

CHAPTER III

LIMITS TO CRIMINAL JURISDICTION

Criminal jurisdiction can be limited by territory, time or by status.

I - Limitation by Territory

This seeks to answer the question: where was the crime committed? The general rule is that the Criminal Law of Cameroon applies to any act or omission committed within its territory. This is clearly expressed in S. 7(1) of the Penal Code. See also S. 640 (a) of the C.C.P.C which is to the effect that, *an offence shall be deemed to have been committed in Cameroon if an ingredient of the offence was perpetrated in Cameroon*. By virtue of S.12 of the Penal Code, the Courts of the Republic of Cameroon shall have jurisdiction to try any offence to which its Criminal Law is applicable. The Criminal Law of Cameroon applies to persons within Cameroon as well as offences committed within the country.

The definition of the *Criminal Territory* embraces what we may call *the territorial extension*. The law defines the territory of the Republic as including: the land surface, territorial waters and air space above the said land surface and waters; all vessels and aircrafts registered in the Republic. The territorial waters extend to 12 nautical miles, measured from the lowest tide. There is a tendency the world over, for countries to increase their territorial waters. But Cameroon cannot extend her territorial waters because of the existence of the State of Fernando Po offshore the coast of Cameroon. The law gives no indication as to the limits of the airspace but presumably the issue is dealt with by the International Aviation Convention.

To the general principle above, there are exceptions which have the effect of vesting the Courts in Cameroon with extra -territorial jurisdiction.

The first exception relates to offences committed partly abroad and partly in Cameroon. In that event the Criminal Law of Cameroon will still govern the offence and the offender will be open to trial in Cameroon. The typical common place example is a situation where a fire arm is fired in Cameroon and kills a person across the frontier. This is covered by S. 8(a) of Penal Code.

The second exception is constituted by any offence wholly committed abroad by a Cameroonian or by a foreign resident provided that the offence is characterized as a felony or a misdemeanour. See SS. 10 & 21 of Penal Code. The latter Section, deals with the classification of offences. See also S. 636 of the C.P.C which provides that whoever is found in the national territory to be an accomplice to a felony or misdemeanour committed abroad may be tried in Cameroon according to the foreign law and Cameroonian law, on condition that the principal act has been established by a final decision emanating from the competent foreign court. Section 637 stipulates that criminal courts shall have jurisdiction to try anyone who while abroad is an accomplice to a felony or misdemeanour committed in Cameroon.

Thirdly, there is the exception which relates to the counterfeiting of the great seal and the national currency, mindful of S. 8(b) of the Penal Code. See also, S. 640(b) of the C.P.C which is to the effect that an offence shall be deemed to have been committed in Cameroon if it consists of counterfeiting or altering the official seal of the Republic or the currency being legal tender in its territory.

Fourthly, an offence against the security of the State, internal or external, is triable in Cameroon. See S. 640(c) of the C.C.P.C which provides that: an offence shall be deemed to have been committed in Cameroon if it is against the Security of the Republic. However this paragraph shall not apply to a foreigner unless he has been arrested in Cameroon or extradited to Cameroon.

Fifthly, any person who commits an international crime anywhere in the world may be tried in Cameroon for that offence. See S. 11 of Penal Code. Examples of international offences are high-jacking of aircraft, piracy on the high sea, drug trafficking, slave trade, traffic in persons etc.

Even within the national territory, Cameroonian territory is limited by *the theory of venue*. According to this theory, jurisdiction is local, that is to say, each court operates

within a local jurisdiction or within a local magisterial district. By the provisions of SS. 294 and 408 of the C.C.P.C, a court shall have jurisdiction over a case when it is:

- (a) the court of the place of commission of the offence; or
- (b) the court of the place of residence of the accused; or
- (c) the court of the place of arrest of the accused. See also S.295 which is to the effect that a court that is competent to try an offence shall also be competent to try co-offenders and accomplices except where the law provides otherwise.

Section 140 (1) of the CCPC indicates that the competent state counsel shall either be:

- that of the place of commission of the offence; or
- that of the place of residence of the suspect; or
- that of the place of arrest of the suspect. Section 140 (2) provides that where more than one State Counsel are seised of the matter, priority shall be given to the State Counsel in whose jurisdiction the offence was committed.

