



# DECENT WORK CHECK

## **TOGO** 2023

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## WageIndicator Foundation - [www.wageindicator.org](http://www.wageindicator.org)

WageIndicator started in 2001 to contribute to a more transparent labour market for workers and employers by publishing easily accessible information on a website. It collects, compares and shares labour market information through online and face-to-face surveys and desk research. It publishes the collected information on national websites, thereby serving as an online library for wage information, labour law, and career advice, both for workers/employees and employers. The WageIndicator websites and related communication activities reach out to millions of people on a monthly basis. The WageIndicator concept is owned by the independent, non-profit WageIndicator Foundation, established in 2003. The Foundation has offices in Amsterdam (HQ), Ahmedabad, Bratislava, Buenos Aires, Cape Town, Islamabad and Venice.

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## Bibliographical information

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# INTRODUCTION

Decent Work is the type of work for which all of us aspire. It is done under conditions where people are gainfully employed (and there exist adequate income and employment opportunities); social protection system (labour protection and social security) is fully developed and accessible to all; social dialogue and tripartism are promoted and encouraged; and rights at work, as specified in ILO Declaration on Fundamental Principles and Rights at Work and Core ILO Conventions, are practised, promoted and respected.

WageIndicator Foundation has been working, since late 2007, to raise awareness on workplace rights through a unique tool, i.e., **Decent Work Check**. The Decent Work Check considers different work aspects deemed necessary in attaining “decent work”. The work makes the abstract Conventions and legal texts tangible and measurable in practice.

The Decent Work Check employs a double comparison system. It first compares national laws with international labour standards and scores the national regulations (happy or sad face). If national regulations in a country are not consistent with ILO conventions, it receives a sad face and its score decreases (and vice versa). It then allows workers to compare their on-ground situation with national regulations. Finally, workers can compare their personal score with national score and see whether their working conditions are consistent with national and international labour standards. The Check is based on de jure labour provisions, as found in the labour legislation.

A Decent Work Check is beneficial both for employees and employers. It gives them knowledge, which is the first step towards any improvement. It informs employees of their rights at the workplace while simultaneously enlightening employers about their obligations. Decent Work Check is also helpful for researchers, labour rights organisations conducting surveys on the situation of rights at work and the general public wanting to know more about the world of work. For example, WageIndicator teams worldwide have found out that workers, small employers and even labour inspectors are not, sometimes, fully aware of the labour law. When you are informed – being a worker, self-employed, employee, employer, policymaker, labour inspector – there is a greater possibility that you ask for your rights (as a worker), you comply with rules (as an employer), and you strive to enforce these (as a labour inspector).

The work is relevant to the challenges posed to the future of work, especially the effective enforcement of legislation in financially constrained states, a rise in precarious employment and analysing the impact of regulatory regimes.

In 2023, the team aims to include at least 15 more countries, thus taking the number of countries with a Decent Work Check to 125!

# MAJOR LEGISLATION ON EMPLOYMENT AND LABOUR

1. Constitution of Togo, 1992 (revised in 2007)
2. Labour Code, 2021
3. Order No. 1464, 2007
4. Child Code 2007
5. Social Security Code, 2011
6. Law N°2011-006 of 21 February
7. Inter-professional Collective Agreement, 2011
8. Décret no 70-164 du 2 Octobre 1970
9. Public Holidays Ordinance 1979
10. Interministerial decree n° 2002/2012 / MTESS / MS of 13 February 2012 setting the modalities for updating the tables of occupational diseases
11. Arrêté n° 1556/MPFTRAPS du 22 mai 2020 déterminant les travaux dangereux interdits aux enfants du Togo

# 01/13 WORK & WAGES

## **ILO Conventions**

Minimum wage: Convention 131 (1970)

Regular pay & wage protection: Conventions 95 (1949) and 117(1962)

**Togo has ratified the Convention 95 only.**

### ***Summary of Provisions under ILO Conventions***

The minimum wage must cover the living expenses of the employee and his/her family members. Moreover, it must relate reasonably to the general level of wages earned and the living standard of other social groups. Wages must be paid regularly on a daily, weekly, fortnightly or monthly basis.

## Regulations on work and wages:

- The Labour Code, 2021
- Inter-professional Collective Agreement, 2011

## Minimum Wage

Ministry of Labour determines the inter-professional minimum wage after consulting the National Labour Council. The minimum wage is determined at the nation level for unskilled labour. Higher wage levels have been set for different levels of skill and education. The minimum wage is set under the Interprofessional Collective Agreement signed by national council of employers in Togo and representative trade unions. The Convention is then approved by the Minister for Labour to give effect to these wages. Minimum wage may also be set through tripartite collective bargaining between the Government, the National Committee of Employers and Trade Unions.

In determining the level of guaranteed minimum wage, the following factors must be taken into account like the needs of workers and their families, general level of wages in the country, cost of living and social security benefits, economic factors, requirements of economic development, productivity and level of employment. The minimum wage legislation is applicable for all occupations. However, a specific minimum wage is determined for agricultural workers.

Compliance with provisions of Labour Code including minimum wage orders issued under article 121 of the Labour Code is the responsibility of Labour and Social Law inspector. A worker or employer may also request the employer for amicable

settlement of an individual dispute. If the conciliation attempt by the inspector fails, the dispute is sent to the courts. Worker may also inform his staff representative about the situation.

Violation of the minimum wage orders leads to a penalty of fine ranging between 100,000 to 200,000 francs. For subsequent offence, a fine of 250,000 to 500,000 francs is imposed along with imprisonment for a term of 10 days to one month or either of these penalties.

**Source:** §158, 166, 173, 277 of the Labour Code, 2021; §1 of the Inter-professional Collective Agreement, 2011

## Regular Pay

The Labour Code regulates the payment of wages to all classes of workers. Wages are all kind of remuneration, including the minimum wage and any other advantages directly or indirectly paid, in cash or in kind, by the employer to the employee on the basis of the work performed.

The Labour Code requires an employer to make timely payment of remuneration to the employees. If a worker is hired on daily or weekly basis, he/she must be paid within 15 days, i.e., his/her pay period cannot exceed 15 days. Similarly, if a worker performs work on fortnightly or monthly basis, his pay period cannot exceed 1 month. Monthly payment must be made within 8 days after the end of pay period.

Wages must be paid in cash and in legal tender. Payment of wages in form of alcohol or alcoholic beverages is strictly prohibited. In kind payment is permitted but only as a part of the wages.

**Source:** §163 & 164 of the Labour Code, 2021

# 02/13 COMPENSATION

## ILO Conventions

Compensation overtime: Convention 01 (1919)

Night work: Convention 171 (1990)

**Togo has not ratified any of the above-mentioned Conventions.**

### *Summary of Provisions under ILO Conventions*

Working overtime is to be avoided. Whenever it is unavoidable, extra compensation is at stake - minimally the basic hourly wage plus all additional benefits you are entitled to. In accordance with ILO Convention 1, the overtime pay rate should not be less than one and a quarter-time (125%) of the regular rate.

Night work means all work which is performed during a period of not less than seven (07) consecutive hours, including the interval from midnight to 5 a.m. A night worker is a worker whose work requires the performance of a substantial number of hours of night work which exceeds a specified limit (at least 3 hours). Convention 171 requires that night workers be compensated with reduced working time or higher pay, or similar benefits. Similar provisions are found in the Night Work Recommendation No. 178 of 1990.

If a worker has to work on a national/religious holiday or a weekly rest day, he/she should be entitled to compensation. Not necessarily in the same week, provided that the right to paid compensation is not.

