

ALLIANCE NATIONALE POUR LE CHANGEMENT

A N C

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Memorandum

**On the exclusion of nine (9) ANC MPs
from the National Assembly of Togo on November 22, 2010**

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next one. »**

(Willy Brandt 1913-1992, German federal Chancellor)

December 20

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On Monday November 22, 2010, the Constitutional Court of Togo excluded from the National Assembly, through decision n° E- 018/10 (annex 1), nine (9) members of the Alliance Nationale pour le Changement (ANC) party, at the request of the Speaker of the National assembly.

This decision, totally arbitrary and scandalous, has stirred the unanimous disapproval of the Togolese peoples and has magnified the socio-political crisis Togo has been experiencing for decades.

The present memorandum aims to inform both national and international opinion of the latest coup and abuse of power perpetrated by the ruling party and to clarify the circumstances in which the Constitutional Court made its decision in violation of article 52 of the Constitution (annex 2) and the National Assembly's Rules of Procedure (annex 3).

This memorandum consists of three parts. The first is a chronological presentation of the facts, supported by the documents in the annexes. The second is devoted to analysing the facts. The third is an appeal to put an end to a state of no rule of law in Togo.

I THE FACTS.

A full understanding of these recent events demands revisiting events going back over three years.

1. On August 30, 2007, during an investiture ceremony, the candidates who were to figure on the lists of the Union des Forces de Changement (UFC) for the legislative elections of October, 2007, signed three documents (annexes 4, 5, 6), one of which was a blank resignation letter, undated, written to the Speaker of the National Assembly. These documents, called 'The UFC Contract of Trust', are aimed at preventing, through a kind of psychological pressure, any poaching of the UFC's elected representatives by the party in power, the Rassemblement du Peuple Togolais (RPT), as has been the case in the past.
2. On July 17, 2008, during its second ordinary congress, the UFC designated Gilchrist Olympio, President of the National Executive, as its candidate for the 2010

Presidential elections. During this congress the Party leaders and militants discovered, to their general surprise, through a message of support for Gilchrist Olympio, the existence of an association called 'les Amis de Gilchrist Olympio' (AGO) (Friends of Gilchrist Olympio), created by some militants.

3. On January 13, 2010, the UFC's National Executive was informed that Gilchrist Olympio had an accident which occurred at the end of December, 2009, in the United States, where he had been on a private visit. Medical sources stated that his condition required immobilisation for several weeks. As a result he could not return to Lomé to accomplish the necessary formalities to fill his application dossier for the 2010 Presidential elections, the final deadline having been fixed for midnight on January 15, 2010. The UFC's National Executive examined the situation and, in order to avoid being absent from this election of capital importance to the party, nominated with absolute responsibility Jean-Pierre Fabre, then Secretary General and Leader of the UFC Parliamentary group, as the Party's torch bearer for this election.
4. On March 6, 2010, two days after the Presidential election, the CENI (The National Independent Electoral Commission) published, in violation of all established procedures (including that of collecting the results by VSAT), the fraudulent results that the outgoing Head of State, Faure Gnassingbé, had won this election against Jean-Pierre Fabre. Opposition parties grouped together in 'Front Républicain pour l'Alternance et le Changement', (FRAC), which supported Jean-Pierre Fabre, contested the published results and declared that the true winner of the vote was their candidate.
5. On March 9, 2010, whilst a team of experts committed by FRAC to demonstrate by figure review Jean-Pierre Fabre's victory was hard at work, the police arrived on the premises and took away all the data processing equipment (around twenty computers), collected all the voting returns, verbatim records and result files, and arrested the computer engineers and UFC leaders who were there. The latter spent 48h for no valid reason at the police station, in dreadful conditions. The Public Prosecutor came out daringly to state that he had been informed that managers of the FRAC computer centre were in the process of falsifying the voting results and the verbatim records in order to publish false results. More than 8 months after these events the Prosecutor has still neither substantiated these allegations, nor published the results of his enquiry nor returned the documents and equipment confiscated from Jean-Pierre Fabre, Presidential election.
6. On May 17, 2010, during the weekly meeting of the UFC's National Executive, Gilchrist Olympio declared that he had undertaken '*exploratory contacts with the RPT with a view to sharing power, on the basis of 50% for UFC and 50% for RPT.*' Faced with general reprobation, he had to beat a retreat, insisting on the '*exploratory*' nature of the contacts with RPT and committed himself to abiding by the National Executive's decision.