II - Limitation by time

This seeks to answer the question; when was the offence committed? Under English law the general rule is that: *nemo tempus occurit regis*, meaning, “time does not run against the Crown”. So, criminal actions will not be time barred except the law provides for periods within which an action must be brought for specific offences. For example, according to the penal code, there is a limitation period in instituting criminal proceedings in respect of the following offences; election fraud (S. 122) contempt (S. 154), defamation (S. 305) abuse (S. 307).

That was the position of law in Anglophone Cameroon before the new CCPC. The position today is governed by the C.C.P.C. Section 65 of the C.C.P.C indicates that a felony must be prosecuted within 10years, a misdemeanour within 3years and a simple offence within 1year from the date of commission of the offence. This is known as prescription of prosecution. In the case of prosecution for several related offences the delay for prescription to be taken into account shall be that of the offence with the most severe punishment. See S. 65(6) of C.C.P.C. A civil claim emanating from an offence shall be barred after 30years. See S. 75(2) of C.C.P.C. Time begins to run from when the last ingredient of the offence was committed.

Time limit shall be suspended by any *de jure* or *de facto* bars which may prevent the commencement of criminal action. See S. 68 (1) of the C.P.C. It shall be considered as *de jure* bars (legal bars) where:

- a. there is an interlocutory plea against the judgment being given;
- b. there is parliamentary immunity;
- c. a fiat to prosecute is being awaited;
- d. an appeal to the Supreme Court has been lodged;
- e. there is a conflict of jurisdiction. S.68 (2) of the CCPC.

The *de facto* bars (factual bars) shall include the following:

- a) invasion of the territory by enemy forces;
- b) insanity of the suspect, the defendant or the accused after the commission of the offence;
- c) the escape of the suspect, defendant or accused;
- d) the enlisting of the case for hearing;
- e) adjournment of the case entered in the record- book;
- f) the fact that a court by failing to perform an act within its jurisdiction, has prevented a party from exercising his legal rights to take action or to defend himself.S.68(3)

With regard to prescription of sentences, see S. 67 of the Penal Code. Under this section the prescription period of sentences are: 20 years for felonies, 5years for misdemeanours and 2 years for simple offences.

III - Limitation by Status

According to the general principles of law, all men are equal before the law and are subject to the criminal law. See S.1of the Penal Code. In practice however, there are a number of persons who enjoy immunity from prosecution.

The Head of State and foreign sovereigns enjoy sovereign immunity.

The Head of State could only answer for acts committed in the exercise of his functions in case of high treason. In this case he will be tried in the Court of Impeachment. For him to appear before this court it can only be by a vote of the National Assembly. See S. 53(3) of Law no. 2008/001 of 14th April 2008 amending and supplementing certain provisions of Law no. 96/06 of 18th Janury 1996, which states that

acts committed by the Head of State in pursuant of SS. 5,8,9 and 10 are not triable during and after his mandate. This measure does not extend to the Prime Minister and other members of government who in addition to being amenable before the Court of Impeachment in cases of conspiracy against the security of the State, could also be summoned before the ordinary courts like other citizens for the offences alleged to have been committed by them.

Secondly, members of parliament enjoy parliamentary immunity. See S. 68(2) (b) of C.C.P.C

This immunity, however, is not absolute. Parliamentarians are only covered by speeches made or votes cast by them in the National Assembly while performing their duties. Any thing done outside that is not covered especially if the M.P is of fraudulent disposition. For example, he might have committed an offence against the State Security or he might have been caught committing an offence *flagrante delicto*. Before an M.P is prosecuted his parliamentary immunity must first be lifted by the plenary of the National Assembly, if this is in session, or by the Bureau of the National Assembly if the Assembly is not in session. In the case of **S.E Sona V. Commissioner of Police [1962]**, Mr. Sona, an M.P in the then West Cameroon parliament was arrested, prosecuted and sentenced without a requisite authorization from the relevant organ. It was held that the prosecution of Mr. Sona was null and void. In the case of **F.N Eko V. Sam Mofor, [1971] No. WCCA/11/71 (unreported)**, the respondent, Hon Sam Mofor, M.P. for Santa in the West Cameroon House of Assembly was charged with assault by the Police. He claimed parliamentary immunity. The Procureur General for West Cameroon, with the assistance of two Police Officers, nevertheless continued investigation into the matter, where-upon Sam Mofor instituted a private prosecution in the Bamenda Magistrate Court against them for attempt to prosecute him contrary to S. 127 as read alongside with S. 94 of the Penal Code. Section 127 provides as follows “*any judicial, legal or investigating Police Officer who contrary to any law conferring immunity prosecutes, arrests or tries a member of the Federal or Federated government or of the Federal or Federated Assembly shall be punished with detention from 1-5 years*”. The Procureur General promptly discontinued the private prosecution of Mr. Sam Mofor by entering a *nolle prosequi*. The trial court held the Procureur General liable. This decision was over-