If a worker has to work during the weekend, he/she should thereby acquire the right to a rest period of 24 uninterrupted hours instead. Not necessarily at the weekend, but at least in the course of the following week. Similarly, if a worker has to work on a public holiday, he/she must be given a compensatory holiday. A higher rate of pay for working on a public holiday or a weekly rest day does not take away the right to a holiday/ rest.



## Regulations on compensation:

- The Labour Code, 2021
- Inter-professional Collective Agreement, 2011

## Overtime Compensation

The normal working hours are 40 hours a week. Overtime work is hours of work beyond these normal hours. Workers may be required to work overtime in emergency cases or exceptional situations, which are then compensated by higher payments determined under the Interprofessional Collective Agreement. On agricultural farms, the legal working hours are set at 2400 hours per year.

In accordance with the Interprofessional Collective Agreement, an employer is required to pay overtime compensation at following rate:

- 120% of their hourly wage for the first 8 hours of overtime work (41 to 48 hours) during the day time;
- 140% of their hourly wage for overtime hours above 48 hours during the day time; and
- 165% of normal wage if they work during the Sunday and Holidays

In case of overtime work at night (10 pm to 5 am), a worker is entitled to overtime compensation at following rate:

- 165% of their regular wage on weekdays; and
- 200% of their wage for working at Sunday's and official holiday's night

The Implementing rules of working hours and the maximum duration of overtime that can be performed in case of an urgent or exceptional work are fixed by decree of the Minister of Labour on the advice of the

National Council of Work.

**Source:** §140 of the Labour Code 2021; §32-33 of the Interprofessional Collective Agreement, 2011

## Night Work Compensation

Night work is the work performed between 22:00 to 05:00 of the following day.

There is no premium wage for worker employed for night work. However, according to the Interprofessional Collective Agreement, if a worker works overtime at night during weekdays, he/she is entitled to 165% of regular wage and a premium of 200% of normal wage rate is provided for overtime work at night on Sundays and public holidays.

**Source:** §188 of the Labour Code 2021; §33 of the Inter-Professional Collective Convention, 2011

## Compensatory Holidays / Rest Days

There is no clear provision that workers entitled to compensatory rest day if they have to work on weekend or public holidays.

## Weekend / Public Holiday Work Compensation

Workers may be required to work on weekly rest days and public holidays. In emergency or any exceptional circumstances when employees have to work on weekly rest day or official holidays, they are entitled to receive wages at a premium rate of 65% of the normal hourly wage rate for working at daytime and 100% of the normal wage rate if work is performed during night-time.

**Source:** §33 of the Inter-Professional  
Collective Convention, 2011

# 03/13 ANNUAL LEAVE & HOLIDAYS

## ILO Conventions

Convention 132 (1970) on Holidays with Pay Convention  
Conventions 14 (1921), 47 (1935) and 106 (1957) for weekly rest days.  
In addition, for several industries, different Conventions apply.

**Togo has ratified the Convention 14 only.**

### *Summary of Provisions under ILO Conventions*

An employee is entitled to at least 21 consecutive days of paid annual leave. National and religious holidays are not included. Collective agreements must provide at least one day of annual leave on full remuneration for every 17 days on which the employee worked or was entitled to be paid.

A worker should be entitled to paid leave during national and officially recognised public holidays.

Workers should enjoy a rest period of at least twenty-four consecutive hours in every 7-day period, i.e., a week.

## Regulations on annual leave and holidays:

- The Labour Code, 2021
- Inter-professional Collective Agreement, 2011

## Paid Vacation / Annual Leave

The Labour Law provides for annual leave to all workers on completion of one year of service. Workers are entitled to an annual leave of 30 days per year at the rate of two and a half days per month. Collective or individual agreement may provide more favourable provisions than labour law. Worker may also enjoy this right (with reduced leave) after 6 months of service, on employer's consent. Annual leave entitled can be delayed for up to 2 years on mutual agreement between the employer and the worker. Additional annual leave are provided to the workers employed abroad to compensate their travel time. Annual leave is independent of any other kind of leave, such as maternity leave or sick leave etc, provided by the law.

A worker is entitled to 1/12th of the average wages and other remuneration elements of the preceding 12 months, unless conditions that are more favourable are provided under a collective or individual agreement. The payment has to be made before commencement of leave.

Schedule of annual leave is determined by mutual agreement between the worker and employer. However, holidays cannot be taken 3 months before or after the regular date. The employer must inform the employee at least 15 days prior to his/her departure and display the notice in offices, workshops and construction sites.

Annual leave can also be split but in this case, the compensation is prorated to the duration.

If the employment contract expires before a worker could acquire the right to annual leave, compensation for leave is made in proportion to the number of months and numbers of hours worked in a week. Apart from this provision, any agreement, collective agreement or other agreement, providing compensation in lieu of annual leave or renouncing or waiving the right to paid annual leave is invalid.

**Source:** §200-202 of the Labour Code 2021; §44 of the Inter-Professional Collective Convention, 2011

## Pay on Public Holidays

Public Holidays are determined under a decree of Council of Ministers. These holidays have been determined under the Public Holidays Ordinance 1979.

Public holidays are 13 in number. These are New Year's Day (January 01), Liberation Day (January 13), Easter Monday (April 21), Independence Day (April 27), Labour Day (May 01), Ascension Day (May 29), Pentecost Monday (June 09), Martyrs du Togo (June 21), Korite (End of Ramadan), Assumption Day (August 15), Tabaski (Feast of Sacrifice), All Saints' Day (November 01), and Christmas Day (December 25).

**Source:** §199 of the Labour Code 2021; §42 of the Inter-Professional Collective Convention, 2011; §1 of the Public Holiday Ordinance

## Weekly Rest Days

Workers are entitled to 24 consecutive hours of rest per week. Labour Law requires that weekly rest day, in principle, should be Sunday for all employees.

There is no clear provision on rest breaks during working hours. Similarly, the Labour Code has no clear provision on daily rest periods except for young and disabled workers. The daily rest period for such workers is 12 hours.

**Source:** §198 of the Labour Code 2021

# 04/13 EMPLOYMENT SECURITY

## ILO Conventions

Convention 158 (1982) on employment termination

**Togo has not ratified the Convention 158.**

### *Summary of Provisions under ILO Convention*

The questions under this section measure the security or even flexibility or precariousness of an employment relationship. Although these are not clearly mentioned in a single convention (severance pay and notice requirement are provided in the Termination of Employment Convention No. 158) however, the best practices in the field require that employees be provided with a written contract of employment; workers on fixed-term contracts should not be hired for tasks of permanent nature; a reasonable probation period (ideally lower than or equal to 6 months) may be followed to assess the suitability of an employee; a period of notice must be specified in an employment contract before severing the employment relationship; and workers be paid severance allowance on termination of employment relationship.

A contract of employment may be oral or written however workers should be provided with a written statement of employment at the start of their employment.

Fixed Term Contract workers must not be hired for permanent tasks as it leads to precarious employment.

A reasonable probation period must be allowed to let a worker learn new skills. A newly hired employee may be fired during the probation period without any negative consequences.

A reasonable notice period, depending on the length of service of an employee, may be required before an employer may sever the employment relationship.

Employers may be required to pay a severance allowance on termination of employment (due to redundancy or any other reason except for lack of capacity or misconduct).

## Regulations on employment security:

- The Labour Code, 2021
- Inter-professional Collective Agreement, 2011

## Written Employment Particulars

The employment contract is a voluntary agreement by which a worker works under the direction and authority of an employer for a compensation called salary.

Togolese Labour Code requires that a worker must be provided a written contract and a statement of employment particulars. All types of workers (permanent, temporary or seasonal workers) must be given a written employment contract indicating identity of the worker, date of hiring, employer information (current and previous), occupational classification, base salary agreed, duration of contract and other relevant conditions.

