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PETITIONS CONCERNING THE TRUST TERRITORY OF TANGANYIKA

Draft report of the Standing Committee on Petitions

Chairman: - Mr. Roberto E. Quiros (El Salvador)

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At its 78th, \_\_\_\_\_, and \_\_\_\_\_ meetings on 24 June \_\_\_\_\_ and \_\_\_\_\_ 1953, the Standing Committee on Petitions, composed of the representatives of Belgium, the Dominican Republic, El Salvador, New Zealand, the Union of Soviet Socialist Republics and the United States of America, examined the six petitions concerning the Trust Territory of Tanganyika under British Administration which are listed in the preceding Table of Contents.

Mr. W.A. C. Mathieson participated in the examination as representative of the Administering Authority concerned.

The Standing Committee submits herewith to the Council its report on these petitions and recommends, in accordance with rule 90, paragraph 6, of the rules of procedure, that the Council decide that no special information is required concerning the action taken on the draft resolutions in Sections I to VI inclusive.

I. Petition from Mr. Paul Finger - T/PET.2/157

1. The petitioner was born in Tanganyika in 1915 of German parentage. On the outbreak of war in 1939 he was interned, and in 1940 was repatriated to Germany. His mother still lives in Tanganyika, and he is anxious to return to the Territory. His several requests to that end, however, have all been refused.
2. In the course of its observations (T/OBS.2/3) the Administering Authority states that the petitioner did fourteen months' military service in Germany between 1935 and 1937, became a member of the Nazi party and of Ritter von Epp's Colonial League, applied to be repatriated to Germany in 1939 and served with the German forces during the war. His applications are refused, therefore, on the grounds that he participated in anti-Allied or pro-Nazi activities.
3. The Administering Authority mentions also that it is its policy to review individual cases from time to time in the light of changed circumstances, taking into account humanitarian and compassionate considerations. The case of the petitioner has been so reviewed.
4. The Committee recalls that the policy of the Administering Authority concerning the re-admission of German nationals to Tanganyika was explained to the Council during its first session, and that the following passage occurs in the Council's resolution 5(I):

"The Trusteeship Council noted the United Kingdom assurance that no German is to be repatriated solely on account of his nationality. Those who are to be repatriated on grounds of enemy activities or sympathies are: persons associated with enemy espionage, sabotage or similar activities; persons who participated in anti-Allied or pro-nazi activities, such as propaganda or the organization of local German nationalistic associations; and persons whose activities served to maintain German commercial or national interests or influence, whether or not such persons worked directly against Allied interests."
5. The petition was examined and discussed at the 78th, \_\_\_\_\_, and \_\_\_\_\_ meetings of the Standing Committee (documents T/C.2/SR.78, \_\_\_\_\_, and \_\_\_\_\_).

6. The representative of the Administering Authority informed the Committee that the last review of the petitioner's case had entailed no change in the decision of the Administering Authority. The case would, however, continue to be reviewed periodically.

7. At its \_\_\_\_\_ meeting, the Committee adopted, by \_\_\_\_\_ votes to \_\_\_\_\_ with \_\_\_\_\_ abstention, the following draft resolution, which it recommends that the Council adopt.

Petition from Mr. Paul Finger (T/PET.2/157) concerning Tanganyika

The Trusteeship Council

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

Having accepted and examined at its twelfth session the petition from Mr. Paul Finger (T/PET.2/157) in consultation with the United Kingdom of Great Britain and Northern Ireland as the Administering Authority concerned,

Having taken note of the written observations of the Administering Authority (T/OBS.2/3) as well as of the oral statement of its representative (T/C.2/SR.78),

Having taken note of the relevant report of the Standing Committee on Petitions (T/L.\_\_\_\_, section I),

1. Draws the attention of the petitioner to the observations of the Administering Authority and of its representative, and in particular to the statement that the petitioner's case will be reviewed from time to time;
2. Decides that under the circumstances no recommendation by the Council is necessary;
3. Invites the Secretary-General to inform the Administering Authority and the petitioner of this resolution in accordance with rule 93 of the rules of procedure for the Trusteeship Council.

