

A LEGAL REVIEW OF IMPLEMENTATION OF CHAPTER THREEⁱ OF THE UNITED NATIONS CONVENTION AGAINST CORRUPTIONⁱⁱ IN CAMEROON

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ABSTRACT

This article introduces legal issues related to Chapter III of the United Nations Convention against Corruption (UNCAC) and the implementation in Cameroon. Cameroon has ratified many international instruments as regards financial crimes, but the UNCAC is of particular importance given that it covers corruption which is one of the main challenges in Cameroon today and is systemic. The aim is to raise awareness of the UNCAC contents and its potential utilisation in the context of Cameroon criminal system. This paper examines the effective implementation of chapter three of the UNCAC in Cameroon and highlighting the challenges faced this far. This article will be useful to students, jurists, civil society, drafters of national and international financial crimes instruments as well as governments regulatory organs.

Keywords: Money laundry, embezzlement, corruption, CONAC, UNCAC and implementation.

INTRODUCTION

Financial crimes are growing in sophistication and often operate across international boundaries. Criminals accumulate significant sums of money by committing crimes such as drug trafficking, investment fraud, extortion, corruption, embezzlement and tax fraudⁱⁱⁱ. The first published use of the term 'Financial Crime/ relate to The Watergate scandal^{iv}'. The water gate scandal was a crucial moment in the history of money laundering or financial crimes. It exposes high – level corruption from government officials. The ill-gotten money was used to sponsor terrorism, drugs trafficking and other criminal activities. The circumstances that shifted attention to money laundering was the fight against terrorism and the war on drugs^v. States Parties to the UNCAC^{vi} must criminalise bribery (both the giving of an undue advantage to a national, international or foreign public official and the acceptance of an undue advantage by a national public official), as well as embezzlement of public funds.

Other offences that States Parties are required to criminalise include obstruction of justice and the concealment, conversion or transfer of criminal proceeds. Sanctions extend to those who participate in or attempt to commit corruption offences. Acts that states are encouraged but not required to criminalise include acceptance of bribes by foreign and international public officials, trading in influence, abuse of function, illicit enrichment, bribery and embezzlement within the private sector, money laundering and the concealment of illicit assets. Chapter III also covers other issues related to enforcement and prosecution, including protection of whistle blowers and witnesses in corruption cases, as well as remedies for corruption, such as freezing assets and compensating victims.

This article shall examine progressively the overview of the legal and institutional framework of Cameroon in the context of implementation of the United Nations Convention against Corruption, the observations on the implementation of the articles under review, the technical assistance needs, identified to improve implementation of the Convention and some recommendations for proper implementation in Cameroon.

OVERVIEW OF THE LEGAL AND INSTITUTIONAL FRAMEWORK OF CAMEROON IN THE CONTEXT OF IMPLEMENTATION OF THE UNITED NATIONS CONVENTION AGAINST CORRUPTION^{vii}

The Convention was signed on 10 October, 2003 and ratified by the President of the Republic on 6 February 2006^{viii}. Article 45 of the Constitution states that the generally accepted rules of international law and international conventions when they are ratified by a law and enter in force are an integral part of Cameroon's domestic law and take precedence over contradicting provision of domestic law. Consequently, the Convention became an integral part of Cameroon's domestic law following its ratification. However, the Convention is not above the Constitution in the hierarchy of norms, occupying a rank between ordinary laws and the Constitution.

Cameroon is a bilingual country and has a mixed legal system^{ix} with elements of common law and civil law^x. The Cameroonian political system is divided into three branches of government, the executive, the legislative and the judicial branches. The executive branch is represented by the President of the Republic and the Government (headed by a Prime Minister). The legislative branch is represented by the National Assembly and the Senate. Judicial power is exercised by the Supreme Court, the courts of appeals and the tribunals.

In terms of reference of the mechanism for the Implementation of the United Nations Convention against Corruption, the government of Cameroon should be represented by the National Anti-Corruption Commission (CONAC)^{xi}, Ministry of Foreign Affairs, Police (Délégation Générale à la Sûreté Nationale, DGSN), Cameroonian Employers' Association (Groupement Inter-Patronal du Cameroun, GICAM), Ministry of Defence, National Agency For Financial Investigation (ANIF), Chamber of Commerce (CCIMA), National Anti-Corruption Coalition (CNLCC), the Supreme Court, as well as Cameroonian attorneys, journalists and civil society.

OBSERVATIONS ON THE IMPLEMENTATION OF THE ARTICLES UNDER REVIEW

As a general observation regarding the implementation of the chapter three titled Criminalization and law enforcement, it is noted that the definition of public official in Section

131 of the Penal Code includes most categories of persons covered in article 2 of the Convention^{xii}. However, members of parliament, elected and other unpaid officials not employed by the State are not specifically referred to.

