

UNITED NATIONS TRUSTEESHIP COUNCIL



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Agenda item 5

EXAMINATION OF PETITIONS

Draft eighth report of the Ad Hoc Committee on Petitions

Chairman: Prince WAN WAITHAYAKON (Thailand)

1. The Ad Hoc Committee on Petitions, established by the Trusteeship Council at the first meeting of its ninth session, and composed of the representatives of Argentina, Belgium, New Zealand, Thailand, the Union of Soviet Socialist Republics and the United States of America, examined during its twenty-first, twenty-second and twenty-third meetings on 25 and 27 July 1951, the following petitions concerning Togoland under French Administration referred to it by the Council:

- I. Petitions from Mr. Augustino de Souza (T/PET.7/212, T/PET.7/212/Add.1, T/PET.7/212/Add.2)
- II. Petition from the "Parti togolais du progrès" (T/PET.7/221, T/PET.7/221/Add.1)
- III. Petition from the Atakpame section of the "Unité togolaise" (T/PET.7/225)
- IV. Petition from Togoland women (Women's Branch of the "Unité togolaise") (T/PET.7/227, T/PET.7/227/Add.1)
- V. Petition from Mr. Augustino de Souza (T/PET.7/228, T/PET.7/228/Add.1)
- VI. Petition from "la Jeunesse de l'Unité togolaise" (T/PET.7/235)
- VII. Petition from canton chiefs Agou Pebi IV and Panta Kutumua V (T/PET.7/236)
- VIII. Petition from Mr. Augustino de Souza (T/PET.7/237, T/PET.7/237/Add.1, T/PET.7/237/Add.2)

2. Mr. Pignon participated in the examination of those petitions as representative of the Administering Authority.

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3. Although the petitions were not received within the time limits prescribed in paragraph 1 of rule 86 of the rules of procedure, the representative of the Administering Authority said that he was prepared to consider them.

4. The Ad Hoc Committee submits herewith to the Council its report on these petitions.

5. The representative of the Union of Soviet Socialist Republics voted against the report because it contained draft resolutions which were not acceptable to the Union of Soviet Socialist Republics delegation in that they did not take into account the interests of the indigenous population and they did not recommend that the Administering Authority take urgent measures to meet the requests of the petitioners and put an end to the violation of the rights and interests of the indigenous population.

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I. Petitions concerning the legislative elections of 17 June 1951 in Togoland under French administration. (T/PET.7/212, T/PET.7/212/Add.1, T/PET.7/212/Add.2, T/PET.7/221, T/PET.7/221/Add.1, T/PET.7/225, T/PET.7/227, T/PET.7/227/Add.1, T/PET.7/235, T/PET.7/236)

A. SUMMARY OF THE PETITIONS

(1) Petitions from Mr. Augustino de Souza (T/PET.7/212, T/PET.7/212/Add.1, T/PET.7/212/Add.2, T/PET.7/228, T/PET.7/228/Add.1) dated 13, 18, 25 June 1951, and 25 and 30 June, respectively.

6. During the election campaign and after the ballot the petitioner sent the United Nations a series of protests concerning the legislative elections of 17 June 1951 in Togoland under French Administration.

7. He accuses local authorities of having openly violated the Electoral Act of 23 May 1951 with the aim of defeating the "Unité togolaise" candidate. The revision of the voters' lists provided for in that Act was carried out, he asserts, in a biased spirit so as to interfere with the registration of voters in southern Togoland and to favour the registration of voters in the north. Further, the distribution of voting cards was entrusted to village chiefs and not to the commissions responsible for such distribution under Article 3 of the same Act. Lastly, the Administration brought pressure to bear upon the voters; for example, at some polling stations, village chiefs openly urged their people to vote for the Administration candidate, and the Administration decided to provide voters with free transportation to the polling stations.

8. In support of his allegations, the petitioner points out that in Togoland, where the population is 982,263, the number of persons voting in the election was 26,837, while in the neighbouring colony of Dahomey, with a population of 1,474,864, the number of voters was 151,495. These figures, he says, clearly show that the local Administration deliberately prevented a large number of Togolandese from participating in the 17 June 1951 elections with the aim of depriving the "Unité togolaise" of a certain victory.

