

REPUBLIQUE DU CAMEROUN

Paix – Travail – Patrie

REPUBLIC OF CAMEROON

Peace – Work – Fatherland

PRESS CONFERENCE

INTRODUCTORY STATEMENT

BY

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

ON

CLAIMS BY ANGLOPHONE LAWYERS

YAOUNDE, 30 MARCH 2017

Good afternoon,

Dear Journalists, Friends of mine.

Before beginning our discussion, let me introduce the personalities who are accompanying the Minister of Justice.

- **Pr Jacques FAME NDONGO**, Minister of Higher Education whom you know very well;
- **Mr Michel Ange ANGOUING**, Minister of Public Service and Administrative Reform;
- **Mr. Michel Ange ANGOUING** is a Super scale Legal Officer;
- **Mr Alamine Ousmane MEY**, Minister of Finance;
- **Mr Jean Pierre FOGUI**, Minister Delegate to the Minister of Justice, Chairman of the *Ad Hoc* Committee in charge of examining and proposing solutions to the concerns relating to the functioning of the judiciary;
- **Mr George GWANMESIA**, Secretary General of the Ministry of Justice, Member of the *Ad Hoc* Committee;
- **Madam Florence ARREY**, Director of Judicial Professions in the Ministry of Justice;

And of course your all time Friend

- **Mr Issa TCHIROMA BAKARY**, Minister of Communication;

Our discussion will focus on measures that the President of the Republic has instructed the Government to take in order to provide answers to the claims presented by some Lawyers regarding the functioning of the Judiciary.

I would like to present my communication to you in French, the English version is available.

At the end of the presentations, we will take 3 or 4 questions for those who would like to complete the information that we have provided you with.

Ladies and Gentlemen, Dear Journalists, Friends of mine,

In October 2016, some Anglophone lawyers took to the streets of the jurisdictions of the Courts of Appeal of the North West and South West Regions.

After these demonstrations, claims were made with respect to the functioning of our judicial system.

I would like to state that these concerns were not directly addressed to the Ministry of Justice, but rather to the President of the Republic who, in accordance with the Constitution "through his arbitration, ensures the proper functioning of public authorities".

The Head of State therefore instructed me to grant this press conference, with the view to discussing a number of issues and to present solutions recommended by the Government to deal with them.

In order that we all speak the same language, it could be sensible to indicate that Article 1 (3) of the Constitution provides: *"The official languages of the Republic of Cameroon shall be English and French, both **languages having equal value**".*

The Cameroonian therefore in his dealings with the public authorities can express himself in one or the other of the two languages, regardless of whether he is in the English-speaking Regions or the French-speaking Regions.

This is legal, this is legitimate

Government is determined to ensure the promotion of effective bilingualism throughout the country.

Quite recently, **the President of the Republic** signed a decree setting up a Commission specifically responsible, among others, for accelerating the promotion of bilingualism.

The members of this Commission have already been appointed.

The members of this Commission have been appointed.

Furthermore, the Head of State has instructed that Circular No. 1/CAB/PM of 16 August 1991 relating to the practice of bilingualism in the Public Administration be effectively implemented as much as possible.

This means that Government takes bilingualism very seriously.

Recently, however, **the concept of Anglophone** has been discussed at length.

Etymologically, Anglophone refers to everything that relates to the English language and culture.

In Cameroon, however, the word Anglophone refers to a person whose parents hail from North West and South West Regions regardless of the culture and the language he speaks best.

In such case the word Anglophone tends to refer to persons who belong to a geographical area or even, why not, a tribe.

The bilingual in this case is therefore either an Anglophone or a Francophone.

In fact in our country, we have citizens with Anglophone sociological background who are culturally Francophone and citizens with Francophone sociological background who are culturally Anglophone.

We equally have citizens of Anglophone sociological background who grasp both the French culture and language and citizens of Francophone sociological background who grasp both the English language and culture.

All these considerations should be taken into account.

Ladies and gentlemen, dear journalists, friends of mine,

After making these clarifications which are necessary for understanding the rest of my presentation, I will now return to the claims made and the solutions recommended by the President of the Republic.

I wish first of all to recall that **the President of the Republic** did not wait for these claims to express his concern on the functioning of the judicial system.

Indeed, **the Head of the State** who has placed the Judiciary at the core of his policy of transforming Cameroon had already ordered, on 9 July 2015, the preparation of the holding of a Forum on the Judiciary to review, in addition to legislative problems, all problems relating to the functioning of the judicial system. These preparations are ongoing.

The President of the Bar Association and the President of the General Assembly of the Bar who were informed thereof sent their respective contributions in September 2015.