Bribery and trading in influence (arts. 15, 16, 18 and 21)

Sections 134 and 134-1 (Corruption) of the Penal Code (PC) are the main provisions which criminalize active and passive bribery covering in general most of the elements of article 15 of the Convention. However, acts of indirect bribery are not specifically mentioned, except in cases where the act falls outside the competence of the person corrupted and was facilitated by his office^{xiii}. In addition, it is noted that benefits accruing to third parties are mentioned only in section 134 and not 134-1 of the Penal Code. Moreover, there is an automatic exemption from prosecution for persons who solicit bribes who report the offence to the judicial authorities without rendering assistance in the investigation^{xiv}. However, Case statistics on the implementation are not available.

Cameroon has criminalized the bribery of foreign public officials and officials of public international organizations in Sections 134 and 134-1, read together with Sections 89 and 131-1. Cameroon has partially criminalized trading in influence in section 161 PC, has criminalized passive bribery in the private sector in section 312 PC, as well as false declarations and misleading of contractors by directors, managers of private entities, in section 313 PC.

Money-laundering^{xv}, concealment (arts. 23 and 24)

Cameroon has criminalized money-laundering in line with the Convention^{xvi}. Cameroon follows an all-crimes approach to money-laundering whereby all offences under the laws and regulations of Cameroon constitute predicate offences. For prosecution of money-laundering, the predicate offence should constitute a criminal offence in the country where it was committed (article 2). Self-laundering is punishable^{xvii}. There is no statistical data on the number of criminal investigations, prosecutions and convictions. Concealment and continued retention of property are criminalized in article 8(b) of the CEMAC Regulation No. 01/CEMAC/UMAC/CM and section 324 PC.

Money laundry^{xviii} is of paramount concern in relation to financial crimes^{xix} in Cameroon. Criminals in Cameroon launder the funds they embezzle from state coffers using numerous Laundromats; they include: money laundered through the financial sector and the real estate.

Capital market investments as one of the money laundering techniques can manifest in the following way. The Money launderer can invest his money into financial assets. Assets, such as shares, bonds and traveller's cheques are generally of a very low risk, this reduces the chances of losing money. Furthermore, the assets are highly liquid, which means they can be converted back into cash very easily. Laundered funds are comingled into lawful transactions^{xx}. The use of bank cheques to move value between persons or jurisdictions is usually not reportable. In most cases, a bank cheque can be issued in any name, and most investigators would not call into play identification requirements unless the transaction involved cash or an amount over a specified threshold^{xxi}. The Travellers' cheque has been identified^{xxii} as a medium for laundering commonly used in Cameroon. It offers an undisputed advantage to its users especially international travellers. The use of these cheques in Cameroon for laundering purposes is facilitated by the fact that there is no regulatory threshold limiting the total value of traveller's cheques to be held when travelling and the possibility of its use by customers of commercial banks. Part of money embezzled in *The Albatrose Case* was laundered using Travellers Cheques. In a bid to repatriate the embezzled funds the launderer bought travellers cheques in the host country and made many trips to Cameroon so as to exchange them in local banks. To disguise these manoeuvres, he used the counters of local banks from which he usually received his salary. He made sure he never repeated the transaction at the same counter. The amount withdrawn using the traveller's cheque is either equal to or less than his salary.

Embezzlement^{xxiii}, abuse of functions and illicit enrichment (arts. 17, 19, 20 and 22)

Cameroon has partially criminalized embezzlement and misappropriation in sections 184, 135, 318 and 319 PC. However, the sections do not cover the full range of embezzlement, misappropriation and other diversion of property or funds for the benefit of a public official or another person or entity. No case law was provided to demonstrate that private property is covered. Cameroon has partially criminalized the abuse of functions in sections 140, 137 and 142 PC, regarding acts that infringe "private" rights or interests. However, the failure to perform an act, or an omission, in violation of law is not explicitly covered.

Despite the numerous calls from the Head of State, and numerous meetings to help to fight the ill, financial crimes in the public sector of Cameroon has become a virus that keeps spreading as time passes. Embezzlement for instance is remarkable. This type of corruption is disadvantageous to the greater majority in any given society. It is not only a moral crime but also an economic crime given that it drains huge proportions of a country's financial

possibilities^{xxiv}. It is closely linked to the misappropriation of public funds. Embezzlement is the act of fraudulently withholding funds or property belonging to the state or any public enterprise. Thus, depriving a people of funds needed to attain their development goals. This misappropriation of state funds impoverishes the entire nation and leads to a disregard of social values such as hard work and meritocracy^{xxv}. Thus, promoting discrimination which is the cause of increased social inequality in Cameroon. This social inequality is said to be amongst the causes of terrorism in the country today. Embezzlement is nurtured by vices such as; a constant violation of laws governing the award of public contracts^{xxvi}; self-gratification; greed; and favouritism; all practiced in state institutions^{xxvii}. As demonstrated in the case of: *Moutchipou Seidou et autre c/Ministère Public*^{xxviii}, public institutions in Cameroon have been transformed by the ruling elite and their close associates into their personal estates.

