



Inter-Parliamentary Union

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## Togo

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TG/07 - Boévi Pé Patrick Lawson  
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TG/13 - Yao Victor Ketoglo

***Decision adopted by the Committee on the Human Rights of Parliamentarians at its 146<sup>th</sup> session (Geneva, 24-27 January 2015)***

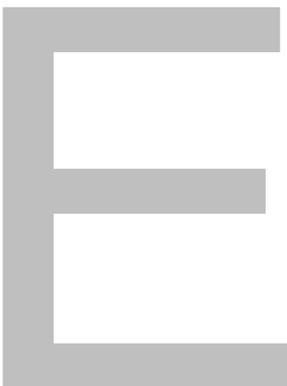
The Committee,

*Referring* to the cases of the nine former parliamentarians, and to the resolution adopted by Governing Council at its 192<sup>nd</sup> session (March 2013),

*Referring* to the letter of 21 January 2015 from the Speaker of the National Assembly and the communication of the complainants of 14 March 2014,

*Recalling* the following information on file:

- The above-mentioned former parliamentarians were all elected in 2010 on the ticket of the Union of Forces for Change (UFC), an opposition party led by Mr. Gilchrist Olympio; following the latter's association with the Togolese People's Rally (RPT), the ruling party, which gave the UFC seven ministerial portfolios soon after the elections of March 2010, 20 UFC members of the National Assembly stood down from their party and formed a new political party called the National Alliance for Change (ANC); they resigned from the UFC parliamentary group at the same time and formed an ANC parliamentary group;
- Before their election, the parliamentarians in question had been obliged, in accordance with a well-established practice among Togolese political parties, to sign and give to their party undated blank letters of resignation as a condition of inclusion in its electoral rolls;
- After the break-up of the UFC and the formation of the ANC, the letters of resignation of the nine parliamentarians concerned were transmitted by the Speaker of the National Assembly to the Constitutional Court, which took note of the undated resignations, declared the corresponding seats vacant and replaced the persons in question; the parliamentarians were not heard during the proceedings by either the National Assembly or the Constitutional Court, and clearly stated that they had not resigned from their seats; the parliamentary authorities and the Constitutional Court were aware of the nature of the letters of resignation and knew that the persons concerned had no intention of resigning their seats;



- The parliamentarians thus removed from office brought their case before the Community Court of Justice of the Economic Community of West African States (ECOWAS) with a view to obtaining their reinstatement to the National Assembly;
- On 7 October 2011, the ECOWAS Community Court of Justice handed down its judgement in the case and ruled that the State of Togo had violated “the plaintiffs’ fundamental right to be heard as set out in Article 10 of the Universal Declaration of Human Rights and Article 7 of the African Charter on Human and Peoples’ Rights” and, consequently, ordered Togo “to make reparation for the violation of the plaintiffs’ human rights and pay each of them the amount of three million (3,000,000) CFA francs” [translated from the French]; in a decision of 13 March 2012 on a request for judicial review it also ruled that, given that it was not an appeal court or able to quash the judgements of national courts, it was not competent, according to its well-established case-law, to overturn the decision of the Togolese Constitutional Court and order that the parliamentarians in question be reinstated;
- The Togolese State took note of the Community Court of Justice’s ruling and, pursuant to a decision by the Council of Ministers of 2 November 2011, the Minister of Justice asked the Minister of Finance to ensure that the amount of 3 million CFA francs was made available to each of the plaintiffs in compensation for the injury caused; the parliamentarians concerned refused that compensation and continued to demand their reinstatement to the National Assembly;
- The exclusion of several opposition members of parliament had exacerbated the political tension in Togo between majority and opposition parties; the legislative elections scheduled for the autumn of 2012 had been postponed, but had eventually taken place in July 2013,

*Bearing in mind* the Constitution of the Republic of Togo, Article 52 of which stipulates that “... each deputy shall be the representative of the entire Nation. Any imperative mandate shall be nullified”, and Article 50 of which stipulates that “the rights and duties set forth in the Universal Declaration of Human Rights and in the international human rights instruments ratified by Togo shall form an integral part of the present Constitution”,

*Recalling* that during the Committee President’s visit to Lomé from 2 to 5 March 2013 the nine parliamentarians concerned had expressed their wish to engage in renewed dialogue with the authorities and had said that they were prepared to accept financial compensation; that the Minister of Justice and the Minister of Planning had also said that the Togolese State was willing to engage in political dialogue with the former parliamentarians, with a view to finding a solution,

*Considering* that the complainants stated in March 2014 that, following the Committee President’s visit, and based on his proposals, an agreement had been reached with the authorities on paying compensation to the parliamentarians removed from office and that some of the compensation had just been paid to them,

*Considering* also that the Speaker of the National Assembly stated on 21 January 2015 that, in order to ease political tensions, the Government had paid the former parliamentarians the damages owed to them, and that the National Assembly had amended its Standing Orders to prevent, in the future, adversely affecting elected members of parliament in the event they resign as a result of “fair weather politics”; Article 6 of the Standing Orders henceforth explicitly provides that the resignation letter of a member of parliament can only be taken into consideration if it emanates from and is handed in by the resigning member of parliament,

1. *Notes with satisfaction* that renewed dialogue between the parliamentarians removed from office and the National Assembly has led to a satisfactory solution being reached, by way of compensation for the injury caused to the parliamentarians removed from office and the amendment of the Standing Orders to prevent the repetition of similar situations in the future;
2. *Decides*, therefore, to close this case and *requests* the Secretary General to forward this decision to the Speaker of the National Assembly and to the complainants.