9. The petitioner therefore challenges the results of the 17 June 1951 elections, i.e. the election of Mr. Grunitzky, candidate of the "Parti togolais du Progrès" and makes all reservations regarding the conclusions which the Administering Authority might draw from those elections.

10. The petitioner feels that as long as the local Administration remains hostile to Ewe unification, it cannot be entrusted with the task of holding an impartial election. He requests self-government for Togoland so as to put an end to the arbitrary manner in which the stability, progress and peace of the country are being endangered. He also wants the Administering Authorities of the two Togolands to draft a concrete proposal for solution of the Ewe question.

ii) Petition from the "Parti togolais du progrès" (T/PET. 7/221, 7/221/Add.1 dated 21 and 23 June 1951).

11. In a telegram dated 21 June 1951 (T/PET.7/221) the petitioners assert that the general elections for the appointment of a deputy for Togoland in the French National Assembly took place on 17 June 1951 under normal circumstances despite provocations and intimidations by the "Unité togolaise".

12. Despite these manoeuvres, they assert, the candidate of the "Parti togolais du Progrès" was elected by 16,255 votes out of a total of 26,513 votes cast. They conclude that the victory of the "Parti togolais du Progrès", both in the south and the north of Togoland, is overwhelming proof that the party expresses the wishes of the majority of the population, and that condemnation of Ewe unification is thus solemnly pronounced.

13. These various points are elaborated by the petitioners in a subsequent letter dated 23 June 1951 (T/PET.7/221/Add.1).

(iii) Petition from the Atakpamé section of the "Unité togolaise" (T/PET.7/225) dated 23 June 1951

14. The petitioners transmit to the United Nations the text of a telegram which the Atakpamé section of the "Unité togolaise" sent to the French Government.

15. In that telegram the Atakpamé section of the "Unité togolaise" protests against the elections of 17 June 1951 on account of the tremendous disproportion between the population of Atakpamé (102,718), the number of taxable persons (26,440) and the number of registered voters (2,166), and because voting cards were distributed by the Administration instead of by the Commission responsible for such distribution under the Act of 23 May 1951. Many cards, it is alleged, were presented at polling stations by non-registered persons. Accordingly, the French Government is asked to send a commission of enquiry to the spot for annulment of the vote.

(iv) Petition from Togoland Women (Women's Branch of the "Unité togolaise")
(T/PET. 7/227, T/PET.7/227/Add.1) dated 19 and 27 June 1951.

16. In a telegram dated 19 June 1951 (T/PET.7/227), the petitioners protest against the legislative elections of 17 June 1951 in Togoland under French administration. They state that during the elections they observed many irregularities; in particular, pressure by the Administration upon the voters, distribution of voting cards by village chiefs, who are Government officials and leaders of political parties, and "restricted" revision of the electoral rolls.

17. In a subsequent letter, dated 27 June 1951, the petitioners, in support of their petition, forward to the United Nations a copy of a letter sent by them to the French National Assembly, in which the irregularities mentioned in the telegram are described in greater detail. The United Nations is asked to take them into consideration during its forthcoming discussions, with a view to prohibiting all elections in Togoland to Metropolitan assemblies.

(v) Petition from "La Jeunesse de l'Unité togolaise" (T/PET.7/235) dated 25 June 1951

18. The petitioners transmit to the United Nations copies of communications sent by them to the Commissaire de la République in Togoland, the Ministry of Overseas France and the French National Assembly to protest against the legislative elections of 17 June 1951 in Togoland and to demand their annulment.

19. They ask the United Nations to take these documents into consideration in its forthcoming discussions, with a view to the final liberation of ^{all} Togoland. Further, they assert that the recent events in Togoland are the result of the accommodating attitude of the United Nations towards France and Great Britain which, in spite of the Visiting Mission's report, have succeeded in having the unification of Togoland postponed.

