television and radio stations.

The Togolese constitution provides for freedom of speech and of the press under Articles 25 and 26.

Article 25 of the constitution states:

'Every person has the right to freedom of thought, conscience, religion, opinion and expression. These rights and freedoms will be exercised with respect for the rights of others, public order and norms provided by law or regulation'.

Article 26:

'Freedom of the press is recognised and guaranteed by the State. It shall be protected by the law. Every person has the right to produce and disseminate information and opinions orally, in writing or through any other means, within such limits as are defined by law'.

The media cannot be subjected to any preliminary authorisation, be cautioned or censured or hindered. It can be banned only by a court decision. Furthermore, Article 84 of the constitution provides that further rules to protect freedom of the press and access to information shall be provided by law.

However, **Article 82** of the Press and Communication Code imposes a fine of between USD **\$1,000 – \$2,000** against any journalist found guilty of **'broadcasting or publishing any information at variance with reality'** with the aim of manipulating the conscience or misrepresenting information or facts. In addition, any reproduction by a national media house or broadcasting of **'news contrary to reality'**, published or broadcast by a foreign media is punishable by a fine of between **USD \$1,000 – \$4,000** including suspension from publishing or broadcasting between a period of fifteen days to three months.

On Friday October 30, 2009, the National Assembly voted on a bill to amend Law **2004-021 of December 15, 2004** establishing the High Authority of Audiovisual and Communications (HAAC). The new law gave the authority more powers than it had initially. The law stipulates that the High Authority, after a formal public notice, may, among others, "make final withdrawal of licence with seizure of equipment" and "suspend a newspaper from appearing on the stands for six months in addition to the withdrawal of the press card". This law also gives the HAAC the prerogative to "organise hearing sessions for media practitioners who may commit serious offences"

C. Press freedom violations:

Attacks on journalists

In spite of the laudable efforts made to guarantee media rights and reduce violations, in 2009, the MFWA documented series of attacks on journalists.

On March 23, 2009, Mr. Lucien Djossou Messan, managing editor of *Le Combact du Peuple*, a privately-owned newspaper was arrested and detained at the headquarters of the Criminal Investigations Department (CID) in Lome, capital of Togo. The arrest and subsequent detention of the journalist was on the orders of Colonel Atcha Mohammed Tikikpina, Minister of Security and Civil Protection. The newspaper has been consistent in exposing the excesses of the minister and on March 23, published an article which accused the minister for “blatantly violating the rights of Togolese citizens and foreigners living on Togolese soil”²

On July 15, 2009, Gilles Gbagba, a reporter of *Radio Metropolys*, a privately-owned FM station, was reported to have been violently assaulted by military personnel in Lome, the capital of Togo. Military men from the Field Engineers Regiment of the Togolese Army attacked Gbagba with shovels and pickaxes they were using to repair a road in front of the French Cultural Centre in Lome. The men also punched, kicked and beat the journalist with their belts. Gbagba suffered his ordeal when he inquired about a dispute between him and the military officers, which had resulted in the breaking of the windscreen of his car.

Meanwhile, a protest march organised by the Association of Human Rights Journalists (JDHO) in solidarity with the reporter was thwarted by the officers of the National Gendarmerie. The Gendarmerie prevented the group from presenting a petition to the Minister of Security and Civil Protection, Colonel Atcha Mohammed Titikpina. The officers ordered the journalists to discontinue their protest threatening to beat them up.³

On August 10, 2010, the Union of Independent Journalists of Togo (UJIT) issued a statement to the Togolese authorities demanding protection of its members to enable them carry out their legitimate duties without fear or intimidation. The statement noted that while some of its members have received threatening telephone calls, certain radio stations and newspapers have been under surveillance, from persons suspected to be security operatives. The MFWA’s correspondent reported that nine members of the UJIT were targeted for expressing their opinions on various radio stations. The journalists are Francis Pédro Amuzun and Justin Anani of privately-owned *Le Crocodile* newspaper, Zeus Aziadouvo of *Liberté* newspapers, Olivier Glakpé of *Le Correcteur*, Jérôme Sossou of *Triangle des Enjeux*, Augustin Amega of *Le Canard Indépendant*, Ferdinand Ayité of *Journal Alternative*, Isidore Akolor of *Actu Express* and Marcel Agbédokou of *Radio X solaire*.