7. On May 28, 2010, against all expectations, Gilchrist Olympio read out, at the home of his father, the late President Sylvanus Olympio, a declaration in which he announced that he had signed with the RPT '*a historical agreement*' which granted him seven Ministerial portfolios in the government. **This single handed and unilateral move is a violation of the party's political line and of its official texts.** The UFC's National Executive has therefore temporarily suspended Gilchrist Olympio from the Party.
8. On July 30, 2010, in order to bring to an end the dysfunctions within the party, the National Executive decided to convene, for August 10, 2010, an extraordinary congress, in accordance with its prerogatives.
9. On August 10, 2010, the RPT governing party, backing firmly Gilchrist Olympio, prevented through violence (occupation of the Party headquarters and the venue of the congress, throwing tear gas, beating, assaulting and arresting militants, seizing their motorcycles, etc.) the holding of the extraordinary congress convened by the National Executive. The congress's members, who had come from every region of Togo, withdrew to a venue which was kept secret and held the congress, all the same, nominated Jean-Pierre Fabre at the head of the Party and confirmed the suspension of Gilchrist Olympio. The next day, August 11, 2010, the reports resulting from this sitting were conveyed to the Minister for Territorial Administration, in accordance with the Charter of Political Parties. The Minister refused to receive these documents.
10. On August 12, 2010, Gilchrist Olympio for his part organised a so called UFC 'congress' during which 'a special motion was taken to suspend Jean-Pierre Fabre, Patrick Lawson, Eric Dupuy, Isabelle Manavi Améganvi and Mana Agbokou (annex 7) from the UFC party. The Minister for Territorial Administration accepted their report and ratified it.
11. On October 10, 2010, in order to bring to an end the confusion born out of UFC's internal problems which served as an excuse for the ruling party to carry out administrative harassment and police abuses of power. Several UFC militants, including 20 out of the 27 MPs the UFC has at the National Assembly, almost all the members of the UFC's National Executive, as well as almost all of the leaders of the Regional Offices in the interior of the country move to a new political party called the Alliance Nationale pour le Changement (ANC), after taking care to resign from the UFC on October 5, 2010. On October, 2010, the ANC was acknowledged by the Minister for Territorial Administration as a full political party, in accordance with the Charter of Political Parties.
12. On October 25, 2010, the 20 MPs who had resigned from the UFC and were founding members of the ANC, addressed a collective letter (annex 8) to the Bureau of the National Assembly through which they declared that they had created a parliamentary group called the 'Groupe ANC.' To this letter they attached a

collective Act of resigning from the UFC parliamentary group, dating October 24, 2010.

In fact, in accordance with Articles 26, 27 and 28 of the National Assembly's Rules of Procedure, if at least four (04) MPs feel they share political affinities and so declare, they fulfil the necessary condition to create a party group, as long as they can give it a name, designate a Leader chairman and a Vice chairman and declare the group to the Bureau of the National Assembly. According to the National Assembly's Rules of Procedure the group is thus '*administratively constituted once a declaration to that effect is made to the Bureau of the National Assembly*'.