**Source:** §36 & 37 of the Labour Code 2021, §8 of the Inter-professional Collective Agreement, 2011

## Fixed Term Contracts

Togolese Labour Law prohibits hiring fixed term contract workers for tasks of permanent nature. Fixed term contract workers cannot be hired to permanently fill the job related to the normal activity of the company.

The fixed term contract must be in writing and its total duration including renewals cannot exceed four years.

The fixed term contracts may have an imprecise term when these are concluded

for the replacement of a temporarily absent employee, for duration of a season, for additional casual work or for unusual business activity of the enterprise. The contract must contain an approximate term of the contract. The fixed term contract (with imprecise term) may be renewed unlimited number of times.

**Source:** §43, 48, 54 & 55 of the Labour Code 2021

## Probation Period

The probationary period is a trial period that is long enough to judge the professional worth of the worker and for worker to know completely about the working conditions, salary, hygiene, OSH and social environment at the workplace.

Labour Code provides probationary period of maximum 6 months duration. The maximum duration of probationary period as specified under the inter-professional collective agreement is:

- For monthly paid workers, the probation period is
  - i. one month (renewable once) for workers, employees and the like;
  - ii. three months (renewable once) for supervisors, technicians and associate professionals
  - iii. six months (not renewable) for managers and the like
- For workers paid by hours, the duration of probation period is eight days (renewable once)

During probation, worker receives at least minimum wage specified for that category. The probation period is taken into account while calculating the length of service for advancements and the right to annual

leave.

**Source:** §44-46 & 140 of the Labour Code 2021; §9 of the Inter-Professional Collective Convention, 2011

## Notice Requirement

A fixed term contract terminates at the end of its term or by cancellation by either of the parties. A fixed term contract can also be cancelled in the event of force majeure (acts of God); agreement of the parties, provided that the latter is evidenced in writing; gross negligence; and judicial resolution.

The employment contract of indefinite duration can be terminated by the will of either party, provided that the party taking the termination initiative gives the notice. The dismissal must be confirmed in writing within eight (08) days. A copy is sent to the Labour Inspectorate and the social and employment service. Labour Code requires termination notice or paying in lieu of notice before terminating services of an employee (or even when an employee terminates the employment contract). An employment contract during the trial period (by employer or employee), pregnancy and breastfeeding period may be terminated by the employee without notice and having to pay compensation for breach of contract. The Inter-professional Collective Agreement specifies the minimum length of notice period as follows;

- one month for workers, employees and the like;
- three months for supervisors, managers and the like; and
- five days for workers paid by hour.

During notice period, the worker continues

working with same terms and condition except that the worker may take up to 01 day of paid leave per week. The party that is terminating the employment contract must specify the reason for the denunciation.

**Source:** §73-75, 81 & 147-179 of the Labour Code 2021; §17 of the Inter-Professional Collective Convention, 2011

## Severance Pay

Labour law and Inter-professional Collective Agreement provide severance / redundancy pay. The workers get entitled to the severance pay after continuous employment (of a particular employer) for at least 12 months.

For a worker with 5 years of service, he/she has to be paid 35% of his monthly salary per year of service as a severance pay. For the workers with 6 to 10 years of service, 40% of average monthly salary is paid for every year of service and for those with more than 10 years of service, 45% of average monthly salary for every year of service is paid as severance/termination pay.

The severance pay is not payable in the case of serious misconduct or gross negligence on the part of the worker.

**Source:** §22 of the Inter-professional Collective Agreement 2011



# 05/13 FAMILY RESPONSIBILITIES

## **ILO Conventions**

Convention 156: Workers with Family Responsibilities Convention (1981) Recommendation 165: Workers with Family Responsibilities (1981)

**Togo has not ratified the Convention 156.**

### ***Summary of Provisions under ILO Convention***

Paternity leave is for new fathers around the time of childbirth and is usually of a shorter duration.

Recommendation (No. 165) provides for parental leave as an option available to either parent to take a long leave of absence (paid or unpaid) without resigning from work. Parental leave is usually taken once the maternity and paternity leave have been exhausted. For working parents, laws may define the portion of parental leave that has to be compulsorily taken by fathers or mothers.

Flexible Work Option for Parents / Work-Life Balance Recommendation 165 asks employers to look into the measures for improving general working conditions through flexible work arrangements.

## Regulations on family responsibilities:

- The Labour Code, 2021
- Inter-professional Collective Agreement, 2011

## Paternity Leave

No specific paternity leave entitlements are found in the Labour Law. However, Inter-professional Collective Agreement provides for two days of paid paternity leave on child's birth.

**Source:** §45 of the Inter-professional Collective Agreement 2011

## Parental Leave

There is no provision in the law on paid or unpaid parental leave.

## Flexible Work Option for Parents / Work-Life Balance

No provisions could be located in the law supporting work-life balance for parents or workers with family responsibilities.

# 06/13 MATERNITY & WORK

## **ILO Conventions**

An earlier Convention (103 from 1952) prescribed at least 12 weeks maternity leave, 6 weeks before and 6 weeks after birth. However, a later convention (No. 183 from year 2000) requires that maternity leave be at least 14 weeks of which a period of six weeks compulsory leave should be after childbirth.

**Togo has not ratified the Conventions 103 and 183.**

### ***Summary of Provisions under ILO Convention***

During pregnancy and maternity leave, a worker should be entitled to medical and midwife care without any additional cost.

During pregnancy and while breastfeeding, a worker should be exempt from work that might bring harm to you or your baby.

The total maternity leave should last at least 14 weeks.

During maternity leave, a worker's income should amount to at least two-thirds of your preceding salary.

During pregnancy and maternity leave, a worker should be protected from dismissal or any other discriminatory treatment.

Workers have the right to return to the same or equivalent position after availing maternity leave.

After childbirth and re-joining work, a worker must be allowed paid nursing breaks for breastfeeding the child.

## Regulations on maternity and work:

- Labour Code, 2021

### Free Medical Care

There is no mention in the Labour Code about the free medical care that has to be provided by the employer.

### No Harmful Work

A pregnant worker is not permitted to perform work that may harm her reproductive ability or affects her health or her child's health. Orders of the Minister for Labour, issued in consultation with National Labour Council, determine the type of work prohibited for women. A Decree from 2010 specifies the types of works prohibited for pregnant and nursing women workers.

**Source:** §189 & 359 of the Labour Code 2021; Arrêté n° 020/MTESS/DGTLs du 30 juillet 2010 fixant la nature des travaux interdits aux femmes enceintes (article 147 du Code du travail)

### Maternity Leave

Labour Code provides 14 weeks (98 days) of maternity leave to female workers, including 6 weeks of post natal leave. Maternity leave can be extended by 03 additional weeks in case of a complications and sickness resulting from pregnancy or childbirth; or in case of multiple pregnancies or for cases affecting the health of the child, duly certified by the medical physician.

**Source:** §190 of the Labour Code 2021

## Income

The maternity leave is awarded with full pay. During the period of maternity leave, worker is entitled to the full wages she was receiving before confinement. 100% of the insured worker's average daily wage in the last three months is paid for up to eight weeks before and six weeks after the expected date of childbirth. The benefit is extendable to 17 weeks in the case of complications. The benefit is financed by the Social Security (50%) and the employer (50%).

According to the 2011 Social Security Code, the maternity benefit is paid for a period of 14 weeks on the condition that the insured person ceases all paid activity during this period. If the rest period is justified by an illness resulting from pregnancy or childbirth, the maternity benefit is payable for an additional period of 3 weeks. If the delivery date is extended up to two weeks, the worker is paid maternity benefit for these two weeks as well. A worker must be registered with the social security fund at least twelve months before the presumed date of delivery.