II. Petition from Chief Shabani of Wilwana - T/PET.2/158

1. The petitioner states that on 28 August 1951 he was appointed chief of Wilwana by the District Commissioner of Singida District, who subsequently removed him from that office. He does not understand why he was removed, for he did his best to look after his people and had previously served with satisfaction in the Agricultural Department for ten years.
2. The Administering Authority states (T/OBS.2/2, section 1) that, in May 1952, the Provincial Commissioner reported that the petitioner lacked the qualities required of a chief and was habitually drinking to excess. He took no steps to encourage measures for improving agriculture in his area, and his conduct was complained of by local representatives of Government departments as well as by other chiefs in Singida District. For these reasons, the petitioner's provisional appointment could not be confirmed.
3. The petition was examined and discussed at the 78th, \_\_\_\_\_, and \_\_\_\_\_ meetings of the Standing Committee (documents T/C.2/SR.78, \_\_\_\_\_, and \_\_\_\_\_).
4. At its \_\_\_\_\_ meeting, the Committee adopted, by \_\_\_\_\_ votes to \_\_\_\_\_ with \_\_\_\_\_ abstention, the following draft resolution, which it recommends that the Council adopt.

Petition from Chief Shabani of Wilwana (T/PET.2/158)  
concerning Tanganyika

The Trusteeship Council

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

Having accepted and examined at its twelfth session the petition from Chief Shabani of Wilwana (T/PET.2/158) in consultation with the United Kingdom of Great Britain and Northern Ireland as the Administering Authority concerned,

Having taken note of the written observations of the Administering Authority (T/OBS.2/2) as well as of the oral statement of its representative (T/L. \_\_\_\_\_, section II),

1. Draws the attention of the petitioner to the observations of the Administering Authority and of its representative, and in particular that there had been general and growing dissatisfaction with the petitioner's conduct as a chief;
2. Decides that under the circumstances no recommendation by the Council is necessary;
3. Invites the Secretary-General to inform the Administering Authority and the petitioner of this resolution in accordance with rule 93 of the rules of procedure for the Trusteeship Council.

III. Petition from Mr. E.F. Byrne - T/PET.2/159

1. The petitioner begins with the charge that "there is no such thing as law in Tanganyika", and goes on to recount the following circumstances.
2. In August 1951 he appeared before a magistrate's court to answer a charge of having deserted his wife and child. He states that he told the court that, although he had prepared everything against their joining him, his wife had refused to join him in Tanganyika. In April 1952 he was again summoned to appear before the court - this time to show cause why he should not be committed to prison in default of payment - and learned that in November 1951, "during my absence and without any notification, my wife had been awarded a decree and an allowance of E35 a month". Being told that he could appeal against the judgment, he engaged an advocate to prepare the necessary papers for him. The advocate took so long to prepare them that they were not ready until the day when they were due to be lodged in court. The advocate then discovered that he had been struck off the register, so that another one had to be found to sign them.
3. When the papers were presented to the court, the petitioner was informed that his appeal (or application for revision, since the time-limit for lodging an appeal had expired) could not be heard unless he lodged the full costs of the case. This he declined to do, and in terms which drew from the magistrate references to contempt of court. A few days later he was committed to prison for contempt - "for not paying the money as commended". When he emerged from prison he presented his appeal to the High Court and the judge refused to hear it. In the meantime, all his money had been frozen by order of the court, and he was left with only E140 of which he owed E70.
4. Among the petitioners comments are: "... it was evident that I was not going to get a fair hearing ..." (in the magistrate's court); "... inference ... is that the magistrate of the lower court is in the employ of the ... Advocates Union"; and "... Tanganyika is now being run by the Hotel Keepers Association ...".