Such practices generate billions of CFA francs which government losses each year to these unscrupulous individuals^{xxix}. This is for the most part due to the fact that there is a complete absence of credible oversight mechanisms to oversee the management of these institutions. As was the case in *Gerald Emmanuel Ondo Ndong et autre c/Ministère Public*^{xxx}, where not only was the institution run like a private estate; its budget served as the accused bank; and he spent every moment planning how to swindle. The accused in this case like those in the case of *Abono Pauline and Others c/Ministère Public* were guilty of spending on projects totally at odds with the mission of the institutions they had been entrusted to manage. The proceeds from these crimes once in the hands of the embezzlers create an urgent need to launder them^{xxxi}. The techniques used by embezzlers are as diverse as the opportunities for embezzlement.

The criminal offence of illicit enrichment has not been established, although a draft bill on anti-corruption contains relevant provisions. Cameroon has criminalized embezzlement of property in the private sector in section 318 PC. The content is limited to theft, breach of trust and fraud but not the full range of embezzlement provided for in article 22. However, section 891^{xxxii} of the Uniform Act on Commercial Companies and Economic Interest Groups covers the misuse of business property or funds for personal gain.

Embezzlers in Cameroon are noted for operating bank accounts which they use to launder money. Many such accounts have been identified in financial institution around the country, some of which are in financial institutions owned by these criminals. This is what happened in The Albatrose where 31 million US dollars embezzled by Jean Marie Atangana Mebara, Yves Michel Fotso and Marafat Hamidou Yaya was laundered through accounts opened in the

Commercial Bank of Cameroon and in the Bank of America by Yves Michel Fotso owner of these enterprises^{xxxiii}.

Obstruction of justice (art. 25)

Cameroon has partially criminalized obstruction in the giving of testimony or the production of evidence in proceedings in sections 164 (2) and 168 read together with 97 of the PC. However, the cited measures do not fully implement the provisions under review and a relevant provision has been included in the anti-corruption draft bill.

The use of violence or threats to improperly influence a public servant is criminalized in section 160 PC. It was confirmed by the authorities that obstruction of law enforcement and judicial officers is a significant concern in Cameroon and that the available protections are inadequate^{xxxiv}.

Liability of legal persons (art. 26)

Cameroon has adopted measures providing for the criminal liability of legal persons^{xxxv} and, in the framework of the fight against money-laundering, articles 126 of the CEMAC Regulation No. 01/CEMAC/UMAC/CM. Moreover, civil and administrative liability provisions are in place.

Principal criminal penalties for legal persons include dissolution, temporary or permanent closure of the establishment and fines^{xxxvi}; accessory penalties are established in Sections 19, 36 and 74-1 PC. Penalties for legal persons for money-laundering offences are in place^{xxxvii}. For other crimes, confiscation of property is provided in cases of felonies or misdemeanours^{xxxviii} and administrative penalties may also be imposed, for example the disqualification and suspension of legal persons from public tenders through the procurement process.

Participation and attempt (art. 27)

Cameroon has adopted legal measures necessary to establish as a criminal offence, in accordance with its national law, the participation in a criminal act in particular for accessories and persons who aid and abet the commission of a crime. The relevant forms of participation are covered in sections 74, 96 to 99 of PC. The Penal Code defines the meaning of the terms regarding these persons, the manner of participation and execution of the criminal offence. Attempts are covered in section 94 PC. The preparation of an offence is not separately criminalized.

Prosecution, adjudication and sanctions; cooperation with law enforcement authorities (arts. 30 and 37)

Several provisions of the PC set forth the classification of offences depending on their nature or seriousness, scaling values concerned with the offence^{xxxix}, specific range of sanctions for each offence (minimum and maximum), grounds for reduction and relief of forfeitures, aggravating factors and exceptions. There are no sentencing guidelines.

The scope of legal immunities and jurisdictional privileges does not appear to pose an undue impediment to the effective investigation and prosecution of cases. Article 14 (6) of the Constitution provides for the immunity of members of the National Assembly, which must be lifted before they can be prosecuted. Lifting of immunities is not required for investigative measures to be taken against parliamentarians. The procedure for lifting immunities is not regulated, except by parliamentary procedure when the National Assembly is in session. Article 14 of the Constitution as well as sections 629-634 CPC provide jurisdictional privileges for senior government officials and certain members of the judiciary.