Meantime, and in the light of current events, the Prime Minister, Head of Government set up on 22 December 2016, an Ad Hoc Committee chaired by the Minister Delegate to the Minister of Justice. This Committee charged with examining proposals for solutions to the concerns of Anglophone Lawyers met on 27 and 28 December 2016 and the outcomes of its discussions were sent for appraisal to the Prime Minister, Head of Government.

As regards the functioning of the Judicial System, **the President of the Republic Chairman of the Higher Judicial Council**, instructed the Minister of State, Minister of Justice, Keeper of the Seals, to set up a working group comprising the Minister of Higher Education, the Minister of Public Service and Administrative Reform, the Minister of Finance and the Director General of ENAM.

The Interministerial Committee was charged with detailly reviewing the concerns raised by Anglophone lawyers with a view to making concrete proposals for the appraisal of the **President of the Republic**, in order to address these concerns for a better administration of justice in our country taking into account the promotion of living together, while respecting its cultural and linguistic diversity.

The aim of this press conference is to present the instructions of **the President of the Republic**.

As a reminder, some Anglophone Lawyers have alleged that:

- the English version of OHADA Law is inexistent;
- Common Law principles are neither taken into account in the ongoing drafting of some Cameroonian texts (the bilingual Civil Code and Civil and Commercial Procedure Code) nor in the Judicial system, because in their view, many French-speaking Judicial and Legal Officers posted to the courts of the North West and South West Regions do not

have a good command of English, which is the language most used in these two jurisdictions, and do not master Common Law principles applicable therein.

In fact, the OHADA Treaty was published in English and French in the Official Gazette of the Republic of Cameroon of 15 November 1997 and the OHADA Uniform Acts which entered into force in 1999 were published in English in special editions of the Official Gazette of the Republic of Cameroon of September and November 1999.

At the initiative of Cameroon, the OHADA Treaty, which made French the sole working language of OHADA, was amended in 2008 to also make English, Portuguese and Spanish the other working languages of OHADA.

After the publication by OHADA of the OHADA Treaty and other OHADA instruments in English in its Official Gazette on 24 November 2016, and the handing over of the said instruments to the Secretary General of the Presidency of the Republic by the Permanent Secretary of OHADA on 28 November 2016, the Ministry of Justice, on 29 November 2016, symbolically handed over to the President of the Bar the English version of the Treaty and other OHADA instruments published in the Official Gazette of OHADA.

The Ministry of Justice thereafter printed copies of each of these instruments, as well as the English version of the Penal Code and the Criminal Procedure Code.

The Ministry of Justice then proceeded in January and February 2017 with the symbolic handing over of these booklets to the President of the Bar, representatives of other judicial professions, all Judicial and Legal Officers in the jurisdictions of the North West and South West Courts of Appeal, some members of Government concerned, the Director General of ENAM and to the Division of Magistracy and Registry of the said School, as well as to the Press.

As you can imagine, the distribution of these booklets by the Ministry of Justice aimed at overcoming the inadequate dissemination of OHADA instruments published in English and expresses Government concern to address the worries of Anglophone Lawyers.

In any event, I wish to recall that on the instructions of the Prime Minister, Head of Government, a consultation meeting with Advocates on that issue was held in the Ministry of Justice on 22 November 2016.

On that occasion, Barrister Bernard MUNA, former President of the Bar Association, clearly stated that the problem raised by Advocates is not the translation of the OHADA Uniform Acts into English but that the problem lies elsewhere...

This could not be otherwise because OHADA Law is neither Anglophone nor Francophone. OHADA Law is international business law that takes into account the rules of Common Law and Romano- Germanic Law.

OHADA Law does not marginalize anyone.

With respect to the claim on the marginalization of the Common Law, I would first of all like to specify that we have several sources of law, namely the law, case law, custom and practices.

The Common Law system is essentially based on case law whereas the Civil Law (Romano-Germanic) system in force in our Francophone Regions is essentially based on the Law.

These different sources of Law, in a country as ours where the Common Law and the Civil Law coexist, may, if we are not careful, hinder our irreversible march towards the drafting of a genuine Cameroonian Law.

In this regard, it is worth recalling that some legal disciplines have already been standardized.

This is the case with Criminal Law, because we had a common bilingual Penal Code since 1965, whereas our criminal procedure, which is drawn mainly from the Common Law, was standardized in 2005.

Besides this standardized Criminal Law, the CEMAC, CIMA and OHADA Labour Law, Land Law and Business Law, just to name these few legal disciplines, have also already been standardized.

The alleged marginalization of the Common Law because of the standardization of the Law, and especially the OHADA Law, is not justified.