5. The Administering Authority states (T/OBS.2/4) that the petition is essentially an appeal against the judgments of the competent courts of the Territory, and suggests that it be found inadmissible under rule 81 of the Council's rules of procedure. It adds that the petitioners' other allegations are without foundation.

6. The petition was examined and discussed at the 78th, \_\_\_\_\_, and \_\_\_\_\_ meetings of the Standing Committee (documents T/C.2/SR.78, \_\_\_\_\_, and \_\_\_\_\_).

7. At its \_\_\_\_\_ meeting, the Committee adopted, by \_\_\_\_\_ votes to \_\_\_\_\_ with \_\_\_\_\_ abstention, the following draft resolution, which it recommends that the Council adopt.

Petition from Mr. E.F. Byrne (T/PET.2/159) concerning Tanganyika

The Trusteeship Council

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

Having accepted and examined at its twelfth session the petition from Mr. E.F. Byrne (T/PET.2/159) in consultation with the United Kingdom of Great Britain and Northern Ireland as the Administering Authority concerned,

Having taken note of the written observations of the Administering Authority (T/OBS.2/4) as well as of the oral statement of its representative (T/C.2/SR.78),

Having taken note of the relevant report of the Standing Committee on Petitions (T/L. \_\_\_\_, section III),

1. Draws the attention of the petitioner to the observations of the Administering Authority;
2. Decides that no recommendation by the Council is called for, since the matter is within the competence of the courts of the Territory;
3. Invites the Secretary-General to inform the Administering Authority and the petitioner of this resolution in accordance with rule 93 of the rules of procedure for the Trusteeship Council.

IV. Petition from Mr. Kibwana Chanzi - T/PET.2/160 and Add.1

1. The petitioner raises two questions, both of which stem from his claim that he is the grandson of Sultan Pazi Killama Lukali Mwingankamba who, he states, was the "Sultan of Tanganyika Territory".
2. His first request is that he be appointed "Sultan of my countries in the Eastern Province". He bases his claim on his descent from Sultan Pazi, and recounts what he believes to be the history of part of Eastern Tanganyika. He claims that one of the earliest German Governors gave Sultan Pazi two maps - one of the area which he ruled, and one of fifteen plots which he owned at Temeke near Dar es Salaam - but that they were burned during the campaign in World War I. In the absence of any documentary proof, therefore, the incoming British Administration would not recognize the claims of Sultan Pazi's descendants.
3. The Administering Authority (T/OBS.2/2, section 2) states that the petitioner's claim is so fantastic that it has not been possible to give it serious consideration. The petitioner, about whom nothing was known until 1951, appears to be quite rational except that he is obsessed with his vision of an imaginary "Kingdom of the Eastern Province". Asked in an interview whether the people would recognize him as their chief, he replied that he did not know. Nor did he have any reply to the question why he had not presented his claim earlier - particularly at the time of the recent reorganization of the Uzaramo native administration.
4. The petitioner's second claim, put forward in the addendum to the petition, is in respect of the land at Temeke, near Dar es Salaam, which, as was noted above, is said to have been granted to Sultan Pazi by the German Government. He does not now describe it as fifteen plots, however, but as "this field takes five miles" in which there are "fifteen plots of coconut trees". He claims that the land is wrongfully in the possession of the Government, that he began to prosecute his claim for it in November 1950, but that "nothing has been offered to me". Moreover, the Government has cut down his coconut trees to make way for houses. All he can obtain from the Government is advice to the effect that he should make first registration of the land, or apply to the courts to protect any rights that he may have over the land.