**Source:** §190 of the Labour Code 2021; §37-40 of the Social Security Code, 2011

### Protection from Dismissals

Dismissal of female worker due to pregnancy is prohibited. According to Labour Code, it is unlawful and abusive to dismiss a female worker because of any reason that is connected with her pregnancy. It also prohibits discrimination on the basis of sex, health and disability besides others grounds.

**Source:** §190 of the Labour Code 2021

## Right to Return to Same Position

There is no specific provision in the labour law regarding a worker's right to return to same position after availing her maternity leave. However, it is mentioned that a worker cannot be dismissed during the term of her maternity leave, which means that right to return to work is implicitly guaranteed under the law. Moreover, the employment contract is only suspended during the term of maternity leave and worker resumes her job on return.

**Source:** §190 of the Labour Code 2021

## Breastfeeding

Female workers are entitled to paid nursing break of 1-hour duration for new mothers to breastfeed their child(ren) until a child is fifteen (15) months old. A woman worker may, during this period, quit her job without notice and without having to pay any compensation in lieu of notice.

**Source:** §191 of the Labour Code 2021

# 07/13 HEALTH & SAFETY

## **ILO Conventions**

Most ILO OSH Conventions deal with very specific Occupational Safety hazards, such as asbestos and chemicals.

Convention 155 (1981) is the relevant general convention here.

Labour Inspection Convention: 81 (1947)

**Togo has ratified the Convention 81 only.**

### ***Summary of Provisions under ILO Conventions***

The employer, in all fairness, should make sure that the work process is safe.

The employer should provide protective clothing and other necessary safety precautions for free.

Workers should receive training in all work-related safety and health aspects and must have been shown the emergency exits.

In order to ensure workplace safety and health, a central, independent and efficient labour inspection system should be present.

## Regulations on health and safety:

- Labour Code, 2021
- Décret no 70-164 du 2 Octobre 1970
- Inter-professional Collective Agreement 2011
- Interministerial decree n° 2002/2012 / MTESS / MS of 13 February 2012 setting the modalities for updating the tables of occupational diseases

## Employer Cares

In accordance with the provisions of Labour Code, it is obligatory for an employer to ensure health, safety and welfare of persons at workplace as determined under the joint orders of the Ministers for Labour & Health.

Provision of health and safety services to workers is mandatory in an establishment. Employers are required to hire workers, either temporarily or permanently, after medical examination. Medical examination of workers after specified interval is also obligatory. The employer is required to take prior authorization of the Ministry of Environment before beginning of any project that may have adverse effects on the environment. Environmental Compliance Certificate is issued by the Minister of Environment upon a favourable evaluation of the environmental impact assessment study.

Employers are also required to organize independent safety and health service or inter-company safety and health service, depending on the number of workers, local conditions and risks. An employer is under obligation to daily examine the safety condition of the equipment and he/she may prescribe the suspension and the

resumption of the service depending on the results of daily review. The employer must also carry out regular maintenance after at least 6 months and safety services must be checked at least once a year.

Workers must ensure compliance with all health and safety requirements and public decency.

**Source:** §105-114 & 212-218 of the Labour Code 2021; §38 of the Loi n° 2008-005 portant loi-cadre sur l'environnement; § 39 & 43 of the Décret no 70-164 du 2 Octobre 1970 fixant, en application des dispositions de l'article 134 du Code du travail, les mesures générales d'hygiène et de sécurité applicables aux travailleurs des établissements de toute nature

## Free Protection

In accordance with the provisions of Décret no 70-164 du 2 Octobre 1970, it is the responsibility of employer to provide free protective equipment including clothing to the worker whose work involves exposure to wet or injurious substances.

Inter-professional Collective Agreement requires employers to provide personal protective equipments to the worker performing tasks that requires its use. Worker must take precautionary measures to prevent accidents, especially those concerning the use of personal protective equipment.

**Source:** §5 of the Décret no 70-164 du 2 Octobre 1970; §46 of the Inter-professional Collective Agreement 2011

## Training

No provisions could be identified in the Labour Code. An occupational safety and health committee must be established in all undertakings. The organisation and operations of this committee are established by a decree issued by the Minister of Labour upon advice from the Technical Advisory Committee on Occupational Safety and Health. The occupational safety and health committee is binding in undertakings, which normally employ at least twenty-five employees, including temporary and casual workers. One of the important functions of this Committee is training workers in the areas of safety and health at work.

**Source:** §4 of the Arrête n° 009/2011/MTESS/DGTLS du 26 mai 2011 fixant les modalités d'organisation et de fonctionnement du Comité de sécurité et santé au travail, pris conformément à l'article 174 du Code du travail

## Labour Inspection System

Labour Code provides for an independent and powerful labour inspection system in the country.

Labour and social legislation inspectors monitor the health and safety conditions at workplace and ensure the application of the legislation.

The Inspection team consists of officials and labour inspectors and social legislation controllers.

The inspectors have the power to enter freely without prior notice at any time during day and night and control work performed at the workplace or any

premises, which they believe to be liable for inspection. They may carry out examinations, inspections or investigations necessary to ensure the compliance with the provisions of law; interview anyone; they may be accompanied by the physician labour inspector and prevention officers from the National Social Security Fund. The inspector may require doctors and technicians for advice and consultation related to occupational hygiene health and safety requirements. It is obligatory for an inspector to advise and make recommendations to employers and workers. The labour inspector may order immediate enforcement action to stop any serious and imminent danger.

An employer must communicate the list of occupational diseases, as prescribed in Article 1 of Decree before the commencement of business activities, to the National Social Security Fund and labour inspectorate and avowed. In case of failure, the labour inspector informs the National Security Fund.

In case of violations of the labour legislation and regulations, the labour inspector may give written notice to the employer specifying the violations and set deadlines in which they must be overcome, along with acknowledgment of receipt. If the employer does not comply with it within the fixed period, the labour inspector draws up minutes.

The inspector may offer a settlement to the offender but in case of a refusal to make the settlement, within a maximum period of three months, an official report is sent to the prosecutor for prosecution.

**Source:** §233-242 of the Labour Code 2021; §1 and 3 of Interministerial decree n° 2002/2012 / MTESS / MS of 13 February 2012



setting the modalities for updating the  
tables of occupational diseases

# 08/13 SICK LEAVE & EMPLOYMENT INJURY BENEFIT

## **ILO Conventions**

Convention 102 (1952), Conventions 121 (1964) and 130 (1969) concerning Social Security, Employment Injury Benefits and Medical Care and Sickness Benefits

**Togo has ratified the Convention 102 only.**

### ***Summary of Provisions under ILO Conventions***

A worker's rights to work and income should be protected when illness strikes. The national labour law may provide that sickness benefits may not be paid during the first 3 days of your absence. Minimally, a worker should be entitled to an income during the first 6 months of illness. This income should be at least 45 per cent of the minimum wage. (Countries are free to opt for a system which guarantees 60 per cent of the last wages during the first 6 months of illness or even during the first year). A worker must be entitled to paid sick leave.

During illness, a worker should be entitled to medical care without any additional cost. Employees and their family members should have access to the necessary minimal medical care at an affordable cost.

During the first 6 months of illness, a worker should not be fired.

If a worker is disabled due to an occupational disease or accident, he/she must receive a higher benefit. In the case of temporary or total incapacity/disability, a worker may at least be provided 50% of his average wage, while in the case of fatal injury, the survivors may be provided with 40% of the deceased worker's average wage in periodical payments.