Cameroon follows the principle of discretionary prosecution. Appeals against non-prosecution decisions are possible, and there have been such cases in corruption matters. While Circulars produced by the Ministry of Justice are in place for the prosecution, there are no measures in place to ensure that there is no abuse of prosecutorial discretion.

The measures imposed in connection with decisions on release pending trial or appeal take into consideration the need to ensure the presence of the defendant at subsequent criminal proceedings^{xl}.

The conditions for granting conditional release are partly regulated. Section 693 CPC establishes the conditions for granting conditional release but does not mention the gravity of the offences concerned

Public officers can be suspended for up to three months pending the completion of investigative measures. However, a removal from duty during the investigation is not provided for.

Disqualification from the public service, when convicted of criminal offences, is provided for in sections 30, 31 and 184 (4) PC. The cited measures on removal and exclusion from the public service also apply to companies owned wholly or partially by the State.

The reintegration of persons convicted of corruption offences into society is supported by the Cameroonian correctional authorities through various services and activities. However, a comprehensive prisoner reintegration policy or programme is not established.

Art. 90 et seq. of the Penal Code contain provisions on mitigating circumstances. Article 359 of the Code of Penal Procedures stipulates that if the accused pleads guilty, it may be taken into consideration as a mitigating circumstance. However, there is no plea bargaining and it is not possible to grant full immunity from prosecution. Nevertheless, in practice, if CONAC investigates a corruption offence, it may not send it for prosecution if the offender cooperates.

Protection of witnesses and reporting persons (arts. 32 and 33)

Cameroon has not implemented the provisions on the protection of witnesses and reporting persons. However, article. 3 (3) of the CONAC Decree^{xli} provides for the anonymity of reporting persons and thereby affords some protection to them. Cameroon criminal law takes into consideration the interests of the victim, in particular by providing for victims to join the public action as *partie civile*, Art. 157, 385 CPC.

Freezing, seizing and confiscation; bank secrecy (arts. 31 and 40)

Sections 35, 184 (4) PC partially address the requirements of article 31 (1) of the Convention. Section 35 of the PC provides for discretionary confiscation for any felony or misdemeanour, thus including crimes of corruption. Confiscation under section 35 is limited to property “belonging to the offender” and therefore posing a limitation to the scope of confiscation. Furthermore, confiscation is provided for instrumentalities of crime without including those “destined for use” in the commission of offences.

Value-based confiscation is not provided except for money-laundering offences under article 105 of the CEMAC Regulation.

Cameroon has adopted measures that allow for the identification, tracing, freezing or seizure of property for purposes of eventual confiscation^{xlii}.

There is no comprehensive regulatory framework in place governing the administration of seized, frozen and confiscated assets, in particular movable assets, or for their disposition. Moreover, Cameroon has not implemented paragraphs 4 to 6 of article 31.

Article 104 of the CEMAC Regulation provides an evidentiary presumption in regard to the origin of the alleged proceeds derived from drug offences, organized crime, and money-laundering.

Apart from Section 35 of the PC, there are no measures to specifically provide protection for the rights of bona fide third parties. No examples, or statistics were provided in order to assess the effectiveness of the domestic confiscation regime.

Art. 92 et seq. of the CPC allow the judicial police to undertake searches and seizures. Article 8 of Bank Secrecy Act, Law No. 2003/004 of April 21, 2003, stipulates that bank secrecy may not be claimed as an obstacle to criminal prosecution. CONAC has the powers to lift bank secrecy without the need for a court order under the CONAC Decree^{xliii}. Article 66 of the CEMAC AML/CFT Regulation gives ANIF the powers to access bank documents. There have been no obstacles in practice to the ability of the relevant agencies to obtain such records, which are accessed routinely in the course of investigations.

Statute of limitations; criminal record (arts. 29 and 41)

In Cameroon, the limitations periods are regulated by the Code of Penal Procedure. For corruption offences classified as misdemeanours^{xliv} the period of prescription is generally three years, 10 years for felonies, calculated from the day following the day of commission of the misdemeanour^{xlv}. Sections 66 to 68 CPC contain provisions on interruption and suspension of the statute of limitations, which implement this requirement as established in the Convention. A previous conviction abroad may be taken into account by the competent court when sentencing^{xlvi}.

Jurisdiction (art. 42)

Cameroon has established territorial jurisdiction and flag State jurisdiction (Art. 7 (1) PC). Cameroon applies the active personality principle (Art. 10 (1) PC) but has not implemented the passive personality principle. Extraterritorial jurisdiction has been established for money-laundering (Art. 699 (f) CPC), as well as for prosecution in lieu of extradition, Art. 695 (1)(a) CPC.