ruled by the Court of Appeal. This Court of Appeal's decision has been criticized as follows: "*When the state prosecutor does discontinue a private prosecution instituted against him in his private capacity, he assumes the role of the judge in a matter in which his own interest looms very largely. This offends against the basic principle that no one shall be judge in his own case-nemo judex in re sua.*" (Per Carlson Anyangwe, Magistracy and the Bar, p. 98). See SS. 591-599 of the C.C.P.C. See also:

-The People V. F.Y Gorji Dinka [1968-70], UYLR 112 P. 117

- The People V. Fon Doh Gah Gwany and 11 others (supra).

-The Parliamentary immunities of **Hon. André Booto à Ngon** and **Edouard Etondé Ekotto** were lifted on the 05 October 2006.

Another class of persons who enjoy immunity from prosecution are Diplomats. The subject of diplomatic immunity is covered by the Vienna Convention of 18 April 1961 on Diplomatic Immunity which Cameroon adhered to on the 15 of April 1977. Diplomatic agents in foreign countries enjoy a particular status. They are covered by Diplomatic immunity based on the notion of extraterritoriality. During their stay in a foreign country they are considered as living out of the country receiving them. By this fiction, the buildings housing their missions are considered as a portion of the foreign country in the country of residence. A criminal action cannot be brought against a Diplomatic agent nor can he even be called upon to give evidence in court while he is in function.

Judges enjoy what is known as judicial immunity. This is previewed to guarantee a smooth administration of justice. There exist two categories:

-Immunity in relation to speeches and writings in court provided they are in relation to the matter being considered.

-Immunity in relation to account of court proceeding. It covers the faithful account without malice of such proceedings and speeches save only of a prosecution or action for defamation. It also covers the publication of any judgment or judicial order, including those passed in a prosecution or action for defamation.

See, S.306 (3, 4 and 5) of the Penal Code.

Advocates enjoy a limited immunity and the authority for this is the case of **Rondel V. Worsley [1969] AC, 191**

Where there is a family relationship, in certain circumstances, a member of the said family may be immune from prosecution for what would have been considered an offence. This is in order to maintain family ties. The following are examples:

- By virtue of article 100(2) of the Penal Code the offence of *accessory after the fact* is inapplicable between husband and wife.

- Furthermore, under S. 95 of Penal Code, a husband and wife cannot be guilty of conspiracy.

- The offences of theft, misappropriation, false pretence; special theft and misappropriation; and credit by fraud and fraudulent retention, provided in S. 318, 319 and 322 respectively, according to S. 323 of the Penal Code shall not lie against a person guilty of the acts therein, against his spouse, against his legitimate or adoptive or adopted ascendant or descendant, or against his natural ascendant or descendant up to the second degree either living with him or after recognition, or to a surviving spouse in respect of necessities belonging to the deceased spouse.

By virtue of S.80 (1) of the Penal Code, a child below the age of 10 is *doli incapax*, that is to say, he is incapable of committing an offence.

Members of Elections Cameroon (ELECAM), the organ in charge of managing elections in Cameroon, are immune from prosecution in the exercise of their functions. See S. 3 of Law No. 2006/011 of 29 December 2006 to set up and lay down the organization and functioning of ELECAM, repealed and re-enacted in S.6 of Law No. 2012/001 of 19 April 2012 relating to the Electoral Code, amended and supplemented by Law No. 2012/017 of 21 December 2012.

CHAPTER IV

CRIMINAL COURTS

S. 288 (1) of the C.P.C defines a trial court as “*a legal body responsible for hearing and determining any matter brought before it in compliance with the law and where applicable, pronouncing the penalty or measure provided for by the law*”. The Criminal Procedure Code considers the following Courts as ordinary courts of law:

- the Court of First Instance;
- the High Court;
- the Court of Appeal; and
- the Supreme Court.

No mention is made of special criminal courts such as the Court of Impeachment, Military Tribunal and State Security Court. Likewise, the composition of the ordinary criminal courts is not addressed by the CPC.

