

RÉPUBLIQUE DU CAMEROUN

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REPUBLIC OF CAMEROON

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**SOLEMN HEARING OF OFFICIAL ENTRY INTO OFFICE OF THE
PRESIDENT OF THE SPECIAL CRIMINAL COURT**

SPECIAL COMMUNICATION

OF

Mr. LAURENT ESSO
MINISTER OF STATE,
MINISTER OF JUSTICE, KEEPER OF THE SEALS

YAOUNDE, 2 FEBRUARY 2018.

The President of the Special Criminal Court,

The Procureur General at the Special Criminal Court,

The Minister of Justice is grateful for your invitation to deliver a communication on the occasion of the solemn hearing marking the official entry into office of Mr. NDJERE Emmanuel, who was appointed President of the Special Criminal Court by Decree of the **President of the Republic, His Excellency Paul BIYA** on 7 June 2017, after opinion of the Higher Judicial Council.

The Procureur General of the Special Criminal Court has just given an overview of the activities of this Court. She mentioned some aspects of the tangible results obtained by this Court since it was set up on 15 October 2012.

They are absolutely laudatory.

President NDJERE Emmanuel,

Mr. YAP Abdou, the very first President of the Special Criminal Court whom you replace today has done an outstanding job.

He put in place all the structures of the Bench and rendered the first decisions of the Special Criminal Court, thus kick starting the activities of this prestigious Court.

He was promoted as First Advocate General of the Supreme Court. He leaves behind an organized and perfectly operational Court.

I would also like to congratulate Mrs. NGOUNOU Justine Aimée, Procureur General at the Special Criminal Court, for the competence, professionalism and abnegation she displayed in the fulfillment of her difficult and delicate mission.

Handling criminal proceedings is not easy, especially as concerns misappropriation of public funds.

The Procureur General, receive my encouragements.

I also commend the work of Judicial and Legal Officers, Court Registrars and of other personnel on the quality of their contribution that confers great respect to the Special Criminal Court.

To Judicial Police Officers of the Specialized Corps, I would like to say: we appreciate the relevance of your investigations that contribute to the credibility of criminal proceedings.

I congratulate you for that.

To all, I almost said...Only one word, go ahead (Un seul mot continuez!)

Your Excellencies, Ladies and Gentlemen

President NDJERE Emmanuel solemnly takes his duties of President of the Special Criminal Court today.

President NDJERE Emmanuel is a Super Scale Judicial Officer, Second Group.

He was absorbed in the Corps of Judicial and Legal Officers in 1987, he successively carried out the duties of:

- Deputy State Counsel of the Court of First Instance and High Court of Monatele and of the Lekie;
- Deputy State Counsel of the Court of First Instance and High Court of Yaounde and of the Mfoundi;
- Head of the Criminal Proceedings Service at the Ministry of Justice.

Afterwards he left legal positions for the duties of:

- Research Officer at the Secretariat General of the Prime Minister's Office;
- Director of Legislative and Statutory Affairs at the Prime Minister's Office;
- Chargé de Mission at the Secretariat General of the Prime Minister's Office ;
- then, Inspector General of the Ministry of State Property and Land Tenure.

In 2010, he was appointed Secretary General of the Ministry of Communication; a duty post that he just left for that of President of the Special Criminal Court.

Holder of a Bachelor in French Private Law, of a *Maîtrise* in Private Law with Practice and Business Litigation as option and graduate from the National School of Administration and Magistracy, Magistracy Section,

he is also a graduate from the International Section of the National School of Magistracy of Paris, France and also holder of an attestation of training on the teaching of Common Law in French, from the University of Moncton in Canada.

Mr. NDJERE Emmanuel is a former Part-time Lecturer at the Institute of Agricultural Techniques (ITA) and former Associate Professor of *Hautes Etudes Canadiennes et Internationales* at the University of Quebec in Montreal.

Since 1990, he is Part-time Lecturer at the National School of Administration and Magistracy, where he gives lectures on Practice at the Legal Department, Judicial Inquiry and Special Criminal Law.

Moreover, Mr. NDJERE Emmanuel is the author of numerous books, including:

- ***L'information Judiciaire au Cameroun*** (Judicial Inquiry in Cameroon);
- ***La Justice, la vérité et le Bonheur*** (Justice, Truth and Happiness);
- ***Du juge d'instruction... au juge d'instruction : quel cheminement pour quel résultat?*** (*From the Examining Magistrate...to the Examining Magistrate : what process for what result?*)
- ***Le Ministère public ou le Parquet, Tomes I et II*** ;(*The Public Prosecution or the Legal Department, Volume I and Volume II*)
- ***Une vie austère ou une galère : entre tradition et modernité en Afrique*** (*Austere Life or Hardship: Between Tradition and Modernity in Africa*);
- ***Pratique du Droit pénal au Cameroun, Tomes I et II.*** (*Practice of Criminal Law in Cameroon, Volume I and Volume II*)

Moreover, **the President of the Republic, His Excellency Paul BIYA** successively made Mr. NDJERE Emmanuel:

- Knight of the National Order of Valor;
- Officer of the National Order of Valor;
- Commander of the National Order of Valor; and
- Grand Officer of the National Order of Valor.