(vi) Petition from Canton Chiefs Agou Pebi IV and Panta Kitumua V
(T/PET.7/236) dated 2 July 1951

20. The petitioners ask the United Nations to hasten the development of Togoland towards self-government so as to put an end to the arbitrary regime introduced by Governor Digo. They protest against the legislative elections of 17 June 1951 in Togoland under French administration.

B. OBSERVATIONS OF THE ADMINISTERING AUTHORITY

21. In an oral statement^{1/}, the representative of the Administering Authority explained that the seven petitions all referred to the legislative elections of 17 June 1951.
22. After pointing out that the French National Assembly, which was the competent tribunal to deal with legislative elections, had already been seized of the matter by Mr. Aku, the defeated candidate who was contesting Mr. Grunitzky's election, the representative of France commented on the complaints made in the petitions point by point.
23. The first complaint, he said, concerned the annual revision of the electoral lists. Some petitions accused the Administration of favouring the registration of voters in the north so as to interfere with registration of voters in the south. The allegation was unfounded; moreover, there was a regular procedure for registration of voters, with possible appeal to the courts.
24. The second complaint concerned the revision of the voters' lists provided for in the Act of 23 May 1951. The representative of France acknowledged that the revision had had to be made very rapidly because the elections were to take place less than four weeks after the Act was passed, but he denied that the Administration had favoured the "Parti togolais du Progrès" to the detriment of the "Unité togolaise", or the north to the detriment of the south of the Territory. Certainly, the Administration had never required voters, when registering, to present an identity card, but only proof of identity such as a work permit, certificate of military service, or receipt for payment of taxes. The comparisons drawn between southern and northern Togoland or between Togoland and Dahomey proved nothing because conditions varied in each area. Thus, in northern Togoland, there were many veterans with papers to prove their identity while such persons were few in the south where there was a large floating population from the Gold Coast and where tax evasion was easier than in the north. Similarly, in Dahomey where military service was compulsory and where women were subject to taxation, it was easier to establish identity.
25. The third complaint dealt with the Administration's interference in the electoral campaign. He pointed out in that connexion that it was a regular function of administrative officials to make inspection trips and to supervise the organization of the elections.

^{1/} T/AC.41/SR.21

26. The fourth complaint concerned the distribution of voting cards. The petitioner had, doubtless intentionally, confused the duties of the distribution commissions: they were responsible for supervising the distribution of voting cards and not for the distribution itself.

27. The fifth complaint concerned the location of the polling stations, but this was automatically determined by the geographical distribution of the voting population.

28. The sixth complaint dealt with the transportation of voters. The representative of France pointed out that the Administration had provided transportation for all voters without discrimination.

29. Lastly, with reference to the complaints on the voting itself, he noted that the allegations of the "Unité togolaise" had been contradicted by the "Parti togolais du Progres". He also pointed out that the elections had been held in a very calm atmosphere, without incident or interference by the police and the proceedings, in all polling stations, had been in accordance with the law, a representative of each candidate being present.

C. ACTION TAKEN BY THE AD HOC COMMITTEE

30. This petition was examined and discussed by the Ad Hoc Committee at its 21st, 22nd and 23rd meetings on 25 and 27 July 1951. The relevant discussion is contained in documents T/AC.41/SR.21, SR.22 and SR.23.

31. [The representative of the Union of Soviet Socialist Republics proposed that the Committee insert in the resolution a paragraph to the effect that "the Trusteeship Council recommends that the Administering Authority put an end to anti-democratic practices in electoral matters and to the crude violation of the rights and interests of the indigenous population of the Trust Territory".]

32. [As a result of the rejection of this proposal by votes to abstentions, the representative of the Union of Soviet Socialist Republics stated that he was not in a position to support the draft resolution.]

33. At its 23rd meeting, the Committee adopted, by votes to abstentions, the draft resolution which is reproduced below as Resolution I.

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II. Petition from Mr. Augustino de Souza (T/PET.7/237, T/PET.7/237/Add.1)
dated 8 and 12 July 1951

A. SUMMARY OF THE PETITION

34. In a telegram dated 8 July 1951 (T/PET.7/237), the petitioner complains that in his absence, on 5 July 1951, his house was surrounded by troops in the presence of the Mayor, Prosecutor and Police Commissioner, and that policemen armed with clubs engaged in acts of violence and inflicted injury upon women and youths under the pretext that some ten women gathered in the inner court were violating municipal ordinances issued on the previous day prohibiting public meetings. Even if such violation were proved, he says, justice alone should prevail and not armed force.