Criminal Jurisdiction in Cameroon can be classified under two broad categories, namely, *Courts of General Criminal Jurisdiction and Courts of Special Criminal Jurisdiction*. The former could be broken down into two: courts with original jurisdiction and courts with appellate jurisdiction. Falling within the brackets of courts with original jurisdiction are the Courts of First Instance and the High Courts. Courts with appellate jurisdiction will include the Regional Courts of Appeal and the Supreme Courts. Under

Courts of Special Criminal Jurisdiction, we have the military tribunals, the Court of impeachment, the Constitutional Council, etc.

I - Courts of General Criminal Jurisdiction

Here, we have courts with original jurisdiction and courts with appellate jurisdiction

A-Courts with Original Jurisdiction

These are courts that will hear and determine cases for the first time. Under this category, we have the Courts of First Instance and the High Courts.

1-Court of First Instance (Magistrates' Court)

The organization of the Court of First Instance is done by Law No. 2006/015 of 29 December 2006 (as amended and supplemented by certain provisions of law No 2011/027 of 14 December 2011) on Judicial Organization in Cameroon. The Court of First Instance shall be established in each sub-division. However, for service purposes its area of jurisdiction may cover several sub-divisions by Decree of the President of the Republic. The Court of First Instance shall be situated in the chief town of the sub-division. However, the court may hear matters outside its seat. Such hearings shall be referred to as "circuit courts". See S. 13 of 2006 Law.

The court of First instance shall be organized into:

- Benches;
- General Assembly.

The court shall comprise the following:

- One or more benches for civil matters;
- one or more benches for commercial matters;
- one or more benches for labour matters;
- one or more benches for misdemeanours or simple offences;
- one or more benches for minors.

The General Assembly shall be composed of all the legal and judicial officers working in the court of First Instance as well as the Registrar- in- chief of the court. It shall have an advisory capacity and a judicial jurisdiction.

The Court of First Instance shall be composed of:

(a) *At the bench:*

- A President;

- one or more Magistrates;
- One Registrar-in-Chief;
- Registrars.

(b) *For the preliminary inquiry:*

- one or more Examining Magistrates;
- one or more Registrars.

(c) *At the Legal Department:*

- a State Counsel;
- one or more deputy State Counsel.

See S. 14(1)

All the cases brought before the Court of First Instance shall be heard and determined by a single judicial officer. However, the President of the court may of his own motion or on the application of the Legal Department or that of a party, order that a matter be heard by a collegiate bench of three members.

The Court of First Instance has jurisdiction in criminal matters:

- to try all offences classified as misdemeanors or simple offences;
- to hear applications for bail, lodged by persons detained or charged with criminal offences within its jurisdiction;
- to try felonies committed by minors without adult co-offenders or accessories.

In civil, commercial or labour matters, the Court has jurisdiction to hear matters where the amount of damages claimed does not exceed 10 million CFAF. (See S. 15(1) b of 2006 Law).

The President of the Court of First Instance or the Judicial Officer designated by him shall have jurisdiction to:

- rule on motions on notice;
- rule on motions *ex parte*;
- decide on disputes relating to the execution of judgment of the Court of First Instance and any other document capable of such execution, except those of the High Court, Court of Appeal or Supreme Court .
- rule on applications for *exequatur*. See S. 15(2) of 2006 law.

When hearing a criminal matter, the Court of First Instance shall, save otherwise provided by any other law, have jurisdiction to entertain actions for damages resulting from the commission of an offence. Where a Court of First Instance hears a suit filed as a result of a criminal offence as indicated above, it shall have jurisdiction even where the amount of damages claimed is above 10 million CFA Frs. See S. 15(3) (b) of the 2006 Law.

2-The High Court

The High Court shall be established for each Division. However, for service purpose, its area of jurisdiction may cover several Divisions by virtue of a decree of the President of the Republic. The High Court shall be situated in the chief town of the Division. However, it may hear matters outside its seat. S. 16(1) of 2006 Law.

The High Court shall be organized into:

- Benches;
- General Assembly.

The court shall comprise the following:

- One or more benches for civil matters;
- one or more benches for commercial matters;
- one or more benches for labour matters;
- one or more benches for Criminal matters.

The President of the court of appeal may, by order and considering service needs, merge two or more benches.

Like in the court of First instance, the General Assembly of the High Court shall be composed of all the legal and judicial officers working in that court as well as its Registrar- in- chief. . It shall have an advisory capacity and a judicial jurisdiction where provided by the law.