13. On November 8, 2010, the UFC's Executive Bureau made public a declaration (annex 9) in which it pointed out that on August 30, 2007, the UFC's candidates, now MPs at the National Assembly, had committed themselves to resigning from their terms of office should they leave the UFC. The UFC's Executive Bureau thus asked the Bureau of the National Assembly '*to give a ruling on the fate of the UFC's resigning MPs,*' and demanded the '*resigning*' MPs of the UFC to give up their seats '*so as not to betray the trust of the voters.*'
14. On November 10, 2010, the President of the ANC received a letter dated November 5, 2010, (annex 10) through which the Speaker of the National Assembly responded to the letter of declaration the ANC parliamentary group by saying '*that an extra-parliamentary party cannot create a parliamentary group.*'
15. On the same November 10, 2010, the MP Kokou Aholou, nominated chairman of the UFC parliamentary group by the UFC executive bureau, gave to the Bureau of the National Assembly '*resignation letters*' in the name of MPs who were no longer members of the UFC. These undated letters were signed on August 30, 2007, when these ANC MPs were candidates on the UFC lists.
16. On November 11, 2010, the Bureau of the National Assembly had MP Kokou Aholou, the new chairman of the UFC's parliamentary group; to deliver these '*resignation letters*' to the Constitutional Court (annex 11).
17. On November 12, 2010, the chairman of the '*administratively constituted*' ANC group addressed to the Bureau of the National Assembly a detailed response (annex 12) against the refusal to acknowledge the ANC parliamentary group. The ANC group stated that nothing prevented its creation and specified that the Bureau of the National Assembly's refusal stems from '*political considerations with a partisan stance which did neither feature in the Constitution nor in the National Assembly's Rules of Procedure.*'
18. On November 15 the Speaker of the National Assembly convened a meeting of the chairmen caucus without inviting the 4 ANC members who had the legal right to be members of this authority. This exclusion confirms the information according to which the Speaker of the National Assembly had called on the Constitutional Court to make a ruling on the supposed resignation of the 10 now 9 ANC MPs.

19. On November 17, 2010, the 20 ANC MPs addressed, *'for all legal purposes,'* a collective letter (annex 13) to the Constitutional Court in which they informed each judge individually that since their election to the National Assembly, on October 14, 2007, *'they have never signed or addressed to the Bureau of the National Assembly any letter of resignation from their mandate as PMs.'* On that same day the Constitutional Court met to deliberate on *'designating alternates to the so called resigning MPs.'* After acquainting themselves with the contents of the letter written by the Bureau of the National Assembly, the Constitutional Court responded by a letter (reference N° 163/2010/CC/P), dated November 17, 2010, that it had noted several anomalies in the procedure in their application to the judicial system, and in particular :

- The non-respect of Article 6 of the National Assembly's Rules of Procedure, according to which the resignation of an MP, to be valid, must be presented to the National Assembly in plenary session;
- The absence of dates on the 'resignation letters'
- The presence amongst the 'resignation letters' of one letter by Lawson Adjiri Latévi, who is not an MP.

20. On November 18, 2010, the Speaker of the National Assembly called a plenary session. Under the 'any other business' items of the Agenda the Speaker announced that he has received 'resignation letters' from some MPs. To the request of several MPs seeking to know the names of the MPs who are resigning, the Speaker responded that the names are unreadable and that in addition the letters bore no date. At the insistence of the MPs he announced the name of Ouro Akpo Tchagnaou Nafiou, who protested vehemently, stating that he has never resigned from his mandate since he has been elected to the National Assembly. In the face of MP Ouro Akpo's anger the Speaker brought the meeting to a close. The incident was brought to the attention of the general public through a misleading release issued by the Bureau of the National Assembly, which lambasted the attitude of MP Ouro Akpo Tchagnaou.

21. That very same November 18, 2010, in the light of the situation which they have just experienced in the National Assembly, all of the ANC MPs addressed individual letters to the Speaker of the National Assembly, with copies to each of the judges of the Constitutional Court, (annex 14) in which they stated that they have never signed or addressed to the Bureau of the National Assembly any kind of resignation from their mandate as an MP.

22. On that same November 18, 2010, the speaker of the National Assembly addressed to the President of the Constitutional Court a letter (reference N°238/2010/AN/SG/PA) (Annex 19) asking him to replace the 9 MPs who had resigned from the UFC, including MP Ouro Akpo Tchagnaou, who had just strenuously denied to have ever resigned his position.