Let it be well understood:

It is not because Cameroon Law is standardized that Common Law principles are not taken into account.

In fact, within the framework of the drafting of Cameroonian laws, the technical bodies set up for that purpose take all legal trends into account.

Moreover, the very learned Members of Parliament ensure that the laws they pass do not marginalize the Common Law.

Strictly at the legal level, rules of the Common Law and Romano-Germanic Law are applied in our Courts on matters which are yet to be standardized.

This is the case with the Law on Persons and the Family, Contract Law, the Law of Succession, Equity and Trust, the Law of Torts and the Law of Evidence.

Cases brought before the Courts in the Anglophone Regions of our country on such matters are heard in accordance with Common Law rules and those brought before Courts in the Francophone Regions are heard in compliance with the rules of Romano-Germanic Law.

How can it then be said under these circumstances, that the Common Law is marginalized or excluded?

As regards compliance with the Common Law at the Supreme Court, a distinction should be made between matters pertaining to OHADA Law and other matters.

In fact, as per the OHADA Treaty, the Common Court of Justice and Arbitration (CCJA), based in Abidjan (Côte d'Ivoire), is the Supreme Court of OHADA Business Law.

Concerning the other matters brought before our Supreme Court, **the President of the Republic** has instructed me to draw up and submit to him a draft bill to amend the organization and functioning of the Supreme Court for the inclusion of a Common Law Section.

The purpose of this English Language Section of the Supreme Court is to hear in English, in compliance with the Common Law if need be, all cases from Courts of Appeal of the North West and South West Regions.

Moreover, **the President of the Republic** has ordered a census of Judicial and Legal Officers of English expression with a view to increasing the number of English-speaking Judicial and Legal Officers at this Highest Court.

This measure aims at instituting panels that can entertain appeals in the English Language against judgments rendered in English.

Another claim relates to the **redeployment of Judicial and Legal Officers on linguistic grounds**.

Government is fully aware that justice is not rendered for Judicial and Legal Officers, but for litigants and that it is proper for them to be able to follow their matters in one or the other of the two official languages which they master and through procedures they know.

It is worth mentioning that the linguistic ability of Judicial and Legal Officers posted to the jurisdictions of the North West and the South West Regions has already been assessed.

The **Head of State** transferred some high ranking Judicial and Legal Officers on this basis.

The President of the Republic ordered a new assessment on the mastery of the Common Law by Judicial and Legal Officers serving in the Courts of Appeal of the North West and South West Regions and of the Romano-Germanic Law in the jurisdictions of the other Courts of Appeal.

On the basis of this second assessment, **the President of the Republic** will redeploy Judicial and Legal Officers based on their mastery of the official language predominantly used in the jurisdiction where they are transferred without neither putting into question the irreversible option of national integration nor the evolution of the career of Judicial and Legal Officers.

With regards to academics, the President of the Republic prescribed that subjects which are not yet standardized continue to be taught in our English-speaking universities in respect of the specificities of the Common Law.

Likewise, he ordered:

- the setting-up of a Faculty of Legal and Political Sciences at the University of Buea. The Minister of Higher Education was instructed to prepare relevant instruments;
- the setting-up of Departments of English Law in the Universities of Douala, Maroua, Ngaoundere and Dschang, similar to that at the University of Yaounde II in Soa and programming the teaching of Public law in the Universities of Buea and Bamenda, to take into consideration the fact that Common Law does not distinguish between Private Law and Public Law. The Minister of Higher Education was instructed to take the necessary measures; and
- the capacity building, through tailor-made training in universities and at the request of the Ministry of Justice, of English-speaking Judicial and Legal Officers, to enable them work in Administrative and Audit Courts. I was instructed to implement this measure through seminars and training courses.

Besides, **the President of the Republic** ordered the:

- setting up, under the supervision of the Ministry of Justice, of a working group in charge on the one hand of preparing courses for judicial careers in universities and on the other hand courses for the training of Pupil Judicial and Legal Officers at the Magistracy and Registry Division in ENAM;
- recruitment of a bigger number of Anglophone teachers at the Magistracy and Registry Division in ENAM, in order to complement the inadequacy and the unavailability of teachers of English expression; the Minister of Public Service and Administrative Reform and the Director General of ENAM were instructed accordingly;
- institution, with effect from the next entrance examination for the recruitment of Pupil Judicial and Legal Officers, of a common core paper from legal disciplines already standardized and a specific Common Law paper for Anglophone candidates as well as the Romano-Germanic law for Francophone candidates; the scripts of Anglophone candidates will be corrected by English-speaking markers; and
- setting up of a Common Law Section at ENAM; the Minister of Public Service and Administrative Reform was instructed to draw up and submit for the approval of **the President of the Republic**, a draft amendment of the current organic instruments of ENAM for inclusion of the measure envisaged; this Section shall be responsible for teaching unified Cameroon Law and residual Romano-Germanic principles, besides Common Law principles, in the English Language.