The High Court shall be composed of:

a) *At the Bench;*

- A president;
- One or more judges;
- One Registrar –in- chief;
- Registrars.

b) For the Preliminary Inquiry

- One or more Examining Magistrates;
- One or more Registrars.

c) At the Legal Department

- One State Counsel;
- One or more Deputy State Counsel.

The High Court shall have jurisdiction in criminal matters:

- To try felonies and related misdemeanours;
- To hear and determine applications for bail lodged by persons detained or charged with criminal offences within its jurisdiction.

In civil, commercial and labour matters, the High Court has jurisdiction:

- to hear and determine suits where the amount of damages claimed exceeds 10 million FCFA;
- to recover by way of simplified procedure all unquestionable, liquid and due, civil and commercial debts exceeding 10 million CFA frs as well as all unquestionable, liquid and due commercial claims, of whatever amount, where the obligation arises from a cheque, a promissory note or a bill of exchange.

In non- administrative matters, the High Court has jurisdiction:

- to hear and determine all applications for an order prohibiting any person(s) or authority from doing or performing any act in respect of which he is not entitled or competent to do by law (prohibition);
- to hear and determine all applications for an order commanding any person(s) or authority to do or perform any act which he is required to do by law (Mandamus).

The President of the High Court or a Judge designated by him is competent to hear and determine:

- disputes relating to the execution of the decisions of that High Court;
- to hear and determine applications for immediate release (habeas Corpus) lodged by or made on behalf of person(s) taken in charge or detained illegally or without warrant. See S. 18 of 2006 Law.

When hearing a criminal matter, the High Court shall have jurisdiction to entertain claims for damages resulting from the commission of the offences unless otherwise provided by any other law

B- Courts with Appellate Jurisdiction

These are courts which review the decisions of lower courts based on applications from litigants claiming a miscarriage of justice in their rulings or judgments. Under this category we have the Regional Courts of Appeal and the Supreme Court.

1-Regional Courts of Appeal

A court of appeal shall be established in each Region. However, for service purposes, its area of jurisdiction may cover several Regions, by decree of the President of the Republic. The Court of Appeal shall be situated in the chief town of the Region. See S. 19, 2006 Law.

The court of appeal shall be composed of:

a) *At the Bench:*

- A President;
- One or more Vice- Presidents;
- One or more judges;
- One Registrar-in –Chief;
- Registrars.

b) *At the Legal Department:*

- A Procureur General;
- One or more Advocates General;
- One or more Deputies of the Procureur General;
- One or more Legal Assistants at the Procureur General's Chambers. See, S. 20 of 2006 Law.

The Court of Appeal shall be organized into:

- Benches and*
- the General Assembly.*

It shall be composed, depending on the needs of the service, of:

- one or more benches for motions and urgent applications;
- one or more benches for disputes relating to the enforcement of decisions;

- one or more benches for civil and commercial matters;
- one or more benches for Labour matters;
- one or more benches for Traditional Law matters;
- one or more benches for felonies;
- one or more benches for misdemeanours and simple offences;
- one or more benches for Inquiry Control.

The President of the Court of Appeal may by an order merge two or more benches. The Judges of the Court of Appeal shall be assigned to Benches by order of the President of that Court and a judge may be member of more than one bench.

The General Assembly shall be composed of judicial officers working at the Court of Appeal as well as the Registrar –in- Chief. It shall have judicial jurisdiction and advisory capacity.

All cases falling within the jurisdiction of the Court of Appeal shall be heard by three judicial officers who are members of the said Court.

The Court of Appeal has jurisdiction to hear:

- a) appeals against judgments delivered by courts, with the exception of those delivered by the Supreme Court and the Court of Appeal itself;
- b) Appeals against the rulings of the Examining Magistrate;
- c) Disputes in connection with the execution of its decisions;
- d) All other matters provided for by the law. See S.22 of the 2006 Law.

2- The Supreme Court

According to the Cameroon constitution, the Supreme Court is the highest court of the land in legal and administrative matters, as well as in the appraisal of accounts. See, Section 38 (1) of Law No. 96/06 of 18 January 1996, revising the 1972 Constitution. The Supreme Court is composed of 3 benches: the judicial bench, the administrative bench and the audit bench.

The Judicial Bench gives final ruling on appeals against rulings given by various courts and tribunals of the country, as well as other matters expressly devolving on it by law.