23. On November 19, 2010, the Constitutional Court once again deliberated on the designation of replacements of the 'resigning MPs.' The Constitutional Court drew up a draft decision published on November 22, 2010, by several newspapers and in which it claims to have ratified the so-called resignations of the ANC MPs and proceeded to replace them. This draft decision did no longer take into account the positions expressed in the letter (reference N°163/2010/CC/P) of November 17, 2010, to the Speaker of the National Assembly and no longer considered the procedural defects it had pinpointed early in the application.
24. On November 22, 2010, the Constitutional Court met once again and took the decision N°E-018/10 by which it replaced the 9 ANC MPs at the National Assembly. Astonishment and indignation! The 'resignation letters' still have no dates and beyond Ouro Akpo, whose name the Speaker had cited during the plenary session and who strongly denied having ever resigned MPs, none of the other so called 'resigning' MPS had been informed formally of 'their resignation.'
25. On November 29, 2010, the ANC MPs at the National Assembly subpoena Gilchrist Olympio and Kokou Aholou before a Lomé tribunal (annex 15) in order that they return the blank 'resignation letters' they still have in their possession and which they are threatening to send to the National Assembly if the remainder of the ANC MPs do not return to the UFC. Asked by the judge about the 'resignation letters', Gilchrist Olympio's counsel responded that the latter had given to the Speaker of the National Assembly all the remaining letters in his possession, including those of some other persons who were not MPs.

II ANALYSIS OF THE FACTS

The chain of events which led to the exclusion of 9 ANC MPs at the National Assembly leave no doubt about the instrumentalisation of the Bureau of the National Assembly and the Constitutional Court by the RPT ruling party and Gilchrist Olympio to destabilise the ANC, destroy its parliamentary representation and deprive of parliamentary immunity the head of the opposition, the candidate who was effectively elected during the Presidential elections of March 4, 2010.

a) The complicity of the Speaker of the National Assembly.

There is nothing about the scope of the crisis which the UFC went through and which led to the creation of the ANC which the Speaker of the National Assembly did not know. Quite to the contrary!

The Speaker of the National Assembly, since he was present at the extraordinary congress of August 12, 2010, organized by Gilchrist Olympio, cannot claim to ignore that a 'special suspension motion' was voted against the UFC MPs, including Jean-Pierre Fabre.

- On September 28, 2010, in consideration of the suspension motion he had received, the Speaker of the National Assembly requested the Finance Minister by letter (reference N° 189/2010/AN/SG/PA (annex 16) to withdraw the official car from MP Jean-Pierre Fabre who was, at the time, chairman of the UFC parliamentary group.
1. It is inconceivable, in these conditions, that the Bureau of the National Assembly would agree to receive from the hands of the UFC's MP Kokou Aholou, the new chairman of the UFC parliamentary group, 'resignation letters' from MPs who no longer belonged to the UFC, who have created their ANC party and who furthermore addressed to the Bureau of the National Assembly the declaration of the creation of the ANC parliamentary group. The Speaker of the National Assembly knows perfectly well that the MPs suspended from the UFC cannot present their resignations to the National Assembly, through a leader of the UFC. The Speaker of the National Assembly also knows that Kokou Aholou, the new chairman of the UFC parliamentary group, is the last person that ANC MPs who wish to resign from the National Assembly would go to in order to introduce their resignations.
 2. The speed with which the Speaker of the National Assembly treated an affair as serious as the group resignation of several MPs would be hard to comprehend, if it did not bear witness to the latter's participation in a plot to destabilise the new ANC party. The sly transmission to the Constitutional Court of this dossier, on November 11, 2010, in violation of Article 6 of the National Assembly's Rules of Procedure (annex 17), is an act of serious misconduct on the part of the Speaker of the National Assembly, which can only be explained by his close involvement in this conspiracy.
 3. The real intentions of the Bureau of the National Assembly became evident when the Bureau sent to the ANC a letter dated November 15, 2010, to confirm its refusal to allow the constitution of the ANC parliamentary group, knowing perfectly well that already on November 11, 2010, it had sent to the Constitutional Court a request to replace the 10 UFC 'resigning' MPs. If it were no party to this coup and abuse of power, the Bureau of the National Assembly should have simply justified its refusal of the creation of the ANC group by the fact that MPs cannot at the same time resign their mandates and ask to constitute a parliamentary group. This imbroglio, if it was real, should have pushed the Bureau of the National Assembly to interrogate individually the 'resigning' MPs in order to really understand the situation.
 4. On November 18, 2010, by conveying for a second time by letter (reference N°238/2010/AN/SG/PA) (Annex 19) to the Constitutional Court the same 'resignation letters' without conforming to 'the advised procedure' laid out by the President of the Constitutional Court in his letter of November 17, 2010, the Bureau of the National Assembly committed an irresponsible act which did demonstrate openly its desire to see the exclusion of the ANC MPs come about as quickly as possible. This letter, written as if it were only starting the procedure with the Constitutional Court for the first time in this particular case, displays the dishonesty of the Bureau of the