5. The Administering Authority (T/OBS.2/2/Add.1, section 2) states that the petitioner's claim to any land at Temeke is extremely vague. Asked what evidence he could adduce in support of it, he produced a plan of a piece of land known as Plot I, Temeke. That plot, however, has had a complicated history of ownership. The Government believes it to be Crown land, but recently two persons "bought" parts of it from a third party and applied for first registration of their interests. The Government, in accordance with the provisions of the relevant ordinance, thereupon opposed the applications, and the petitioner did the same. The objections will not be heard unless one or other of the "purchasers" should decide to proceed with his claim, and the petitioner has been advised that, if he wishes to establish his own claim to the land, he too should lodge an application for first registration.
6. The position has been fully explained to the petitioner. On the information available, the Administering Authority considers that there is little prospect of the petitioners' establishing any claim to land at Temeke. The German records show Plot I as having been held by eight persons, none of whom are the petitioner or his grandfather.
7. The petition was examined and discussed at the 78th, \_\_\_\_\_, and \_\_\_\_\_ meetings of the Standing Committee (documents T/C.2/SR.78, \_\_\_\_\_, and \_\_\_\_\_).
8. At its \_\_\_\_\_ meeting, the Committee adopted by \_\_\_\_\_ votes to \_\_\_\_\_ with \_\_\_\_\_ abstention, the following draft resolution, which it recommends that the Council adopt.

Petition from Mr. Kibwana Chanzi (T/PET.2/160 and Add.1)  
concerning Tanganyika

The Trusteeship Council

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

Having accepted and examined at its twelfth session the petition from Mr. Kibwana Chanzi (T/PET.2/160 and Add.1) in consultation with the United Kingdom of Great Britain and Northern Ireland as the Administering Authority concerned,

Having taken note of the written observations of the Administering Authority (T/OBS.2/2) as well as of the oral statement of its representative (T/C.2/SR.78),

Having taken note of the relevant report of the Standing Committee on Petitions (T/L.\_\_\_\_\_, section IV),

1. Draws the attention of the petitioner to the observations of the Administering Authority and of its representative, in particular that:

(a) with regard to the petitioner's claim to be the sultan of a part of Tanganyika, the Administration is unable to entertain it;

(b) with regard to the petitioner's claim to the ownership of certain land situated at Temeke:

(1) it is open to him to lodge with the Registrar General, Department of Lands and Surveys, an application that he be registered as the owner of the fee simple in the land in question;

(2) if he should not be satisfied with the decision of the Registrar General, it would be open to him to appeal to the High Court of the Territory;

2. Suggests to the petitioner that, if he considers that he has a legitimate claim to the land in question, he should proceed accordingly;

3. Decides that under the circumstances no recommendation by the Council is necessary;

4. Invites the Secretary-General to inform the Administering Authority and the petitioner of this resolution in accordance with rule 93 of the rules of procedure for the Trusteeship Council.

V. Petitions from Dr. Heinz Langguth on behalf of Mr. Gustav von Heyer -  
T/PET.2/161 and Add.1

1. The main petition, together with its voluminous appendices, is on behalf of a Mr. Gustav von Heyer who, divested of his property in Tanganyika in 1939 on the grounds that he was an enemy alien, pleads for its restitution on the grounds that he was, on 1 September 1939, not a German but a citizen of the Free City of Danzig. In a letter to the Colonial Office, London, the petitioner states that his client has been a citizen of Danzig since 1921 and that he went to Tanganyika in 1924 (Appendix 6). Independent evidence on these points is furnished by a certification of citizenship for travel abroad issued to him by the Danzig authorities in 1924 (Appendix 2), and a Danzig passport issued to him in 1933 (Appendix 4). The petitioner contends that persons of German origin who assumed Danzig nationality should not be considered to be enemy aliens, and much of the petition, and several of the appendices, are devoted to legal discussion of the status of the Free City, and of its nationality in international law.

2. The grounds stated by the Tanganyika authorities on which the petitioner's client was and is held to be an "enemy" for the purposes of the relevant Territorial legislation are that he resided in Germany during the war (Appendix 8). That he returned to Germany in 1940 is clear; whether he returned voluntarily, or against his wishes is not clear: while a photostat copy of an order deporting him from the Territory in January 1940 is appended to the petition (Appendix 5), it is stated by the Tanganyika authorities in a letter to the petitioner that his client was repatriated at his own request (Appendix 7).