The Administrative Bench examines all administrative disputes, that is, legislation involving the State, local authorities and public corporations. By Section 40 of the 1996

law revising the 1972 constitution, this bench examines appeals on regional and council election disputes. Administrative litigation also includes, inter alia, petitions for cancellation of acts on the grounds of *ultra vires*, claims for loss caused by an administrative measure, disputes concerning State Lands, administrative trespass on private lands, and any arbitrary steps by the administration against liberty and property. See, S. 9 of Ordinance No. 72/6 of 29 August 1972 on the Organization of the Supreme Court, as amended by Ordinance No.76/28 of 14 December 1976, all of which have been repealed by Law no. 2006/16 of 29th December 2006 to lay down the organization and functioning of the Supreme Court. See S.144(2). Today however Law No. 2006/22 of 29 December 2006, lays down the organization and functioning of the Administrative Courts.

The Audit Bench of the Supreme Court is competent to control and rule on public accounts and semi- public accounts. It gives final ruling on judgments passed by lower audit courts. It examines any other matter expressly devolving upon it by law. See Law No. 2003/005 of 21 April 2003 on the Jurisdiction, organization and functioning of the Audit Bench

Before the entry into force of the new Criminal Procedure Code in Cameroon, the Supreme Court did not examine cases on the merits, that is, it did not review the facts of the cases. Today the new code gives it the power to do so.

II) Courts of Special Criminal Jurisdiction

A court of special jurisdiction is one which deals either with specific matters formally provided for by statute or with a particular class of persons in Cameroon. Before 2006 there were three Courts of Special Jurisdiction in Cameroon, namely; the Court of Impeachment, the Military Tribunal and the State Security Court .The 2006 Law on Judicial Organization does not mention State Security Courts as one of the Courts in Cameroon. See, S. 3 of 2006 Law. It is therefore debatable whether this Court Still forms part of the Courts of Cameroon. Section 3 of Law No 2006/015 of 29 December 2006 on the organization of the Judiciary in Cameroon mentions the courts which form part of the judiciary in Cameroon. That article fails to mention the Security Court. By that omission can we draw the conclusion that this court has been suppressed, and consequently that

Law No. 2006/15 abrogates Law No.90/060 of 19 December 1990 relating to the organization and functioning of the State Security Court?

Professor François Anoukaha, in an article entitled: “*La réforme de l’organisation judiciaire au Cameroun*” (published in *Juridis Périodique* No. 68, Octobre-Décembre 2006, P. 45 et seq.) answers this question in the affirmative. He argues that Law No. 90/058 of 19 December 1990 which modified Law No. 89/019 of 29 December 1989 (which itself modified ordinance No72/04 of 26 August 1972) having been abrogated by the 2006 Law on the Organization of the Judiciary in Cameroon, this last law failing to mention State Security Court as one of the Courts in Cameroon, implies the suppression of the latter.

But Philippe Keubou in his book entitled ‘Précis de Procédure Pénal Camerounaise, 1ere Edition, Presses Universitaires d’Afrique, Yaounde, 2010. P.55, submits that the fact that this new law does not mention the State Security Court does not ipso facto mean it has been suppressed. He says it could be an expression of legislative forgetfulness. If the legislator actually intended to suppress the State security Court, it would have expressly cited among the Laws abrogated, Law No. 90/060 of 19 December 1990 relating to the organization and functioning of the State Security Court. This it did not do.

Further, he says that the argument advanced by which the competence of the Security Court suppressed may be transferred to the Military Court does not hold, given that the new Law relating to the Organization of Military Justice and laying down the Procedure applicable before Military Tribunals, Law No. 2008/015 of 29 December 2008 does not see attributed to it the competence of the State Security Court. He concludes by emitting the opinion that the State Security court has not been suppressed.

With the debates on, the issue will be clarified the day this Court shall be seised and one of the parties raises an objection to its jurisdiction on the basis of the fact that it is not part of the Courts of Cameroon.

To the above mentioned Courts we can include the Special Criminal Court and the Constitutional Council as special courts in Cameroon.

1) The Court of Impeachment

In accordance with S. 53 (1) of the 1996 law revising the 1972 Constitution, the court of impeachment shall have jurisdiction in respect of acts committed in the exercise of their functions, to try the President of the Republic for high treason, and the Prime Minister, members of Government and persons ranking as such and senior government officials to whom powers have been delegated in pursuance of Sections 10 and 12 of the said constitution, for conspiracy against the security of the State.