National Assembly and above all reveals the existence of a plot between the leaders of the two most important institutions of the land.

The minutes (annex 20) annexed to this letter are deliberately truncated as they conceal the main reasons for the protests and indignation of MP Ouro Akpo, who declared that he had never resigned. Moreover these minutes clearly bore witness to a violation of Article 6 of the National Assembly's Rules of Procedure as only the 'resignation' of MP Ouro Akpo was made known to the National Assembly, whilst there were eight (8) other supposed resigning MPs.

The complicity of the Speaker of the National Assembly comes to light in the letter of November 11, 2010, below, which he sent to the President of the Constitutional Court, a copy of which is annexed to the present memorandum (annex 11).

'Mr President,

I would like to bring to your attention that, by a letter dated November 10, 2010, the Right Honourable Kokou AHLOU, chairman of the UFC parliamentary group, sent me individual letters by which certain UFC MPs resigned from their parliamentary seats for political reasons.

To this effect, I am sending you the relevant documents for necessary action in order to adjudicate on the case. You will find attached the individual resignation letters addressed to the Speaker of the National Assembly.

Waiting for your conclusions, Mr. President, please accept my sincere greetings,

Signed

El Hadj Abass BONFOH

This letter contains some untruths, and the following two in particular:

- a) The 'resignation letters' sent by the Speaker of the National Assembly to the Constitutional Court do not come from UFC MPs as he claims. In effect, on November 11, 2010, at the moment he sent this letter, the Speaker of the National Assembly knew perfectly well that the so-called 'resigning MPs were no longer members of the UFC party as twenty MPs of the UFC parliamentary group, founding members of the ANC, had sent him on October 25, 2010, in other words seventeen days beforehand, a letter by which they informed him that the ANC had been created. They did attached to this letter a collective resignation from the UFC group which they had all signed on October 24, 2010. In addition three of the MPs concerned had been subject to 'a special suspension motion' during the UFC Congress on August 12, 2010, at which the Speaker of the National Assembly was personally present. The Speaker of the National Assembly, in his letter of September 28, 2010 (reference N°189/2010/AN/SG/PA) to the Finance Minister, affirms that he was informed of this 'suspension motion' on August 24, 2010.

b) There is an improper use of the word 'addressed' contained in line 3 of the letter: *'you will find attached the individual resignation letters addressed to the Speaker of the National Assembly.'* None of these supposedly resigning MPs sent any resignation letter to the Speaker of the National Assembly.

Because, if these resignation letters, signed on August 30, 2007, by UFC candidates are indeed 'addressed to' the Speaker of the National Assembly, they were only 'addressed/sent' to the Speaker of the National Assembly on November 10, 2010, and not by the 'resigning MPs but by 'Kokou Aholou, chairman of the UFC parliamentary group,' as the Speaker himself acknowledges in his letter.