3. The addendum to the petition is a commentary by the petitioner on a further letter from the Tanganyika authorities to the effect that the point at issue is whether or not the petitioner's client is a German national within the meaning of section 2 (1) of Chapter 258 of the Tanganyika Laws, and that the onus is on him to prove that he is not. The relevant part of the section of the law quoted reads as follows:

"German National" means any of the following:

- (1) any individual who is a subject or citizen of Germany, or who having at any time been such a subject or citizen has not been naturalized in any part of the British Commonwealth

or, before the date of the coming into force of this Ordinance, in any foreign state in accordance with the laws thereof and when actually resident therein, and does not retain according to the law of his state of origin the nationality of that state.

4. The gist of the petitioner's commentary is that his client had lost his German nationality on 10 January 1920 by virtue of the coming into force on that day of the Treaty of Versailles, Article 105 of which reads as follows:

"On the coming into force of the present treaty, German nationals ordinarily resident in the Territory described in article 100, will ipso facto lose their German nationality in order to become nationals of the Free City of Danzig."

5. The petitioner states that his client lived in the Territory of the Free City on 10 January 1920, that he had told the Member for Lands and Mines so in a letter dated 1 September 1951 and that it is to be gathered from the Member's reply of 14 January 1952 (Appendix 8 to the main petition) that he had knowledge of that letter.

6. The petition was examined and discussed at the 78th, \_\_\_\_\_, and \_\_\_\_\_ meetings of the Standing Committee (documents T/C.2/SR.78, \_\_\_\_\_, and \_\_\_\_\_).

7. The representative of the Administering Authority stated that the petition raised a complicated point of international law. The petitioner's client entered the Territory in 1924 as a national of the Free City of Danzig. In 1934 he joined the Nazi Party and at the outbreak of the war he was still a member of it. The question was whether he was a German national on 3 September 1939. There was considerable doubt in the matter, and the Administering Authority was making further inquiries.

8. At its \_\_\_\_\_ meeting, the Committee adopted, by \_\_\_\_\_ votes to \_\_\_\_\_ with \_\_\_\_\_ abstention, the following draft resolution, which it recommends that the Council adopt.

Petition from Dr. Heinz Langguth on behalf of  
Mr. Gustav von Heyer (T/PET.2/161 and Add.1)  
concerning Tanganyika

The Trusteeship Council

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

Having accepted and examined at its twelfth session the petition from  
Dr. Heinz Langguth on behalf of Mr. Gustav von Heyer (T/PET.2/161 and Add.1)  
in consultation with the United Kingdom of Great Britain and Northern Ireland  
as the Administering Authority concerned,

Having taken note of the oral statement of the representative of the  
Administering Authority (T/C.2/SR.78),

Having taken note of the relevant report of the Standing Committee on  
Petitions (T/L.\_\_\_\_\_, section V),

1. Draws the attention of the petitioner to the statement of the representative  
of the Administering Authority, in particular that the petitioner had raised  
complex questions of international law which were being studied by the  
Administering Authority;
2. Requests the Administering Authority to inform the Council at its  
thirteenth session of the results of its studies;
3. Invites the Secretary-General to inform the Administering Authority and  
the petitioner of this resolution in accordance with rule 93 of the rules of  
procedure for the Trusteeship Council.