## Regulations on sick leave & Employment Injury Benefits:

- Labour Code, 2021
- Law N°2011-006 of 21 February
- Inter-professional Collective Agreement, 2011

### Income

In accordance with the Labour Code, a worker is entitled to sick leave for up to 5 days per year. Labour Code also provides for long sick leave however the provisions under the Inter-professional Collective Agreement are more favourable as it provides for income for a sick worker when he/she is absent from work due to sickness in the first 6 months of his illness. Duration of leave and amount of benefit during sick leave depends on the length of his/her service. Schedule of payment is as under:

- 1 month of fully paid sick leave for less than 12 months of service;
- 1 month of fully paid and 3 months of half paid sick leave for more than 12 months but less than 5 years of service;
- 2 months of fully paid and 4 months of half paid sick leave for more than 5 years but less than 10 years of service; and
- 4 months of fully paid and 2 months of half paid sick leave for 10 or more years of service.

**Source:** §69 of the Labour Code 2021; §14 of the Inter-Professional Collective Agreement 2011

### Medical Care

Medical benefits are available for insured workers and these include hospitalization,

medicine, transportation and rehabilitation expenses.

### Job Security

In accordance with the Labour Code, employment of a worker is secure during the first 6 months of illness. It is only after passing that period that a replacement worker may be hired. The employment contract is suspended during the first 6 months but it is not terminated. Employment contract is suspended during the period of absence of the worker for reasons of non-occupational illness duly certified by a doctor. The employment contract may be terminated after an extended absence of six consecutive months or repeated absences of a total duration exceeding six months within a period of twelve months from the first stoppage.

**Source:** §65(c) of the Labour Code 2021; §14 of the Inter-professional Collective Agreement

### Disability / Work Injury Benefit

Work injuries are divided into four categories: (i) permanent total incapacity (ii) permanent partial incapacity (iii) temporary incapacity and (iv) fatal injury leading to death of a worker.

In the case of permanent total incapacity/disability, amount of compensation is 85% of an insured worker's average earnings in the three months before disability.

In the case of permanent partial disability, amount of compensation depends on the assessed degree of disability. If the assessed disability is less than 15%, a lump

sum of three years' pension is paid.

In the case of temporary disability, amount of compensation is 66.7% of an insured worker's average earnings in the three months before disability. The benefit is paid until full recovery or certification as permanent disability.

In the case of fatal injury, dependents (widow/widower/minor children, parents) receive survivors' pension. A widow/widower gets 50% of the monthly pension a deceased worker would have received or was entitled to receive. Pension for widow/widower ceases on remarriage. An orphan receives 40% of the pension till the age of 16 years. Parents or grandparents are also entitled to receive 10% of the survivors' pension.

**Source:** §52-64 of the Social Security Code 2011

# 09/13 SOCIAL SECURITY

## **ILO Conventions**

Social Security (minimum standards): Convention 102 (1952). For several benefits somewhat, higher standards have been set in subsequent Conventions

Employment Injury Benefits: Conventions 121 (1964),

Invalidity, Old age and survivors' benefits: Convention 128(1967)

Medical Care and Sickness Benefits: Convention 130 (1969)

Unemployment Benefits: Convention 168 (1988).

**Togo has ratified the Convention 102 only.**

### ***Summary of Provisions under ILO Conventions***

In normal circumstances, the pensionable age may not be set higher than 65 years of age. If the retirement age is fixed above 65 years, it should give “due regard to the working ability of elderly persons” and “demographic, economic and social criteria, which shall be demonstrated statistically”. The pension can be set as a percentage of the minimum wage or a percentage of the earned wage.

When the breadwinner has died, the spouse and children are entitled to a benefit, expressed as a percentage of the minimum wage or a percentage of the earned wage. This must at least be 40% of the reference wage.

For a limited period of time, the unemployed have a right to unemployment benefits set as a percentage of the minimum wage or a percentage of the earned wage.

Invalidity benefit is provided when a protected person is unable to engage in gainful employment, before the standard retirement age, due to a non-occupational chronic condition resulting in disease, injury or disability. Invalidity Benefit must at least be 40% of the reference wage.

## Regulations on social security:

- Labour Code, 2021
- Social Security Code, 2011

## Pension Rights

The Social Security Code 2011 provides for old age benefit to a worker when he/she attains the age of 60 years with at least 15 years (180 months) of contributions. An early retirement benefit can also be claimed at the age of 55 years however pension is reduced by 5% for each year if it is claimed before 60 years (at 55 years, a worker would get only 75% of his normal pension). There is also a provision for early old age pension at the age of 55 years if a person gets old earlier and his or her physical or mental faculties deteriorate.

The monthly old age pension is 20% of the insured worker's average monthly earnings in the last five years plus 1.33% of average monthly earnings for each 12-month period of contributions in excess of 180 months. The minimum pension is 60% of the legal monthly minimum wage. If the insured worker is entitled to two or more pensions, the highest pension plus 50% of the other pensions is paid.

**Source:** §42 of the Social Security Code 2011

## Dependents' / Survivors' Benefit

Law provides for survivor benefit to the dependents including widow, widower, and children. The deceased must have met the qualifying conditions for old age or disability pension (15 years of contributions) or was a pensioner at the

time of death. 50% of the deceased's old-age pension is paid to a widow(er). 25% of the deceased worker's pension is paid to the each orphan while 40% of the survivors' pension is paid to each full orphan. A lump sum benefit is also provided. Survivors' pension ceases on remarriage.

**Source:** §45 of the Social Security Code 2011

## Unemployment Benefits

No provision in law for unemployment insurance and benefits.

## Invalidity Benefits

A worker is entitled to invalidity benefit if he/she is assessed with at least 66.7% loss of earning capacity and has at least ten years (120 months) of coverage, including six months of contributions in the last year. The invalidity pension is calculated in the similar way as the old age pension.

**Source:** §43-44 of the Social Security Code, 2011

# 10/13 FAIR TREATMENT

## **ILO Conventions**

Convention 111 (1958) lists the discrimination grounds which are forbidden.

Convention 100 (1952) is about Equal Remuneration for Work of Equal Value.

Convention 190 (2019) is about elimination of violence and harassment in the world of work.

**Togo has ratified the Conventions 100 and 111.**

### ***Summary of Provisions under ILO Conventions***

At workplaces, equal pay for men and women for work of equal value is a must, regardless of marital status. Pay inequality based on race, colour, sex, religion, political opinion, national extraction/place of birth or social origin is also forbidden. A transparent remuneration system and a clear matching of pay and position should be in place to help prevent wage discrimination.

Convention No. 190 recognises the right of everyone to a world of work free from violence and harassment. It defines violence and harassment as “a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aims at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment”. This definition covers physical abuse, verbal abuse, bullying and mobbing, sexual harassment, threats and stalking, among other things.

An employer can't discriminate against you on in any aspect of employment (appointment, promotion, training and transfer) on the basis of union membership or participation in union activities, filing of a complaint against an employer, race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin, temporary absence due to illness, age, trade union membership, disability/HIV-AIDS, or absence from work during maternity leave. (Conventions 111, 156, 158, 159 and 183)

People have the right to work and there can't be occupational segregation on the basis of gender.

## Regulations on fair treatment:

- Labour Code, 2021
- Constitution of Togo, 1992 (revised in 2007)

## Equal Pay

The Constitution of Togo assures each citizen the equality of opportunity concerning employment and guarantees to each worker a just and equitable remuneration.

The Labour Code recognizes the right to equal pay for work of equal value without any discrimination on the ground of nationality, gender, age or status. Similarly, Labour Code also requires that various components of remuneration, criteria for career advancement and methods of job evaluation should be common for workers of both sexes. Workers employed on piece rate must be given wages that are equal to wages paid to a normal worker performing similar work.