It should be noted that this Section shall be open to all Pupil Judicial and Legal Officers who wish to be trained in the English Language.

Concerning the increase in staff strength of English-speaking Judicial and Legal Officers and Court Registrars, the Head of State prescribed a special recruitment of English-speaking Pupil Judicial and Legal Officers and Court Registrars over a period of four (4) years, based on the quotas provided for by Decree No. 2000/696/PM of 13 September 2000 to lay down the regime of public administrative examinations and available means, and prior assessment of the human resource needs in the jurisdictions of the North West and South West regions to meet the shortfall in English-speaking Judicial and Legal Officers.

While waiting for this special recruitment to yield the expected results, the President of the Republic authorized the special recruitment of specialized interpreters to provide services to courts as stipulated by the Law.

As regards concerns specific to the functioning of the Bar, the Head of State prescribed continuation of consultations with governing organs of the Bar on the amendment of the Law to Organize Practice at the Bar.

More so, the Head of State decided to set up an Institute of Judicial Studies to train Advocates, Notaries Public and Bailiffs.

I was instructed to prepare instruments relating to the implementation of this firm Directive. I will do same in consultation with officials of the judicial professions concerned.

With respect to the practice of the profession of Notary Public in the North West and South West Regions, it should be noted that both the Law to organize Practice at the Bar and the Decree to organize the Profession of Notary Public lay down the principle of non accumulation of both duties and state that as a transitional measure pending the appointment of Notaries Public in both Regions, advocates shall perform the duty of Notary Public.

The President of the Republic prescribed the respect of this transitional provision.

In fact these provisions are simply transitional because Notaries Public are not allowed to practice as lawyers and that English-speaking lawyers practicing out of the North West and South West Regions do not practice and do not lay claim to the practice of Notary Public.

Ladies and gentlemen, dear journalists, friends of mine,

The implementation of all these Government initiatives aims at profoundly improving the functioning of our judicial system;

The President of the Republic has enjoined the Minister of Finance, to ensure its financial sustainability.

Ladies and Gentlemen,

As you can see, Government has good intentions to find timely solutions to the concerns of lawyers.

The President of the Republic, **His Excellency Paul Biya**, in his statement after his tête à tête with the Italian Head of State on 20 March 2017 in Rome, reaffirmed that his Government remains open to dialogue in the respect of National Unity and the diversity of the country.

On this score, Government intends to continue this consultation drive and urges advocates who have not yet done so, to return to court so that litigants may receive the legal assistance they need to defend their rights.

Ladies and gentlemen, dear journalists, friends of mine,

It goes without saying that as part of the implementation of the actions prescribed by the President of the Republic, the multicultural option of our sources of law will be maintained, likewise the safeguarding of the specificities of the Common Law and Romano-Germanic Law, while bearing in mind that Cameroon, our country, cannot live on the margins of the universal movement of the standardization of the legal rule and on the fringe of the commitments taken at the international level.

While drawing inspiration from an editorial by Jacques Julliard, I would conclude by saying that such a meeting provides the ideal opportunity to question ourselves on the necessity of opposing English-speaking Cameroon to French-speaking Cameroon or opposing Common Law to Romano-Germanic Law.

In fact, isn't national integration the only critical concern worth raising?

Cameroon of tomorrow will, more than ever before, be a multi-ethnic, multi-tribal, multi-cultural, multi-legal, multi-religious Nation.

Thus, we must fight with all our might to ensure that Cameroon does not become a communitarian entity, that is, an aggregate of disunited peoples.

The real alternative consists in choosing between Communitarianism and integration.

Identity pressure will not stop weighing on Cameroonians for years, and probably for decades.

Therefore, the issue is not knowing how to resist it.
It is about knowing how to handle identity pressure.

We should focus on universal values which unite people rather than giving way to divisive particularities.

Cameroonians do not want a Cameroon made up of isolated communities.

That would be absurd.

That would be contrary to our desire for national integration.

The only way to shun this unfortunate move is to look at how far we have gone and the obstacles overcome since 1961.

We must believe in what we have already done.

We must believe that we can perfect it.

We must believe in what we have never stopped yearning for.
We must finally believe in who we are.

We are Cameroonians.

I thank you for your kind attention and I am available to answer your questions.
I wish to remind that the English version of our introductory remark is available.