35. The petitioner draws the attention of the United Nations to the fact that such terroristic methods are liable to give rise to incidents which could be used by the local authorities to "eliminate" leaders of the "Unité togolaise" under the pretext of quelling a revolt.

36. The incident of 5 July 1951 is related in greater detail in a letter dated 24 July 1951 from the women's branch of the "Unité togolaise" (T/PET.7/237/Add.2).

37. In a second telegram, dated 12 July 1951, the petitioner informs the United Nations that by administrative order all public meetings organized by the "Unité togolaise" have been prohibited in the mixed commune of Lomé, that such meetings have been prohibited in the cercle of Lomé entirely until 31 July and that in other districts various steps have been taken for the purpose of preventing meetings of members of the "Unité togolaise".

38. The petitioner asks the United Nations to make representations to the Administering Authority with a view to safeguarding the freedom of speech and assembly guaranteed under the Trusteeship Agreement.

B. OBSERVATIONS OF THE ADMINISTERING AUTHORITY

39. In an oral statement^{1/}, the representative of the Administering Authority pointed out that the petition raised a factual question, dealing with the incident which took place on 5 July 1951, and a legal question,

^{1/} T/AC.41/SR.22.

relating to the violation of the home and an infringement of freedom of assembly.

40. With regard to the factual question, the representative of France related the events which constituted the incident of 5 July 1951. On that day, a crowd of women gathered round Mr. de Souza's house; in spite of the administrative prohibition, the police intervened, not to disperse the crowd but merely to keep order by setting up a cordon. Thereupon the demonstrators entered Mr. de Souza's concession and threw stones at the police who were keeping order; one policeman was dragged into the house. The representatives of the law then entered the house to rescue him. The incident was not a serious one; only one policeman was wounded by a knife thrust. The representative of France further stated that the prohibition to which he had referred had been issued on 3 July 1951 by the Commissaire de la Republique, owing to the atmosphere of unrest which had prevailed at Lome since the elections, and that this prohibition had been brought to the attention of the public through normal administrative channels.

41. With regard to the legal question, the representative of France maintained that there had been no violation of the home or infringement of freedom of assembly in the legal sense. There had been no violation of the home, since the representatives of the law are entitled, and are even in duty bound, to intervene before an offence is committed, in order to prevent a reprehensible action. There had been no infringement of the freedom of assembly since the authority responsible for public order is entitled to prevent an assembly, if such an assembly is liable to disturb public order.

C. ACTION TAKEN BY THE AD HOC COMMITTEE

42. This petition was examined and discussed by the Ad Hoc Committee at its 22nd and 23rd meetings on 25 and 27 July 1951. The relevant discussion is contained in documents T/AC.41/SR.22 and T/AC.41/SR.23.

43. At its 23rd meeting, the Committee adopted, by votes to , with abstentions, the draft resolution which is reproduced below as Resolution II.

RESOLUTION I

QUESTION OF THE LEGISLATIVE ELECTIONS OF 17 JUNE 1951 RAISED IN CERTAIN
PETITIONS CONCERNING TOGOLAND UNDER FRENCH ADMINISTRATION

Acting under Article 87 b of the Charter and in accordance with its rules of procedure,

Having accepted and examined at its ninth session, in consultation with France as the Administering Authority concerned, the following petitions raising the question of the legislative elections of 17 June 1951:

1. Petition from Mr. Augustino de Souza (T/PET.7/212, Add.1, and Add.2).
2. Petition from the "Parti togolais du progrès" (T/PET.7/221, and Add.1)
3. Petition from the "Section d'Atakpané de l'Unité togolaise" (T/PET.7/225).
4. Petition from the "Section féminine de l'Unité togolaise" (T/PET.7/227, and Add.1).
5. Petition from Mr. Augustino de Souza (T/PET.7/228, and Add.1).
6. Petition from the "Jeunesse de l'Unité togolaise" (T/PET.7/235).
7. Petition from the "chefs de canton Agou Pēbi IV et Panta Kutumae V" (T/PET.7/236).