**Source:** §37 of the Constitution of Togo, 1992 (revised in 2007); §155 & 159 of the Labour Code 2021

## Sexual Harassment

Labour Code prohibits sexual harassment and requires that no employee should be disciplined or dismissed for non-complying with sexual offers/advancements of employer, its representatives or any other third party. A worker who commits the acts of harassment commits an offense punishable by disciplinary action.

Those violating the sexual harassment related provisions of labour code are

punishable with a fine of 0.5 million to two million francs and imprisonment term ranging from six months to 24 months or either of these penalties. If the violation is repeated, penalty is doubled.

**Source:** §40, 41 & 368 of the Labour Code 2021

## Non-Discrimination

In accordance with the Labour Code, an employer cannot discriminate against an employee on the basis of sex, race, colour, religion, ethnicity, political or philosophical opinion, social origin, legal status, ancestry/place of birth, state of health or disability. An employee may not be disciplined or dismissed (or excluded from a procedure of recruitment) because of his social status, sex, state of pregnancy, colour, age, customs (de ses mœurs), family situation, ethnicity, nationality or race, political opinions or philosophical beliefs, trade union or association activities, worker's legal status, national ancestry, religious beliefs, physical appearance, or disability unless the person is declared unfit for work by the company doctor or a licensed physician for health related reasons. The new Labour Code prohibits both direct and indirect discrimination on any of the above grounds.

Those violating the non-discrimination provisions of the Labour Code are punishable with a fine of 0.5 million to two million francs and imprisonment term ranging from six months to 24 months or either of these penalties. If the violation is repeated, penalty is doubled.

The differences in treatment which meet a genuine occupational requirement are not



considered discriminatory. Moreover, the measures aimed at promoting the professional integration of young people, women, people with disabilities, people deemed vulnerable or residing in certain geographical areas do not constitute discrimination.

According to the Constitution, discrimination means to give different treatment to different persons attributable only or mainly to their respective descriptions by sex, race, colour, ethnic origin, tribe, birth, creed or religion, or social or economic standing, political opinion or disability. All persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection of the law. The constitution also prohibits discrimination on the ground of sex, race, colour, ethnic origin, tribe, birth, creed or religion, or social or economic standing, political opinion or disability.

**Source:** §21 of the Constitution of Togo 1992; §4, 5, 39 & 366 of the Labour Code 2021

## Equal Choice of Profession

Women can work in the same industries as men as no restrictive provisions could be located.

**Source:** §147 of the Labour Code 2021

# 11/13 MINORS & YOUTH

## **ILO Conventions**

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

**Togo has ratified the Conventions 138 and 182.**

### ***Summary of Provisions under ILO Conventions***

At workplaces, children may not be forced to perform work that could harm their health and hamper their physical and mental development.

All children should be able to attend school. Once this is safeguarded, there is no objection against children performing light jobs between the ages of 12 and 14. The general minimum age is 15 years however, developing countries may set this at 14 years. The minimum age for hazardous work, work that is likely to jeopardise the health, safety or morals of young persons, is 18 years. It can also be set at a lower level of 16 years under certain circumstances

Children should not be employed in a work that is likely to harm the health, safety or morals of children. It is considered one of the worst forms of child labour. The minimum age for such hazardous work is 18 years.

## Regulations on minors and youth:

- Labour Code, 2021
- Order No. 1464, 2007
- Child Code 2007

## Minimum Age for Employment

In accordance with the Labour code, Minimum age for employment is 15 years. Children over fifteen years of age can be employed in light work. Labour inspector may require examination of a child by a licensed physician to check if the work he/she does in not beyond his/her capacity. A child worker may not be kept in a job beyond his/her capacity and must be assigned to a suitable job. If such transfer is not possible, the contract has to be terminated by paying the severance pay to the worker. It is not permissible to employ any child in night work, neither should he/she be assigned work more than eight hours per day. Children should be entitled to a daily rest period of 12 consecutive hours. On Sundays, children should not be involved in any kind of work. Classification of works that children are prohibited to perform have also been mentioned in the child labour decree adopted in 2020 that includes serving in steam valves, hotels, bars, and restaurants. Limited weight can be carried by children, which is also segregated on the basis of their gender.

In accordance with article 35 of the Constitution, schooling is compulsory till the age of 15 years. In accordance with a 2008 Decree, free public education is available till the age of 15.

**Source:** §35 of the Constitution of Togo 1992; §192-193 of the Labour Code 2021; §262 of the Child Code 2007; Décret n° 2008-129/PR du 2 Octobre 2008; Arrêté n°

1556/MPFTRAPS du 22 mai 2020 déterminant les travaux dangereux interdits aux enfants du Togo

## Minimum Age for Hazardous Work

Minimum Age for hazardous work is 18 years. The worst forms of child labour including forced labour, slavery, prostitution, working with dangerous materials and work that endangers the health and safety and morals of children are prohibited. Children under the age of 18 years cannot be employed for night work. Daily rest of the children must have a period of at least twelve (12) consecutive hours. Child labour related provisions are also found in the Child Code of 2007.

Violations of child labour related provisions are punished with a fine of 0.5 million to 2 million francs. In the event of repeat offence, the fine ranges from one million to five million francs.

**Source:** §192 & 193 of the Labour Code 2021; Order No. 1464 of 2007; §263-164 of the Child Code 2007

# 12/13 FORCED LABOUR

## **ILO Conventions**

Forced labour: Conventions 29 (1930)

Abolition of Forced labour: Conventions 105 (1957)

Forced labour is the work one has to perform under threat of punishment: forfeit of wages, dismissal, harassment or violence, even corporal punishment. Forced labour means violation of human rights.

**Togo has ratified both Conventions 29 & 105.**

### ***Summary of Provisions under ILO Conventions***

Except for certain cases, forced or compulsory labour (exacted under the threat of punishment and for which you may not have offered voluntarily) is prohibited.

Employers have to allow workers to look for work elsewhere. If a worker is looking for work elsewhere, he/she should not be shortened on wages or threatened with dismissal. (In the reverse cases, international law considers this as forced labour).

If the total working hours, inclusive of overtime exceed 56 hours per week, the worker is considered to be working under inhumane working conditions.

## Regulations on forced labour:

- Labour Code, 2021

## Prohibition on Forced and Compulsory Labour

Labour Code prohibits forced or compulsory Labour. It is a punishable offence. Forced or compulsory labor means any work or service exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily. There are certain exceptions provided under the Labour Code. Those violating the forced labour related provisions of labour code are punishable with a fine of one hundred thousand to one million francs and imprisonment term ranging from three months to six months or either of these penalties. If the violation is repeated, penalty is doubled.

**Source:** §7 & 356 of the Labour Code 2021

## Freedom to Change Jobs and Right to Quit

Workers have the right to change jobs after serving due notice on their employer. Under the Inter-professional Collective Agreement, the minimum length of notice period is one month for worker.

For more information on this, please refer to the section on employment security.

**Source:** §65 of the Labour Code 2021

## Inhumane Working Conditions

Working time may be extended beyond

normal working hours of forty hours per week. Workers may be required to work overtime in case of emergency or exceptional circumstances. Overtime work is compensated by the premium pay. The maximum weekly hours of work inclusive of overtime are not specified under the Labour Code.

For more information on this, please refer to the section on compensation.