Consequences of acts of corruption^{xlvii}; compensation for damage (arts. 34 and 35)

The Public Procurement Code contains provisions applying the general principle of law *fraus omnia corrumpit* (fraud negates everything) in Art. 109. Art. 34 CC allows the courts to close down businesses that were used for the commission of an offence.

Articles 1382 and subsequent of the Civil Code provide in general terms for compensation for damages caused by others. Section 26-1 of the Penal Code provides for reparation as a criminal penalty. Also, Article 157 of the Code of Penal Procedures establishes the possibility for any victim to claim civil damages in a penal proceeding.

Specialized authorities and inter-agency coordination (arts. 36, 38 and 39)

Cameroon has a specialized anti-corruption agency, the National Anti-Corruption Commission (usually known by its French acronym, CONAC). It has investigation powers but no prosecutorial powers. CONAC can investigate cases *ex officio*. It is endowed with financial autonomy to safeguard its independence. CONAC submits its annual report to the President and publishes it on its website. With the support of UNDP, CONAC has developed and monitors an anti-corruption strategy. CONAC has no regional presence.

The Commission works with the police and gendarmerie who also have the mandate to investigate cases of corruption. The police also have a specialized unit for economic and financial crimes. To enhance cooperation, gendarmerie and police officers work within CONAC. Nevertheless, it is possible that a police case can reach the courts without knowledge of CONAC.

The Financial Intelligence Unit (FIU) of Cameroon was established by Decree No. 2005/187 of 31 May 2005, on the organization and functioning of the National Agency of Financial Investigations (usually known by its French acronym, ANIF). According to Article 2 of the Decree, ANIF is an administrative type FIU and is endowed with financial autonomy^{xlvi}, as well as decision-making authority in relevant matters of its competence. ANIF reports are sent directly to prosecution, which has an obligation to act on basis of such reports. ANIF has been a member of the Egmont Group of FIUs since 2010.

TECHNICAL ASSISTANCE NEEDS IDENTIFIED TO IMPROVE IMPLEMENTATION OF THE CONVENTION

From our analysis, we discover that Cameroon needs some technical assistance for the proper implementation of Art. 32. Although it is very broad and does not provide a blueprint for reform, the UNCAC can provide an organizing framework to deliver technical assistance to partner countries and may catalyse better coordination of analytic work and technical assistance

among donors in a given country. When choosing to support UNCAC implementation, States, embassies and donor organisations can engage in a range of activities, whether short-term assessment initiatives to help prepare the ground for dialogue and assistance, or longer-term initiatives, which are necessary to meaningfully advance in reducing corruption.

Short-term assistance

a. Status of the UNCAC implementation in partner-country

Embassies and/or donor organisations could engage in discussions with the partner government as to the status of the UNCAC implementation, where gaps exist and where support is needed. This information will likely be available as States Parties are requested to conduct the UNCAC self-assessments.

b. Support to UNCAC self-assessments

Donors can assist their partners to complete the mandatory UNCAC self-assessment checklist on compliance with the Convention. This exercise, as described by an U4 publication^{xlix} is best addressed in a broad manner (including and coordinating relevant stakeholders and aligning it to other national assessments and a political reform dialogue) in order to add value. Donors may also encourage States to include civil society in the exercise and provide assistance for this purpose.

c. Gap analysis

Alternatives or additions to the official checklist exercise could also be considered. Teams of public officials, together with national and international experts, could use a gap analysis approach to compare existing policies with the UNCAC requirements in order to inform or refine country-led efforts and strategies to address corruption. These analyses have been used by countries to embark on a more inclusive process to identify reform needs.

d. UNCAC review mechanism

The minimal requirements of the review mechanism are rather basic and it remains to be seen how much they will be able to capture de facto implementation and enforcement of anti-corruption policies. It is therefore important that embassies in countries that are up for review encourage their local counterparts to make the most of the review process for instance identifying technical assistance needs, inviting civil society to participate - inviting reviewers to a country and publishing the full country reports^l.

e. Civil society support

External scrutiny is key for assessing the enforcement and impact of government reforms. Donor and embassy staff can use their assistance to help civil society participate in the above mentioned assessment mechanisms and increase their capacity to play a role in those processes. This applies to advocacy groups as much as to those working on specific issues^{li}, all of which need to be aware of the UNCAC requirements their government has signed up to. In case governments are unwilling to allow civil society participation in the assessments, civil society groups could contribute to the political debate by producing alternative reports on their country's compliance with the UNCAC.