Mr. NDJERE Emmanuel, I congratulate you for this outstanding 30-year career.

The President of the Special Criminal Court,

The seasoned Judicial Officer that you are comes back to the Judiciary.

Now, you are called upon, in the Special Criminal Court, to put into practice the provisions of this criminal Law that you have so much theorized.

You are notably called to apply Section 184 of the Penal Code, which is at the core of the jurisdiction of the Special Criminal Court.

And as I reminded the Procureur General at the Special Criminal Court at her entry into office:

In this Section 184, you are concerned with one Paragraph only: Paragraph 1
And in this Paragraph 1, one Subparagraph ... Subparagraph (a).
And in this Subparagraph (a), a sole penalty...
You know it.

I am not giving you an instruction. This reminder is rather meant to enlighten our audience.

I deeply respect the independence of the Judicial Officer that you are.

But even the Judicial Officer is not a legislator; he implements the Law. The Law, which is the expression of the will of the people for a justice rendered in the name of the People of Cameroon. And,

The President of the Special Criminal Court,

To carry out your mission in an absolute independent way, you have a compass. Your compass has three components:

- the Law to set up the Special Criminal Court, as amended;
- the Criminal Procedure Code;
- the Penal Code.

Use these instruments with rigor and discernment

Mr President,

You come from the Ministry of Communication.

While there, you were in contact with the media, the main mission of which is to give information to the public.

However, it is my conviction that, despite this proximity, the seasoned Judicial Officer that you are, has not lost sight of the **confidential nature of criminal proceedings**.

In matters relating to misappropriation of public funds, I have on several occasions been approached by some personalities who, in all good faith, sought to know the outcome of a particular case being commented by the public opinion.

These cases were still either at the stage of preliminary inquiry or pending before the Examining Magistrate of the trial courts.

The fact that I did not give them the expected answers did not mean that I had something to hide about these cases, which some persons, sometimes wrongly referred to as political trials, due to the silence noted.

As a member of the Executive, the Minister of Justice cannot and is not supposed to expand lengthily about judicial proceedings, given the separation of powers, which is effective in our country.

Besides, I could not and cannot make any comment on pending cases. The Criminal Procedure Code is very clear on this matter.

Your Excellencies, Ladies and gentlemen,

To enable all of us be at the same level of information, I humbly provide you with some clarification on the confidential nature of criminal proceedings.

Confidentiality is an attitude which a Judicial Police Officer or the Judicial Officer should demonstrate towards the information or facts he comes across in the course of the performance of his duty.

Criminal proceedings starts from the preliminary inquiry right to the Judge's decision, passing, if necessary, through the judicial inquiry;

this means that confidentiality in criminal proceedings encompasses preliminary inquiry, judicial inquiry and deliberations of the trial court.

In fact, the Criminal Procedure Code provides that Judicial police Inquiry is confidential. Anyone who participates in this inquiry is, by virtue of the Law, bound by the principle of professional secrecy.

The same applies to judicial inquiry.

And until a stay of proceedings order is issued or, in case of adjournment, until the appearance of the accused before the trial courts is effective, it is forbidden to communicate, by any means whatsoever, information, photographs, opinions relating to a judicial inquiry or to publicly express an opinion on the accused's guilt.

Likewise, it is forbidden to broadcast any element likely to impair either the honour or the life of a person involved in a criminal proceeding which is still under judicial inquiry or pending before the trial court.

The confidentiality of proceedings, for its part, is provided for by the Rules and Regulations governing the Judicial and Legal Service; it prohibits Judicial and Legal Officers who participated in the deliberations of a Court from revealing their content.

As we can see, the Cameroonian law, like many other laws in the world, enshrines the principle of the confidentiality in the process of preliminary inquiry, judicial inquiry and deliberations of the trial court.

However, the Cameroon lawmaker concerns are at least fourfold:

- avoid letting the public be aware of the sensitive work performed by both the Judicial Police Officer and the Examining Magistrate within the framework of the search for evidence;
- safeguard the presumption of innocence by protecting the accused person against slander and gossip;
- protect possible witnesses;
- protect the public opinion against the abuses from those who would be tempted by scandal and sensationalism.

We understand that the lawmaker wanted to preserve the administration of justice from the malicious pressure of an opinion who, very often, wants to guide him, while disregarding not only the elements of the file which it is generally not aware of, but also the path taken or the strategy chosen for the discovery of the truth.

However, this principle which applies neither to the Public prosecution nor to the Defence, has some other mitigations provided for by the law itself, especially with the aim to obtain the possible contribution of witnesses and by so doing, to facilitate the discovery of the truth.

In addition to the fact that professional secrecy may be waived under the conditions set out by the Law, Judicial Police Officers may, after the approval of the State Counsel, publish releases and documents relating to certain cases brought before them.

The Examining Magistrate may, if he deems it necessary for the discovery of the truth, publicly carry out some actions such as the visit to the locus in quo or the reconstruction of events.