The Court of Impeachment is governed by ordinance No. 72/07 of 26 August 1972. The court sits in Yaounde and it operates on the budget of the National Assembly which elects the judges of the Court. The court is competent to hear only cases of “high treason” committed by the President of the Republic, and cases of “conspiracy against the security of the State” committed by the Prime Minister and other members of government.

Treason simply means treachery or betrayal, while *high treason* is any offence against the security of the State. Treason is an offence against the external security of the State, committed by a citizen carrying a death penalty. See SS. 102 and 103 of the Cameroonian Penal Code.

By conspiracy against State security, is meant any felony or misdemeanour against the internal and external security of the State as defined in the Cameroonian Penal Code. See SS. 102- 117 of Cameroonian Penal Code.

See amendments on initiating proceedings before the court of impeachment brought about by S.53 of Law no. 2008/001 of 14 April 2008 cited above. S. 53(2) states that proceedings against the president of the republic can only be initiated by the National Assembly or the Senate on a 4/5 majority vote.

All proceedings of the Court of Impeachment must be held in open Court, though exceptionally, proceedings or parts thereof may be held in Camera. An accused may be tried and sentenced in *abstentia*.

2) Military Tribunal

On 29 December 2008, the Head of State promulgated into Law the Bill emanating from the National Assembly to organize military justice and lay down rules of procedure applicable before military tribunals. See Law No. 2008/015 of 29 December 2008. According to S. 2 of this Law, military tribunals shall be special jurisdiction courts.

S.3 is to the effect that a military tribunal shall be set up in each Region, which means that there should be 10 Military tribunals in Cameroon. However, depending on the service needs, the President of the Republic may by decree set up more than one tribunal within the same Region or extend the area of jurisdiction of a tribunal to several Regions. The seat of the military tribunal shall be at the headquarters of the Region such as Bafoussam for the West Region. However, the tribunal may hear matters outside its headquarters. Such hearing shall be called “*circuit hearing*”. That notwithstanding, the Yaounde military tribunal may, in the event of exceptional circumstances such as those specified in S. 9 of the Constitution which constitute serious threats to public order, state security or terrorism, exercise its powers throughout the national territory.

The Military Tribunal shall comprise:

a) At the Bench:

- A President;
- One or several Vice-Presidents;
- Two assessors and alternate assessors;
- A Registrar- in-chief;
- One or several Registrars.

b) For Preliminary Inquiry (P.I)

- One or several Examining Magistrates;
- One or several Inquiry Registrars.

c) At the Legal Department

- A State Prosecutor;
- One or several Deputy State Prosecutors;
- One or several Registrars.

In criminal proceedings, any case that falls within the competence of the military tribunal shall be tried by the courts sitting as a collegiate bench. The collegiate bench shall be composed of a President and two assessors.

In misdemeanours or minor offences, cases shall be tried by the President or a Vice- President. See. S.6 (1) (a). Notwithstanding this provision, the military tribunal may by an interlocutory decision of its own motion or at the request of the State Prosecutor, rule that a case be tried by a collegiate bench.

According to S.7 of the 2008 Law, the military tribunal shall be the only competent court to hear:

- a) Military offences provided for by the Code of Military Justice;
- b) Any offences committed by service men, with or without civilian co-offenders or accomplices, in a military establishment or in the exercise of their duties;
- c) Offences against the laws dealing with wars or defence weapons;
- d) Armed robbery;
- e) Any offences involving a service man or any person considered as such, committed in times of war or in a Region under a state of emergency measures;
- f) Any offences committed by civilians in military establishment causing damage to military equipments or installations, or pre-judicial to the physical integrity of a serviceman;
- g) All offences relating to purchase, sale, production, wearing or keeping of military effects or insignia as defined by military regulations;
- h) All offences related to those specified above.

Minors aged between 14 and 18 years who commit or are accomplices of the offences referred to above, shall be under the jurisdiction of the Ordinary Law Court.

Foreigners who commit or are accomplices of the above offences, subject to international conventions that provide for an exemption from jurisdiction or rule relating to diplomatic immunities, shall be under the jurisdiction of the military tribunal.

For the competence of the military tribunal, See, SS. 7, 8 and 9 of 2008 Law. For the Procedure before the trial courts, See, SS. 16, 20 and 21 of 2008 Law.