Longer-term institution/capacity building support

a. Specialized legal assistance

International and regional legal specialists can be useful to help partner governments bring domestic law and institutional arrangements into compliance with UNCAC requirements.

b. Advisors and mentors

Funding for long-term advisors and mentors provides hands-on technical support to government institutions involved in corruption prevention and control.

c. Pool of expertise

In order to adequately address the comprehensive demands of the UNCAC implementation and technical assistance, the various institutions within a donor country should consider pooling and coordinating their relevant expertise^{lii}.

d. Civil society

Funding and the facilitation of technical support for civil society and the media is crucial not only to assist them to participate proactively in the design and implementation of anti-corruption reforms, but also to systematically monitor the UNCAC implementation and the distribution of any recovered assets.

e. Information systems for UNCAC review

Donors can support partner countries in making their participation in the review mechanism an effective monitoring exercise. Special emphasis needs to be given to the development of appropriate, effective and publicly accessible information systems that allow for “external” monitoring^{liii}.

f. Analysis on corruption and related reforms in partner countries

Although not always greeted with enthusiasm, continuous analysis of how the dynamics and forms of corruption evolve in a given country and how effectively reforms address the problem provides the foundation for sound policy making and reform evaluation.

g. Knowledge and learning

Donors can support the establishment of fora for communication of lessons learned from experience, in and between countries. Given the existence of regional conventions^{liv} and networks that preceded the UNCAC, there is already an existing mutual assistance practice that can potentially to some degree be transferred to the implementation of the UNCAC. Donors should explore avenues for strengthening this practice of South-South Cooperation – partnerships between developing countries. Donors should also invest in evaluating lessons learned of reform efforts wherever suitable.

RECOMMENDATIONS

It is recommended that Cameroon:

- Continue to strengthen data collection systems to identify and track corruption-related cases and consider publishing this information in annual reports and on the CONAC website.
- Undertake concrete legislative action to ensure that all persons listed in article 2 of the Convention are covered by the definition of public official, including members of parliament, elected and other unpaid officials not employed by the State.
- Align the exemption from prosecution for persons who solicit bribes who report the offence to the judicial authorities without rendering assistance in the investigation (Section 134-2 PC) with the requirements in art. 37.
- Expand legislation to address offering or giving of an undue advantage to procure influence, and specifically address the acts of indirect trading in influence, as well as benefits accruing to third parties for purposes of active trading in influence (art. 18).
- Consider expanding legislation to adopt an offence of abuse of functions more closely aligned with the Convention (art. 19).
- Consider adopting an offence of illicit enrichment and taking measures to implement an effective asset declaration system (art. 20).

- Amend legislation to criminalize the obstruction or interference in the giving of testimony or the production of evidence in proceedings (art. 25 (a)).
- Emphasize the effective enforcement of existing protection measures on obstruction of justice or law enforcement officials (art. 25 (b)).
- Undertake legislative action to review and revise the limitations periods in line with the Convention and the observations in the full country report (art. 29).
- Consider adopting sentencing guidelines to encourage consistency in sentencing throughout the courts (art. 30 (1)).
- Consider regulating in a more comprehensive manner the procedures for lifting immunities in appropriate cases (art. 30 (2)).
- Adopt measures to ensure that discretionary legal powers relating to the prosecution of corruption offences are exercised to maximize the effectiveness of law enforcement and with due regard to the need for deterrence (art. 30 (3)).
- Consider stipulating conditions for granting and revoking conditional release in a precise manner, besides the minimum eligibility period, bearing in mind the gravity of the offence (art. 30 (5)).
- Amend legislation with a view to eliminate the permissive nature of confiscation as an additional discretionary penalty (art. 31).
- Adopt measures to strengthen the administration and disposition of assets and consider, in particular, establishing a dedicated asset management function (art. 31 (3)).
- Align legislation with paragraphs 4 to 6, and adopt measures to protect bona fide third parties (art. 31 (4) - (6); art. 31 (9)).
- Amend data gathering systems to allow for the collection and tracking of statistics on implementation (art. 31).

CONCLUSION

From the foregoing, we could examine succinctly the legal and institutional mechanisms of Cameroon in the implementation of the UNCAC, observe the dispositions of chapter three of the UNCAC and their application and identify some technical assistance to improve implementation of the convention in Cameroon. Like most African countries, Cameroon is dedicated to ratifying international instruments but the problem is usually with the implementation especially to ensure that, penalties against legal persons for offences under the

Convention are effective, proportionate and dissuasive^{lv}, amend legislation to expand the scope of property subject to confiscation to include all proceeds derived from Convention offences, as well as instrumentalities “destined for use” in the commission of offences, and provide for value-based confiscation (art. 31) and criminalize acts of indirect bribery and fully criminalize benefits accruing to third parties for all bribery offences (art. 15). We hope that this article will go a long way to enlighten the legal community on the stakes and measures in relation to the effective implementation of the United Nations Convention against Corruption in Cameroon^{lvi}.