The Examining Magistrate may also bring the State Counsel to issue releases on some information put at his disposal.

In all these instances, releases or documents thus published should be broadcast by the media

without any comment.

I emphasize without comments.

That is actually what is stated in the Law.

This provision of the law, which authorizes the media to publish, without comments, elements of preliminary or judicial inquiry, suggests the idea that media should, by virtue of their professionalism, contribute to the smooth functioning of the judiciary.

Likewise, media should preserve the public opinion from any hasty judgment likely to disturb the serenity of the preliminary and judicial inquiry.

Therefore, they should steer clear from those, who for reasons best known to them, go beyond legal prescriptions I just pointed out.

And whereas, the President of the Republic, **His Excellency Paul BIYA, Chairman of the Higher Judicial Council and custodian of the Judicial Power**, calls for the consolidation of our Rule of Law through the Judicial Power,

It is unfortunate that, little or no consideration is given to these provisions of the law, when they are not simply disregarded.

The proliferation and spreading of rumors and false information on pending cases, continue to thrive and is a serious impediment to the serenity of Justice.

It is worth recalling that: freedom of expression and freedom of opinion should not be a stumbling block to the independence and serenity required by the rendering of justice, in the building process of a Rule of Law.

In this regard, from the judicial standpoint, it is advisable to wait for a matter to be enlisted before the appropriate trial court where hearings are conducted openly.

Proceeding thus guarantees free and independent justice whereby whoever is interested in a case, may be informed on the reality of facts brought before the Judge.

It is unfortunate that freedom of expression exercised by those who know everything on all topics, results in the dissemination of information likely to disturb the public opinion for, they are based on facts which are often different from those presented to the judge.

Social media are rife with information which require to be handle with lot of care by users.

So many institutions, so many public services are accused of laxity or partiality!

So many citizens are often sacrificed to public condemnation!

And honour is offended countless times!

People are sentenced by the public, without any knowledge of the facts of the case.

The presumption of innocence, is openly flouted through judicial populism.

Any accused person is guilty or not guilty even before the Court has ruled, because, the media trial precedes the judicial trial.

Oral submissions are made elsewhere and not before Judges.

Therefore, how can we judge a person that the public has already condemned or acquitted?

This behaviour is pernicious and should be condemned.

Oral submissions should only be made before courts and nowhere else.

Those who know more about a case should go to the Judicial Police Officer, at the Legal Department or to the Examining Magistrate in charge of carrying out investigations.

Confidential revelations or denunciations through anonymous letters have no probative value: we need witnesses, we need testimony.

Let us agree on this: we are neither against freedom of expression, nor against freedom of opinion.

We want these freedoms to blossom.

We wish these freedoms to be responsible, constructive and friendly.

In the interest of the manifestation of truth, let the judge do his work.

We have no reason to put him under pressure.

Justice in our country deserves to be rendered in serenity.

Your Excellencies, Ladies and Gentleman,

May be, it should be recalled that Cameroonian lawmaker, who instituted the principle of confidentiality of the criminal proceedings, has also provided for sanctions against the violation of this principle.

Moreover, disciplinary sanctions are likely to be imposed against Civil Servants found guilty of breaching professional secrecy or the confidentiality of the deliberations.

Criminal sanctions are also provided for.

Thus, we should mention that criminal law represses dissemination of fake news or tendentious comments

In this case, sanction is heavier where the offence is committed through the media.

Repression of the breach of professional secrecy, repression of ambiguous publications, as well as repression of the apology of some felonies and offences should also be mentioned.

Undoubtedly, ignorance of the law is no excuse.

However, it seemed appropriate for me, **Your Excellencies, Ladies and gentlemen,** to recall these few legal provisions, as the respect of the confidentiality in criminal proceedings is necessary for a good administration of Justice in our country.

Mr. President of the Special Criminal Court,

As far as you are concerned and as I use to say, violation of the law by other stakeholders should not make you forget your oath *to render justice impartially to all in accordance with the laws, regulations and customs of the Cameroonian people without fear, favor or malice.*

In a context where pressure from the opinion could incite to absolutely need to justify oneself, violation of the law by other stakeholders I repeat should not make you forget to keep the confidentiality of the proceedings.

Those who do not share the point of view expressed in your decisions have the right and the opportunity to appeal before the competent court.

This is the only way, provided for by law, to contradict a court decision.

Mr. President of the Special Criminal Court,

I would like to conclude by saying this:

In a criminal trial, there are either convictions or acquittals.

This means that you will not necessarily be congratulated all the time.

You could be defamed.

You could even be imputed words and intentions

You could be subject to insinuations and why not insults.

This is the fate of the Judicial and Legal Officer.

However, once more, without fear, favor or malice, honestly, you should impartially render justice to all.

You have committed yourself before God and all men

You should serve the people of the Republic of Cameroon, honestly and with loyalty, in accordance with the Laws, Regulations and customs of our country.

Mr. NDJERE Emmanuel,

I wish you success in your new functions as President of the Special Criminal Court.

Your Excellencies, Ladies and gentlemen,

I thank you for your kind attention.