VI. Petition from the Meru Citizens Union - T/PET.2/L.1

1. Most of this petition is concerned with general problems to which the attention of the Council has already been called and on which the Council has made recommendations. The Standing Committee decided, however, that the established procedure should be applied to the request contained in the last paragraph of the petition (T/C.2/SR.43).
2. The petitioners complain that nowadays the Meru chiefs are dependent upon wages, and follow only the bidding of the Administration - and "sell secretly whatever lands they can". Their request is that the traditional Meru custom may be reverted to, whereby the people elected a chief - and deposed him if he failed to govern in accordance with the customary laws.
3. The Administering Authority states (T/OBS.2/5) that in 1945 a former chief of the Meru who had been deposed, was re-instated with the support of the majority of the tribe. His re-instatement, however, led eventually to such opposition that, towards the end of 1952 and early 1953, a number of barazas were held to ascertain the real views of the people. As a result, the Chief accepted the District Commissioner's advice that he should resign.
4. In the meantime, a Constitutional Committee, under the chairmanship of the District Commissioner and with the Government's Senior Sociologist and fifteen representative Wameru as members, had been sitting to consider a new constitution for the Meru tribe. The Committee's recommendations, which have proved acceptable to the tribe and to the Government, provide for the election of a tribal council, consisting of fifty members, to be followed by the election of a new chief.
5. Each village will have the right to nominate one candidate for the chiefship. The list of nominations will then be reviewed at a full meeting of the traditional clan leaders and their assistants, and a small panel will be selected. A secret ballot by the tribe, all registered tax-payers being eligible to vote, will then be held to elect the chief from the panel. The chief will be the first president of the tribal council; but every two years the council will elect its president. If the chief is not re-elected president, it will be taken as a vote of "no confidence" in him as chief, and he will be asked to resign so that a new election for the chiefship can be held. This

procedure will ensure that the loss of the confidence of his people by the chief will be clearly shown at an early stage and that a replacement can be effected smoothly and without the factional disruptions from which the Meru Tribe has suffered in the past.

6. In the past, the chief could be selected from one clan only. Under the new constitution - which is expected to come into effect shortly - the chief may be a member of any clan.

7. The petition was examined and discussed at the 78th, \_\_\_\_\_, and \_\_\_\_\_ meetings of the Standing Committee (documents T/C.2/SR.78, \_\_\_\_\_, and \_\_\_\_\_.)

8. The representative of the Administering Authority stated that, for some time past, dissatisfaction had been apparent among the Meru with the arrangements for appointing their chief, and that, as a result, the Administering Authority had initiated the discussions which had led to the new arrangements described by the Administering Authority in its observations. The Meru had co-operated well with the Constitutional Committee, had welcomed the new and more democratic arrangements, and appeared to be completely satisfied.

The petition had been submitted before the discussions referred to by the Administering Authority had been initiated. Since the Administering Authority had submitted its observations, the new constitution had come into effect, and a new chief had recently been elected in accordance with it.

9. At its \_\_\_\_\_ meeting, the Committee adopted by \_\_\_\_\_ votes to \_\_\_\_\_ with \_\_\_\_\_ abstention, the following draft resolution, which it recommends that the Council adopt.

Petition from the Meru Citizens Union (T/PET.2/L.1)  
concerning Tanganyika

The Trusteeship Council

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

Having accepted and examined at its twelfth session the petition from the Meru Citizens Union (T/PET.2/L.1) in consultation with the United Kingdom of Great Britain and Northern Ireland as the Administering Authority concerned,

Having taken note of the written observations of the Administering Authority (T/OBS.2/5) as well as of the oral statements of its representative (T/C.2/SR.78),

Having taken note of the relevant report of the Standing Committee on Petitions (T/L.\_\_\_\_\_, section VI),

1. Draws the attention of the petitioner to the observations of the Administering Authority and of its representative, in particular that, since the petition had been submitted, arrangements acceptable to the Meru people have been introduced for the election of their chief, and that a new chief has recently been elected in accordance with the new and more democratic arrangements;
2. Decides that under the circumstances no recommendation by the Council is necessary;
3. Invites the Secretary-General to inform the Administering Authority and the petitioner of this resolution in accordance with rule 93 of the rules of procedure for the Trusteeship Council.

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