Judgment of the military tribunal shall be subject to application to set aside or appeal. The form and time limit to set aside an appeal shall be that of the Ordinary Law. Appeals against the judgment of the military tribunal shall be brought before the competent court of Appeal. See S. 21 of 2008 Law on Military Justice. See also S. 20 et seq. of Law No. 2006/015 of 29 December 2006 relating to Judicial Organization.

The military tribunal shall rule in the first and last instance (S. 22 paragraph (c) of 2008 Law).

3) The State Security Court

This court was set up by Law No.90/60 of 19 December 1990. It has jurisdiction over the entire territory of Cameroon. It sits in Yaounde, but may, by decision of the President of the Republic or the Minister in Charge of Justice (who must be so delegated), conduct its hearings in other localities. The court has exclusive jurisdiction to try felonies and misdemeanours against the internal security of the State and related offences. But persons below 14 years of age shall not be tried before the State Security Court.

The procedure applicable to proceedings and judgments before the State Security Court shall be that applicable before the Court of First Instance sitting in matters of summary jurisdiction.

The ruling of the Court shall not be subject to appeal except before the Supreme Court, on point of law within 10 days following the day it is made. Judgments delivered in default may be appealed against within 5 days following their notification or their being served on the person or at his residence. Any motion of appeal lodged in the registry may not be registered or forwarded. The Registry of this Court is that of the Court of Appeal in Yaounde. Claims for damages shall not be admissible before the State Security Court.

4) The Special Criminal Court

This is a recent court set up by *Law No. 2011/028 of 14 December as amended by law no. 2011/028 of 14 December 2011*.

The seat of the court is Yaounde but it has a nationwide jurisdiction. It is competent to hear and determine matters where the loss amounts to at least 50 million CFA francs relating to misappropriation of public funds and other related offences provided for in the penal code and International conventions ratified by Cameroon. The court has original jurisdiction and an appeal against its decisions shall lie exclusively before the Supreme Court.

If anybody is accused of embezzlement or corruption and the proceeds are restituted, the Procureur General of the Court may, subject to a written authorization by the Minister in charge of Justice, enter a *nolle prosequi* against the proceedings instituted prior to the committal to the trial court.

Where such restitution is effected after committal to the trial court, a *nolle prosequi* may be entered against the proceedings prior to any judgment on the merits and

the court seised shall pronounce the forfeitures under S.30 of the Penal Code and note same in the criminal record. However, the entry of the *nolle prosequi* shall have no effect on any disciplinary procedures to be taken by the administration. These possibilities of restitution and *nolle prosequi* are not offered to a defendant or accused who embezzles less than 50 million cfa frs and has to be tried in other courts. *See Decree no 2013/288 of 04 September 2013 fixing the modalities for the restitution of misappropriated funds.*

5) The Constitutional Council

The constitutional council was set up in Cameroon by Law No. 96/06 of 18 January 1996. By S. 46 of that Law, it shall have jurisdiction in matters patterning to the constitution. It shall rule on the constitutionality of Laws. It shall be the organ regulating the functioning of State Institutions. S. 47(1) of the constitution stipulates that the constitutional council shall give a final ruling on:

- The constitutionality of Laws, Treaties and International Agreements;
- The constitutionality of the standing orders of the National Assembly and the Senate prior to their implementation;
- Conflicts of power between State Institutions, between the State and Regions and between the Regions.

The Constitutional Council shall ensure the regularity of Presidential elections, Senatorial elections, Parliamentary elections and Referendum operations. It shall proclaim the results there of. It shall also give advisory opinions on the interpretation of the Constitution and Electoral Laws.

Rulings of the constitutional council shall not be subject to appeal and shall be binding on all public, administrative, military, judicial authorities as well as on all natural persons and corporate bodies.

By S. 7 of Law No 2004/004 of 21 April 2004 laying down the organization and functioning of the Constitutional Council (see also S. 51(1) of 1996 constitution), it is made up of 11 members appointed for a 9 years mandate which is non-renewable. However, Law no. 2008/001 of 14 April 2008 cited above, has reduced the mandate to 6 years renewable once, see S. 51(1) (new). See also S. 51(2) of the constitution on the repartition of powers to appoint the said members.

Since it was set up in 1996, the Constitutional Council has continued to exist on paper. It has not yet become operational and its functions are being performed for the meantime by the Supreme Court, see S. 67(4) of the constitution.