**Source:** §140 of the Labour Code 2021, § 32-33 of the Inter-professional Collective Agreement, 2011

# 13/13 TRADE UNION

## **ILO Conventions**

Freedom of association and protection of the right to organize: Convention 87 (1948)  
Right to Organize and Collective Bargaining: Convention 98 (1949)

**Togo has ratified both Conventions 87 & 98.**

### ***Summary of Provisions under ILO Conventions***

Freedom of association means freedom to join a trade union. This is part of the fundamental human rights. Employees may not be put at a disadvantage when they are active in the trade union outside of working hours. The list of exclusions for sectors of economic activity and workers in an organisation should be short.

Trade unions are entitled to negotiate with employers on the terms of employment without hindrance. The freedom of a trade union to negotiate with employers to try and conclude collective agreements is protected. (The ILO has a special procedure for handling complaints from unions about violations of this principle).

Workers have the right to strike in order to defend their social and economic interests. It is incidental and corollary to the right to organise provided in ILO convention 87.

## Regulations on trade unions:

- Labour Code, 2021
- Constitution of Togo, 1992 (revised in 2007)

## Freedom to Join and Form a Union

Labour Code provides for freedom of association and allows workers to join and form unions. In accordance with the Constitution of Togo, workers may constitute unions or affiliate with the unions of their choice to defend, within the conditions provided for by the law, their rights and interests, either individually, collectively or by union action.

Individuals with same, similar or related occupation or profession may freely establish and join a trade union. Trade unions are exclusively designed to study and defend rights, as well as physical, social and moral interests, both collectively and individually, of the persons covered by the organization's statutes. Any activity that is not likely to promote these objectives is prohibited.

The unions must get registered. The union representative files their statutes along with the name, nationality, residence, age and designation of those responsible for management and administration. Documents are deposited in a copy of four to the mayor or the head quarter of prefecture where the union is established. Same process is followed again in case of any change in statutes and administration.

The trade unions have legal personality. They have the right to institute legal proceedings and acquire, without authorization, movable and immovable property.

**Source:** §39 of the Constitution of Togo 1992, §35 of the Labour Code 2021

## Freedom of Collective Bargaining

Labour Code allows employees to bargain collectively through their representatives.

The collective agreement is an agreement between workers (through their unions) and employer(s). A CBA usually provides better benefits to the worker than those provided in the law. If a CBA has provisions, which are less favourable than those provided under the law, it cannot be enforced.

A CBA may be concluded for definite or indefinite period. The duration of a CBA signed for definite time period may not exceed 5 years, unless stated otherwise. A CBA of indefinite term may be cancelled by will of either party.

The collective agreement provides provisions regarding the format and timing of its denunciation, renewal or revision. The collective agreement must include in particular the period of notice that must precede denunciation.

Collective agreements specify their scope of application. This can be national, regional or local or limited to an establishment or more institutions.

The CBA, written in the official language of the Togolese Republic, is established on plain paper and signed by each contracting party. The CBA is applicable from the day following its deposit unless stated otherwise. The Conditions under which CBA is filed and published is determined by the Decree issued by the Ministry of Labour.

Social dialogue is the process of exchange of information and communication by which the (world of work) actors agree to manage their interests. Labour Code provides for a permanent tripartite advisory forum in the form of National Council of Social Dialogue (CNDS). It has two sub-structures for the public and private sectors referred to as Supreme Council for Civil Service (CFSP) and National Labour Council (CNT). The CNDS is a tripartite structure composed of 10 government representative, 10 employer representatives and 12 worker representatives. Meeting of CNDS is convened twice a year.

The main responsibilities of the CNDS are as follows: facilitate social dialogue; promote a culture of prevention of labour disputes; participate in solving major conflicts in the world of work in the public and private sectors; participate in the reflection on social legislation and working conditions in the public and private sectors; participate in the reflection on the world of work management tools, in particular, employment policy, labour, health and safety, vocational training and social security; and issue opinions on the broad economic guidelines with a strong social impact.

**Source:** §133-153 & 259-261 of the Labour Code 2021; décret présidentiel N° 2007-012/PR du 13 mars 2007

## Right to Strike

The Constitution of Togo recognizes the right to strike and Labour code regulates this right. In accordance with the Constitution, the right to strike is exercised within the framework of the laws that

regulate it. Right to strike is regulated by Labour Code and workers can resort to strike action in order to protect their occupational interests. An employee may not be disciplined or dismissed for the normal exercise of the right to strike.

The strike is a collective and concerted stoppage of work decided by the workers to obtain the satisfaction of their claims of an occupational nature. Workers have a right to observe strike to defend their occupational interests.

Peaceful strike is allowed only after the conciliation process to resolve the dispute fails. Strike is considered legal only if it is notified at least 10 working days prior to the proposed date of strike to the employer and the labour inspector. This notification should include the reasons and the claims made by the applicant union and whether the conflict resolution procedure is followed or not.

Strike is illegal if it is not peaceful and does not comply with the provisions of labour code. The employment contract suspends during the period of strike. Both parties are obliged to meet during the notice period to continue negotiations and provide minimum service in the company during a strike in order to avoid accidents and ensure protection of facilities and equipment. Moreover, strikers must respect the freedom of non-strikers and refrain from the destruction of property, carrying intentional blows, sequester the employer, its employees or the administrative authority.

The employer is obliged to take all necessary security measures. The employment contract of strikers suspends during the period of strike and employer is not obliged to pay the salaries of strikers



during this period. The workers regain their jobs at the end of strike and cannot be punished merely because of their participation in the strike.

**Source:** §39 of the Constitution of Togo 1992; §322-335 of the Labour Code 2021

# QUESTIONNAIRE

## DECENTWORKCHECK.ORG

## Check

Decent Work Check Togo is a product of WageIndicator.org and  
www.votresalaire.org/togo



National Regulation exists



National Regulation does not exist

## 01/13 Work &amp; Wages

	NR	Yes	No
1. I earn at least the minimum wage announced by the Government		<input type="checkbox"/>	<input type="checkbox"/>
2. I get my pay on a regular basis. (daily, weekly, fortnightly, monthly)		<input type="checkbox"/>	<input type="checkbox"/>

## 02/13 Compensation

3. Whenever I work overtime, I always get compensation <i>(Overtime rate is fixed at a higher rate)</i>		<input type="checkbox"/>	<input type="checkbox"/>
4. Whenever I work at night, I get higher compensation for night work		<input type="checkbox"/>	<input type="checkbox"/>
5. I get compensatory holiday when I have to work on a public holiday or weekly rest day		<input type="checkbox"/>	<input type="checkbox"/>
6. Whenever I work on a weekly rest day or public holiday, I get due compensation for it		<input type="checkbox"/>	<input type="checkbox"/>

## 03/13 Annual Leave &amp; Holidays

7. How many weeks of paid annual leave are you entitled to?*		<input type="checkbox"/> 1 <input type="checkbox"/> 2	<input type="checkbox"/> 3 <input type="checkbox"/> 4+
8. I get paid during public (national and religious) holidays		<input type="checkbox"/>	<input type="checkbox"/>
9. I get a weekly rest period of at least one day (i.e. 24 hours) in a week		<input type="checkbox"/>	<input type="checkbox"/>

## 04/13 Employment Security

10. I was provided a written statement of particulars at the start of my employment		<input type="checkbox"/>	<input type="checkbox"/>
11. My employer does not hire workers on fixed terms contracts for tasks of permanent nature <i>Please tick "NO" if your employer hires contract workers for permanent tasks</i>		<input type="checkbox"/>	<input type="checkbox"/>
12. My probation period is only 06 months		<input type="checkbox"/>	<input type="checkbox"/>
13. My employer gives due notice before terminating my employment contract (or pays in lieu of notice)		<input type="checkbox"/>	<input type="checkbox"/>
14. My employer offers severance pay in case of termination of employment <i>Severance pay is provided under the law. It is dependent on wages of an employee and length of service</i>		<input type="checkbox"/>	<input type="checkbox"/>

## 05/13 Family Responsibilities





15. My employer provides paid paternity leave <i>This leave is for new fathers/partners and is given at the time of child birth</i>		<input type="checkbox"/>	<input type="checkbox"/>
16. My employer provides (paid or unpaid) parental leave <i>This leave is provided once maternity and paternity leaves have been exhausted. Can be taken by either parent or both the parents consecutively.</i>		<input type="checkbox"/>	<input type="checkbox"/>
17. My work schedule is flexible enough to combine work with family responsibilities <i>Through part-time work or other flex time options</i>		<input type="checkbox"/>	<input type="checkbox"/>

## 06/13 Maternity &amp; Work





18. I get free ante and post natal medical care		<input type="checkbox"/>	<input type="checkbox"/>
19. During pregnancy, I am exempted from nightshifts (night work) or hazardous work		<input type="checkbox"/>	<input type="checkbox"/>
20. My maternity leave lasts at least 14 weeks		<input type="checkbox"/>	<input type="checkbox"/>

\* On question 7, only 3 or 4 working weeks is equivalent to 1 "YES".