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ENDNOTES

ⁱ Chapter three is titled: Criminalization and law enforcement

ⁱⁱ Hereinafter referred to variously as UNCAC

ⁱⁱⁱ See International Cooperation against Tax Crimes and other Financial Crimes: A CATALOGUE OF THE MAIN INSTRUMENTS, 2nd Annual Forum on Tax and Crime, Rome, 14-15 June 2012, p.7,

^{iv} The Watergate scandal was a political scandal in the United States involving the administration of the Us President Richard Nixon from 1972-1974 that led to the Nixon Resignation

^v Lampe, K. Klans (2002), "The trafficking in Untaxed cigarette in Germany" A case study of the social embeddedness of illegal markets, Woef Legal Publishers. The Netherlands, p.143

^{vi} The United Nations Convention against Corruption (UNCAC) is a landmark, international anti-corruption treaty adopted by the UN General Assembly in October 2003. It represents a remarkable achievement: a global response to a global problem. With 181 countries bound by UNCAC so far (as of 4 May 2017), it is unique not only in its worldwide coverage but also in the extent of its provisions, recognising the importance of both preventive and punitive measures. It also addresses the cross-border nature of corruption with provisions on international cooperation and on the return of the proceeds of corruption. States Parties (countries that have ratified the Convention) are also obliged to help each other to prevent and combat corruption through technical assistance (defined broadly to include financial and human resources, training, and research). The Convention further calls for the participation of citizens and civil society organizations in accountability processes and underlines the importance of citizens' access to information. The UN Office on Drugs and Crime (UNODC) in Vienna serves as secretariat for the UNCAC.

^{vii} See The Implementation Review Group, Resumed seventh session Vienna, 14-16 November 2016, Agenda item 2, see Review of implementation of the United Nations Convention against Corruption , CAC/COSP/IRG/2016/CRP.22, p.2, could be consulted at https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/Implementation_ReviewGroup/14-16November2016/V1609551e.pdf consulted on the 4th of May.2020 at 3 am

^{viii} Ibid

^{ix} Anyangwe C, "The Cameroon Judicial System", CEPER, Yaoundé, 1987, p. xv. See also ANYANGWE C, "Criminal Law-The General Part", Langaa RPCIG , Bamenda, 2015, p.45.

^x See Ewang Sone A, "Criminal Procedure in Cameroon: from dualism to a common code", Readings in the Cameroon Criminal Procedure Code, PUA (Presse universitaire d'Afrique)-Yde, 2007, pp. 15-16.

^{xi} See Jean-Pierre K, "Penal Code of the Republic of Cameroon Commented" Bilingual Edition, LA Documentation Camerounaise, 2017, p.2.

^{xii} "Public official" shall mean: (i) any person holding a legislative, executive, administrative or judicial office of a State Party, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person's seniority; (ii) any other person who performs a public function, including for a public agency or public enterprise, or provides a public service, as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party; (iii) any other person defined as a "public official" in the domestic law of a State Party. However, for the purpose of some specific measures contained in chapter II of this Convention, "public official" may mean any person who performs a public function or provides a public service as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party.

^{xiii} Section 134 (2) of the PC

^{xiv} Ibid

^{xv} Garner, A. Bryan et al, (2014) "Black's Law Dictionary", 10th Edn, Thomas Reuters. P. 1159 defines money laundry as 'the act of transferring illegal obtained money through legitimate people or accounts so that its original source cannot be traced'

^{xvi} See also articles 2 and 8, of CEMAC Regulation No. 01/CEMAC/UMAC/CM on the Prevention and Suppression of Money Laundering and the Financing of Terrorism and Proliferation in Central Africa States of 11 April 2016.

^{xvii} Article 15, Regulation No. 01/. 01/CEMAC/UMAC/CM, Ibid

^{xviii} Money laundering is the method by which illicit money is incorporated into the banking systems and business environments of the world. Dirty money is washed so it ends up very white. In French this process is describe as Blanchiment d'Argent, which literally means, the bleaching of money. In this way the identity of dirty money and the ownership of assets derived from it are transformed so that they appear to originate from a legitimate source. In other words, Money laundering begins with the fruits of a crime which is the predicate offense and ends with funds that can be used safely or at least with minimal risk.

^{xix} Financial crime is defined as crime that is specifically committed against property. These crimes are almost always committed for the personal benefit of the criminal, and they involve an illegal conversion of ownership of property that is invoked. Financial crimes can occur in many different forms and the most common crimes facing the financial sector are money laundry, terrorist financing, fraud, tax evasion, embezzlement, forgery, counterfeiting and identity theft.