Behind this relentlessness on the part of the Bureau of the National Assembly there appears a manifest desire to transfer towards the RPT/UFC team the mandates of MPs claiming membership of the ANC in order to assist the RPT ruling party to have a 4/5th qualified majority in the National Assembly in order to modify the Constitution as it pleases without resorting to a referendum.

b) The complicity of the Constitutional Court

The Constitutional Court is one of the major obstacles towards installing democracy and a State based on the rule of law in Togo. It refuses to pass judgement in accordance with the truth. Since its creation, it has distinguished itself by many systematic violations of the Constitution and the laws of the Republic with the sole aim of keeping the RPT ruling party in place by all means. It has thus always contributed to validating provisional fraudulent results proclaimed by the Independent National Electoral Commission (CENI). Its decisions are a model of inconsistency and injustice, and provoke a legitimate feeling of outrage as they cannot be appealed against in anyway. The recent decision is no exception to this rule. It begins thus:

'The Constitutional Court,

By letter dated November 18, 2010, registered on the same day by the clerk of the Court, under the reference number N°040-G, the Speaker of the National Assembly informs the Court of the resignation letters of certain MPs for political reasons and asks for the names of candidates authorised to replace them to be communicated,' etc.

The Court continues, on line 3, page 2, of its decision: *'Given letter N°227/2010/AN/SG/PA, dated November 11, 2010, from the Speaker of the National Assembly addressed to the President of the Constitutional Court.'*

As it is presented, this line 3 could make the unwary reader believe that this letter is an ordinary letter between the Speaker of the National Assembly and the president Constitutional Court.

In effect it concerns the genuine letter by which the Bureau of the National Assembly opens court proceedings at the Constitutional Court *'in order to rule on the cases'* of the

'individual letters by which certain UFC MPs resigned from their parliamentary mandates for political reasons.'

What needs to be known is the following:

- Why is the Constitutional Court so keen to show that it was on November 18, 2010, that the Speaker of the National Assembly opened the proceedings?
- Why does the Constitutional Court want to hide the fact that it was on November 11, 2010, that proceedings were started, as this is so clear without any possible argument by the letter of the Speaker of the National Assembly?

The reason for the Constitutional Court's attitude is simple. It absolutely wants to hide the existence, and the content of the letter (reference N°163/2010/CC/P), which it addressed to the Speaker of the National Assembly on November 17, 2010. In this letter, the Court draws the attention of the Speaker of the National Assembly to the procedural shortcomings which constituted the non-respect of Article 6 of the National Assembly's Rules of Procedure, and to the non-receivable nature of resignation letters which had no dates, and asked him to withdraw the resignation letter of Lawson Adjri Latévi, who was not a MP. The Constitutional Court also wants to cover the Speaker of the National Assembly, who in his letter of November 18 acts as if proceedings at the Constitutional Court had not taken place on November 11, 2010.

In fact, on November 22, 2010, the Court gave its decision N°E-018/10, suspending the ANC MPs from the National Assembly, leaving aside the procedural shortcomings pointed out having been corrected by the Speaker of the National Assembly.

Because, if the National Assembly had withdrawn from the list of 'resigning MPs the name of Lawson Adjri Latévi, who was not a MP, but from whom the Speaker of the National Assembly had presented a resignation letter, it did not concern itself with either resolving the problem of the non existence of dates on the 'resignation letters' or with informing the plenary session of the names of the resigning MPs. Worse still, Ouro Akpo Tchagnaou, the only MP whose name was cited during the National Assembly's plenary of December 18, 2010, and who vigorously contested his resignation, was kept on the list of resigning MPs once again addressed to the Constitutional Court by the National Assembly on November 18, 2010. He was amongst the MPs suspended from the National Assembly by decision N°E-018/10.

Moreover the incident caused by Ouro Akpo Tchagnaou's vigorous protests led the bureau of the National Assembly to publish a press release deploring the MP's attitude. How possible following that claim, that someone is resigning and is suspended from the National Assembly for reasons of 'resigning for political reasons' while the person still claims that he has never resigned?

The attitude of Togo's Constitutional Court is rather scandalous. One can even wonder about the legality of the letter of November 17, 2010, by which the Constitutional Court

points out to the Speaker of the National Assembly the anomalies of the proceedings and asks him to correct them. Shouldn't the Court just limit itself to verifying the receivability of the proceedings as they were and adjudicate, instead of turning itself into an adviser to the National Assembly and pointing out the correct procedure to follow?