Arbitrary suspension and revocation of licenses

The MFWA’s correspondent reported several instances of arbitrary suspension and revocation of licenses by the HAAC. On January 9, 2007, *Radio Victoire* a privately-owned FM radio station in Lome was suspended for 15 days by the High Authority of Audiovisual and Communications (HAAC), for an alleged unprofessional misconduct. According to HAAC, the station “chose not to respect advice and opinion of the media regulator” regarding the contents of the programme after several recommendations and warnings”. However, the management of *Radio Victoire* argued that it was

² MFWA’s Annual State of the Media Report, 2009- Alerts and Updates on Togo, pg 144

³ *Ibid*, page 144 -145

because they failed to carry through the HAAC's wish of banning Jacques Roux, a foreign journalist, from participating in a radio discussion on a sports programme, "Fou de foot". Media Foundation for West Africa's (MFWA) correspondent reported that Jacques Roux has continuously criticized the former president of the Togolese Confederation of Football (FTF), Rock Balakiyem Gnassingbé, who is the brother of President Faure Gnassingbé⁴

On December 30, 2008, the High Authority of Audiovisual and Communications (HAAC) revoked the licence of *Focus Info*, a monthly newspaper, following the dismissal of the editor-in-chief, Fioklou Adangblénou. Adangblénou was dismissed by the paper's management for an alleged non-compliance of his employment contract. To set up a newspaper in Togo, it is mandatory for the editors to be accredited by HAAC. The dismissed editor-in-chief (whose name was used to set up the newspaper) took advantage of the law, and requested the regulatory body to revoke the newspaper's licence, which the regulatory body complied. Efforts by the management of the newspaper for HAAC to rescind its decision proved futile⁵.

Criminal defamation suits

After making a headway in 2004 following the decriminalisation of media offences which enabled Togo to advance 29 places in the world ranking on press freedom, the country kept sliding downwards year after year. In 2010, the MFWA documented seven lawsuits against different media houses for "false publication" and "criminal defamation". Five out of the seven suits were initiated by the President himself showing a high level of intolerance by government to criticisms. The alleged offences which were linked to publication of issues on corruption were brought under Articles 82 and 92 of the Press and Communication Code and Article 58 of Togo's Criminal Code and punishable with huge fines up to the sum of Two Thousand US dollars (USD \$2,000).

In August 2010, the MFWA recorded five law suits initiated by President Faure Gnassingbé against three newspapers – the privately-owned weekly *L'Indépendant Express* (two Lawsuits) and *Liberté newspapers* charging them for "false publication" and "criminal defamation." In September, the MFWA's correspondent reported that the President without offering any reasons withdrew the five law suits against the newspapers. The MFWA believed that this action was as a result of the wide publicity which the cases had received. These criminal law suits were enough to intimidate the media from covering major issues such as crime and corruption by government. In the same month, "Tribune d'Afrique" a privately-owned bi-monthly newspaper, was banned indefinitely and fined one million FCFA (about US\$ 2000) for publishing "false news" against the president's brother, Mey Gnassingbé. . The newspaper was also ordered to immediately publish the judgment in three newspapers with large circulation or risk paying 100, 000 FCFA (about US\$200) on default.

D. Recommendations for action by the State under review:

Media Foundation urges the government to:

1. amend the Criminal Code, the Press Code and all other legislation which infringe on press freedom and freedom of expression by repealing criminal defamation;
2. provide a legal framework for accessing information by passing an Access to Information Law;
3. withdraw the repressive media regulatory law introduced in October 2009 which amended Law 2004-021 of December 15, 2004 establishing 'HAAC';
4. guarantee the safety and protection of journalists and conduct independent investigation of any such attack.

⁴ MFWA's Annual State of the Media Report 2007- Alerts page 116

⁵ MFWA's Annual State of the Media Report 2008 - Alerts page 120-121