Having taken note of the oral statement of the representative of the Administering Authority to the effect that:

(a) The French National Assembly, which is the competent organ with regard to legislative elections, now has before it a request for the invalidation of the election of Mr. Grunitzky and will take a decision on the matter in the near future;

(b) The revision of the electoral lists, including both the annual revision and the ~~extra~~ extraordinary revision provided for by the Act of 23 May 1951, was carried out under perfectly regular conditions; in particular, the Administration never demanded identity cards for the inclusion of electors in the list, but merely asked for proofs of identity;

(c) The distribution of electoral ballots was also effected in accordance with legal provisions; the function of the Commissions distributing these ballots was to control the distribution and not to distribute the actual ballots;

/(d) The

(d) The Administration did not intervene in the elections, except for the purpose of organizing them, within the limits of its normal duties;

(e) The legislative elections of 17 June 1951 took place in the Territory without any incident whatsoever and were carried out in all the polling offices in the presence of a representative of each candidate, in accordance with the law;

The Trusteeship Council

Variant A (Union of Soviet Socialist Republics)

1. Recommends to the Administering Authority that it put an end to anti-democratic practices in electoral matters and to flagrant violation of the rights and interests of the indigenous population of the Trust Territory.

Variant B (Belgium, United States of America)

1. Draws the attention of the petitioners to the observations of the Administering Authority;
2. Takes note of the fact that the French National Assembly now has before it a request for the invalidation of the election of the new representative of Togoland to the National Assembly;
3. Requests the Administering Authority to include in its next annual report on the administration of the Territory any necessary information on the action taken in this matter;
4. Expresses the hope that the Administering Authority will continue its efforts to ensure that the inhabitants of the Territory are fully informed of the regulations governing elections;
5. Invites the Secretary-General to inform the Administering Authority and the petitioners of this resolution in accordance with rule 93 of the rules of procedure for the Trusteeship Council.

RESOLUTION II

PETITION FROM MR. AUGUSTINO DE SOUZA AND THE "SECTION FEMININE DE L'UNITE TOGOLAISE" (T/PET.7/237, T/PET.7/237/Add.1, T/PET.7/237/Add.2)

CONCERNING TOGOLAND UNDER FRENCH ADMINISTRATION

Acting under Article 87 b of the Charter and in accordance with its rules of procedure,

Having accepted and examined at its ninth session the petition of Mr. Augustino de Souza and the "Section féminine de l'Unité togolaise" (T/PET.7/237, T/PET.7/237/Add.1, T/PET.7/237/Add.2), in consultation with France as the Administering Authority concerned,

Having taken note of the oral statement of the representative of the Administering Authority to the effect that:

- (a) the Act of 30 June 1961, extended to Togoland by the Decree of 11 April 1946, recognizes freedom of assembly as an absolute principle, but also stipulates that the police authorities have the right to prohibit demonstrations liable to disturb the public order;
- (b) under that Act, the Commissioner of the Republic in Togoland decided on 3 July 1951 temporarily to prohibit public meetings of the Unité togolaise at Lomé in view of the disturbed conditions prevailing since the legislative elections - and that prohibition was brought to the notice of the public by the usual administrative channels;
- (c) police officers went to the petitioner's house on 5 July 1951 to disperse a crowd which had gathered in contravention of the administrative prohibition, and only entered the petitioner's house to rescue one of their members who had been forcibly taken in there by the demonstrators;

The Trusteeship Council

- 1. Draws the attention of the petitioners to the observations of the Administering Authority;
 - 2. Decides that with regard to the incident of 5 July 1951, no action by the Council is called for;
 - 3. Decides to inform the petitioners that the question of human rights and fundamental freedoms is and continues to be the object of the attention of the Council in connexion with its annual examination of conditions in the Territory;
 - 4. Invites the Secretary-General to inform the Administering Authority and the petitioners of this resolution in accordance with rule 93 of the rules of procedure for the Trusteeship Council.
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