It is incomprehensible that the Constitutional Court refused to take into account the collective letter which the 20 ANC MPs addressed to it on November 17, 2010, in which they affirmed that since their election to the National Assembly they have never resigned their mandate. It is also incomprehensible that the Constitutional Court decided on November 22, 2010, to replace 10 MPs who had sent them on November 18, 2010, in others words four days earlier, copies of letters which they had sent to the Speaker of the National Assembly to state that they were not resigning from the National Assembly.

The Constitutional Court crossed the Rubicon on November 22, 2010. The removal by legal decision, in the conditions pointed above, of people elected by universal suffrage is a violation of people's sovereignty which needs to be halted.

An examination of decision N°E-18/10, made on November 22, in complicity with the Bureau of the National Assembly, which led to the suspension of 9 MPs who were members of the ANC, reveals the willingness of the members of the Constitutional Court to trample their oath underfoot and turn their backs on their mission, which is notably to guarantee people's fundamental rights as well as public freedoms and to regulate the functioning of public institutions and authorities.

More importantly the Constitutional Court has committed a forgery in violating Article 25 (annex 21) of its Rules of Procedure, which obliges it to mention in its decision the names of the judges who took part in the deliberations and to have them sign it. Yet nine (9) judges participated in the deliberations and only eight (8) are mentioned at the bottom of the decision as having been in session.

The Constitutional Court of Togo has in the past committed serious violations of the law:

1 - In 1998, the Togo Head of State, the late Gnassingbé Eyadéma, was about to lose the Presidential elections of June 21. On the evening of June 22 the army obliged the Independent National Electoral Commission (CENI) to relinquish its mission. The Minister of Interior, General Séyi Mèmène, seized the verbatim records and the results files, which he meddled up. He published provisional fraudulent results, making the winner Gnassingbé Eyadéma, and addressed it to the Constitutional Court for validation. That was done.

According to the Electoral law, the Constitutional Court cannot receive provisional fraudulent results from the hands of the Minister of Interior. It is only the CENI which can transmit provisional votes to the Constitutional Court. The opposition parties thus filed at the Constitutional Court requests for an invalidation of the provisional results proclaimed by the Minister of Interior and addressed illegally by him to the Constitutional Court instead of by the CENI (Independent National Electoral Commission).

The Constitutional Court, heedlessly violating the law, thus lends its support to such demonstration of force and abuse of power. It rejected the requests and validated the fraudulent results sent to it by the Minister of Interior. The Constitutional Court of Togo thus took part in an electoral hold-up. Asked about the reasons for this attitude, its President, Louis Amégah, declared: '*I prefer injustice to disorder.*' The European Union published a release in which it stated: 'the electoral process has overstepped its legal framework.' This did not prevent Western countries from recognizing the election of Gnassingbé Eyadéma. This did not prevent African countries from organizing in 2001 in Togo the conference of the OUA Heads of State.

2 – On February 5, 2005, the Togo Head of State Gnassingbé Eyadéma died, at the end of a long reign of 38 years, which was bloody and nightmarish for the Togolese people. The very same evening a group of officers handed power to his son, Faure Gnassingbé, the current Head of State. Faced with worldwide protest against this act from a bygone age, the National Assembly, composed of only MPs from the party in power, the RPT, 'adapted' the Constitution to allow Faure Gnassingbé to finish the term of office of his father before organizing a Presidential election three years later.

Yet Article 144 (annex 18) of the Constitution forbids any modification of the Constitution when there is a power vacuum. Despite this ban, the Togo National Assembly, which stops at nothing above all when it comes to violating the Constitution, first of all modified Article 144 itself to introduce into the Constitution the dispositions which allowed Faure Gnassingbé to complete his father's mandate.