^{xx} Brigitte Unger et al. Amounts and Effects of Money Laundering, A Report for the Ministry of finance (2006) Utrecht School of Economics Vredenburg 138, 3511BG Utrecht Nederland, Australian National University Center for Tax System Integrity Reg Net , RISS, Canberra ACT 0200 Australia.P 66.

^{xxi} Financial Action Task Force (2002). "Report on Money Laundering Typologies 2001-2002". Paris, 2002

^{xxii} by Cameroon's National Agency for Financial Investigations

^{xxiii} Garner, A. Bryan et al, (2014) "Black's Law Dictionary", 10th Edn, Thomas Reuters, p. 635 defines embezzlement as 'The fraudulent taking of personal property with which one has been entrusted, especially as a fiduciary'

^{xxiv} See Akuhfa Harriette, and Galega Samgena, " Proceeds of Crime and the Havoc it is Causing to Legitimate Business in Cameroon ". International Journal of Trend in Scientific Research and Development (IJTSRD) Volume 4 Issue 1, December 2019 Available Online: www.ijtsrd.com e-ISSN: 2456 – 6470. supraP.840.

^{xxv} L'anecdoteN°271 of Wednesday 28th June 2006.

^{xxvi} Pierre Desire Engo et Dippah Henri c/Ministère Public et CNPS, Arrêt no 223/P du 2 juin 2006 and Norbert Ndong c/Ministère Public

^{xxvii} Jeune Afrique Economie –ETE – 2012- N° 388(P. 22-25)

^{xxviii} Arrêt no 78/ CRIM du 27 juin 2006.

^{xxix} Rapport sur l'état de la lutte contre la corruption au Cameroun, 2011. P. 230

^{xxx} Arrête no 051-051bif/06 du 14 November 2006

^{xxxi} Cameroon's 2011 Anti-Corruption Status Report November 2012, P.296

^{xxxii} It stipulates that " Shall face a criminal charge, the manager of a private limited company, the directors, the chief executive officer, the general manager, the deputy general manager, the president of a simplified public limited company, the general director or the deputy general director who, in bad faith, have used company assets or credit, knowing that it was contrary to its interests, for personal material or moral purposes or for the benefit of another legal entity in which they have direct or indirect stake.

^{xxxiii} Jeune Afrique Economie –ETE – 2012- N° 388 P.105

^{xxxiv} CAC/COSP/IRG/2016/CRP.22, Review of implementation of the United Nations Convention against Corruption, Implementation Review Group Resumed seventh session Vienna, 14-16 November 2016, p. 3

^{xxxv} Section 74-1 of the PC

^{xxxvi} Sections 18, 25-1, 25-2 and 25-3 of the PC.

^{xxxvii} Article 126 of Regulation No. 01, Supra

^{xxxviii} Section 35 of the PC

^{xxxix} Section 21 of the PC

^{xl} Sections 218 and 222 CPC.

^{xli} Decree n° 2006/088 du 11 mars 2006.

^{xl} See sections 92-100 and 177-179 of the CPC, and articles 105 – 108, 150 – 155 of the CEMAC Regulation of 11 April 20016.

^{xl} Article 20 of Decree n° 2006/088 du 11 mars 2006.

^{xliv} In accordance with section 21 of the PC.

^{xl} Section 65 of the CPC

^{xlvi} Article 15 of the PC.

^{xlvi} Garner, A. Bryan et al, (2014) "Black's Law Dictionary", 10th Edn, Thomas Reuters, p. 422 defines corruption as 'Depravity, perversion, or taint; an impairment of integrity, virtue, or moral principle; especially the impairment of a public official's duties by bribery'

^{xlvi} Article 16 of Decree No. 2005/187 of 31 May 2005

^{xl} U4 Issue 2009, Chr. Michelsen Institute, August 2009, No. 13, P. 4

¹ In order to find out whether your country is among those being reviewed, please consult the UNODC UNCAC website (<http://www.unodc.org/unodc/en/treaties/CAC/IRG.html>) or your home country's mission at the UN in Vienna.

^{li} Such as governance analyses, social audits, etc.

^{li} For e.g., legal departments, supreme audit institutions, financial crime units and the like.

^{lii} For e.g. by parliament, civil society, academia.

^{liv} African Union Convention on the fight against Corruption adopted at Maputo on the 11 of July 2003

^{lv} Attention should also be given to the effective enforcement of penalties for corruption-related offences against legal persons (art. 26 of the UNCAC).

^{lvi} Particularly criminalization and law enforcement