# DECENTWORKCHECK.ORG

- |     |   |   |                          |                          |
|-----|---|---|--------------------------|--------------------------|
| 21. | During my maternity leave, I get at least 2/3rd of my former salary   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 22. | I am protected from dismissal during the period of pregnancy<br><i>Workers can still be dismissed for reasons not related to pregnancy like conduct or capacity</i> |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 23. | I have the right to get same/similar job when I return from maternity leave   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 24. | My employer allows nursing breaks, during working hours, to feed my child   |  | <input type="checkbox"/> | <input type="checkbox"/> |





## 07/13 Health & Safety

- |     |  |   |                          |                          |
|-----|--|---|--------------------------|--------------------------|
| 25. | My employer makes sure my workplace is safe and healthy  |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 26. | My employer provides protective equipment, including protective clothing, free of cost   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 27. | My employer provides adequate health and safety training and ensures that workers know the health hazards and different emergency exits in the case of an accident |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 28. | My workplace is visited by the labour inspector at least once a year to check compliance of labour laws at my workplace  |  | <input type="checkbox"/> | <input type="checkbox"/> |









## 08/13 Sick Leave & Employment Injury Benefits

- |     |   |   |                          |                          |
|-----|---|---|--------------------------|--------------------------|
| 29. | My employer provides paid sick leave and I get at least 45% of my wage during the first 6 months of illness |    | <input type="checkbox"/> | <input type="checkbox"/> |
| 30. | I have access to free medical care during my sickness and work injury                                       |   | <input type="checkbox"/> | <input type="checkbox"/> |
| 31. | My employment is secure during the first 6 months of my illness   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 32. | I get adequate compensation in the case of an occupational accident/work injury or occupational disease     |  | <input type="checkbox"/> | <input type="checkbox"/> |

## 09/13 Social Security

- |     |   |   |                          |                          |
|-----|---|---|--------------------------|--------------------------|
| 33. | I am entitled to a pension when I turn 60   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 34. | When I, as a worker, die, my next of kin/survivors get some benefit   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 35. | I get unemployment benefit in case I lose my job  |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 36. | I have access to invalidity benefit in case I am unable to earn due to a nonoccupational sickness, injury or accident |  | <input type="checkbox"/> | <input type="checkbox"/> |

## 10/13 Fair Treatment

- |     |  |   |                          |                          |
|-----|--|---|--------------------------|--------------------------|
| 37. | My employer ensure equal pay for equal/similar work (work of equal value) without any discrimination                                     |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 38. | My employer take strict action against sexual harassment at workplace  |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 39. | I am treated equally in employment opportunities (appointment,promotion, training and transfer) without discrimination on the basis of:* |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Sex/Gender   |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Race   |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Colour   |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Religion   |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Political Opinion  |  | <input type="checkbox"/> | <input type="checkbox"/> |

\* For a composite positive score on question 39, you must have answered "yes" to at least 9 of the choices.

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	Nationality/Place of Birth	😊	<input type="checkbox"/>	<input type="checkbox"/>
	Social Origin/Caste	😊	<input type="checkbox"/>	<input type="checkbox"/>
	Family responsibilities/family status	😊	<input type="checkbox"/>	<input type="checkbox"/>
	Age	😞	<input type="checkbox"/>	<input type="checkbox"/>
	Disability/HIV-AIDS	😊	<input type="checkbox"/>	<input type="checkbox"/>
	Trade union membership and related activities	😊	<input type="checkbox"/>	<input type="checkbox"/>
	Language	😞	<input type="checkbox"/>	<input type="checkbox"/>
	Sexual Orientation (homosexual, bisexual or heterosexual orientation)	😞	<input type="checkbox"/>	<input type="checkbox"/>
	Marital Status	😞	<input type="checkbox"/>	<input type="checkbox"/>
	Physical Appearance	😞	<input type="checkbox"/>	<input type="checkbox"/>
	Pregnancy/Maternity	😞	<input type="checkbox"/>	<input type="checkbox"/>
40	I, as a woman, can work in the same industries as men and have the freedom to choose my profession	😞	<input type="checkbox"/>	<input type="checkbox"/>

## 11/13 Minors & Youth

41.	In my workplace, children under 15 are forbidden	😊	<input type="checkbox"/>	<input type="checkbox"/>
42.	In my workplace, children under 18 are forbidden for hazardous work	😊	<input type="checkbox"/>	<input type="checkbox"/>

## 12/13 Forced Labour

43.	I have the right to terminate employment at will or after serving a notice	😊	<input type="checkbox"/>	<input type="checkbox"/>
44.	My employer keeps my workplace free of forced or bonded labour	😊	<input type="checkbox"/>	<input type="checkbox"/>
45.	My total hours of work, inclusive of overtime, do not exceed 56 hours per week	😊	<input type="checkbox"/>	<input type="checkbox"/>

## 13/13 Trade Union Rights

46.	I have a labour union at my workplace	😊	<input type="checkbox"/>	<input type="checkbox"/>
47.	I have the right to join a union at my workplace	😊	<input type="checkbox"/>	<input type="checkbox"/>
48.	My employer allows collective bargaining at my workplace	😊	<input type="checkbox"/>	<input type="checkbox"/>
49.	I can defend, with my colleagues, our social and economic interests through "strike" without any fear of discrimination	😊	<input type="checkbox"/>	<input type="checkbox"/>

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## Results

Your personal score tells how much your employer lives up to national legal standards regarding work. To calculate your DecentWorkCheck, you must accumulate 1 point for each YES answer marked. Then compare it with the values in Table below:



is your amount of "YES" accumulated.

Togo scored 43 times "YES" on 49 questions related to International Labour Standards

### If your score is between 1 - 18

This score is unbelievable! Does your employer know we live in the 21st century? Ask for your rights. If there is a union active in your company or branch of industry, join it and appeal for help.

### If your score is between 19 - 38

As you can see, there is ample room for improvement. But please don't tackle all these issues at once. Start where it hurts most. In the meantime, notify your union or WageIndicator about your situation, so they may help to improve it. When sending an email to us, please be specific about your complaint and if possible name your employer as well. Also, try and find out if your company officially adheres to a code known as Corporate Social Responsibility. If they do, they should live up to at least ILO standards. If they don't adhere to such a code yet, they should. Many companies do by now. You may bring this up.

### If your score is between 39 - 49

You're pretty much out of the danger zone. Your employer adheres to most of the existing labour laws and regulations. But there is always room for improvement. So next time you talk to management about your work conditions, prepare well and consult this DecentWorkCheck as a checklist.