Faure Gnassingbé, who had just come to power by a National Assembly coup against the Constitution, wanted to take the oath. Yet the oath inscribed in the Constitution is only intended for a Head of State elected by direct universal suffrage. Notwithstanding by the difficulties, the Togo Constitutional Court itself composed an oath for the occasion, and had it to sworn by the author of the coup d'état.

These reminders are necessary to show that the recent act of the Togo Constitutional Court is nothing new. It is instead its principal characteristic, a commonplace habit.

By masquerades and perjury, the Togo Constitutional Court is guilty of abuses of authority. It is time it ended. Its immunity which justifies the successive abuses perpetrated by the Togo Constitutional Court and National Assembly should be abrogated.

C) The role of Mr. Gilchrist Olympio:

Ever since fate prevented him from being a candidate for the Togo Presidential election of 2010 Gilchrist Olympio has been a victim of a profound psychological trauma which could explain the unspeakable acts he is today responsible for.

Gilchrist Olympio has held for over three years, more precisely since they were signed on August 30, 2007, together with other documents, the 'resignation letters' of all his party's

candidates for the legislative elections of October 14, 2007, in a safe at his home in Accra, according to his own admission.

Let us remember that the signing of these blank resignation letters aimed at avoiding the migration of UFC MPs towards the party in power, the RPT. Yet it was Gilchrist Olympio himself who, in signing without the approval of the UFC's National Executive an agreement which allowed him to join the RPT along with 7 UFC MPs, trampled underfoot the principles which were at the root of these documents. Mr. Olympio is thus discredited for claiming to use these documents against the men and women who have remained loyal to the ideas contained in the commitments made during the 2007 Congress.

After the creation on October 10, 2010, of the ANC, of which 20 MPs out of the 27 which the UFC numbered are founding members, Mr. Gilchrist Olympio began to harass several ANC MPs, threatening them with producing these blank resignations to obtain their exclusion from the National Assembly, if they did not return to the UFC. It was in the face of the categorical refusal of these MPs to do so that he published the declaration of the UFC's Executive Bureau, dated November 8, 2010, demanding '*the Bureau of the National Assembly to give a ruling on the fate of the UFC's resigning MPs,*' and advising the ANC's MPs to give up their mandate as MPs.

It is thus him who, in carrying out these threats, dispatched MP Kokou Aholou to take to the Speaker of the National Assembly these 'resignation letters' to be sent to the Constitutional Court.

It is thus clear that no MP sent any resignations to the National Assembly and that the transmission of these so-called resignations by the National Assembly to the Constitutional Court is an abuse of authority which violates Article 6 of the Constitutional Court's Rules of Procedure.

III. APPEAL TO PUT AN END TO A STATE OF NO RULE OF LAW IN TOGO

In Togo there is no institution which is independent of the RPT ruling party. The Citizens have no method of appealing or contesting the denial of law, arbitrary actions and bad treatment.

The Parliament, the venue of debating and enacting laws, has become the enclosure from which are organized violations of the Constitution and Human Rights.

The Speaker of the National Assembly favours neither the democratic functioning of Parliament, nor parliamentary democracy, nor dialogue between the different MPs. His recent acts finally end up in discrediting him.

The Constitutional Court for its part is more loyal to its commitment by the side of the RPT to allow this party to maintain State power in spite of everything. It is thus quite naturally that it violates the laws, including its own rules of procedure.

To install democracy and a state with the rule of law in our country and for political morality the ANC thinks that the Bureau of the National Assembly as well as the judges of the Constitutional Court should resign and that the guilty members of these institutions are taken to court and punished for serious misconduct.

The ANC has chosen to fight. Its struggle will only end with the installation of a genuine state with the rule of law and a system of freedoms and equality for all in front of the law.

Let us never forget: *“He who let an injustice to pass opens the way for the next one”*. That is why the fight our party is committed to end the arbitrary actions about the ‘resigning’ MPs will not cease.

The ANC MPs, subject to forced resignations, must retake their seats in the National Assembly without delay and take their places within the bodies and inter-parliamentary networks from which they have been excluded.

Written at Lomé, December 7, 2010

For the National Executive,
The President,

Jean-Pierre Fabre