

ADVOCACY FOR THE IMPROVEMENT OF COMMERCIAL DISPUTE RESOLUTION MECHANISMS IN CAMEROON

CONTEXT

It is well established that economic development and improved investment attractiveness depend on a secure legal and judicial environment that fosters a climate of trust, essential for businesses to take initiatives.

Improving commercial justice in our country is therefore a crucial lever for strengthening its economic appeal. By facilitating a secure and efficient legal environment, the justice system, as an institution, contributes to wealth and job creation by stimulating investment.

However, various public-private dialogue platforms and development partners have repeatedly pointed out that the quality of justice in Cameroon is a significant barrier to business growth and the country's attractiveness to investors. This advocacy by GECAM aims to propose concrete avenues for improving commercial justice in Cameroon.

Several countries have addressed the improvement of commercial justice through the specialization of courts, notably by establishing commercial courts. While this solution undoubtedly represents a significant step toward securing investments legally and judicially in our country, it is not a cure-all. The transformation of commercial justice should be approached holistically, considering the need to:

1. Improve the quality of commercial legal texts,
2. Enhance the working conditions of judicial staff, and
3. Strengthen their professional capacities.

OBSERVATIONS

The Need to Improve the Quality of Commercial Legal Texts

Obsolete Laws Contributing to Judicial Delays

The Cameroonian Code of Civil and Commercial Procedure, dating back to the 1800s, is outdated and ineffective in addressing modern challenges, slowing down judicial procedures. This code creates numerous procedural inefficiencies due to:

- The absence of a legal limit on the number of adjournments, which magistrates and litigants can exploit to prolong proceedings;
- The lack of legally mandated deadlines for the Public Prosecutor's Office to submit its requisitions;
- The excessive time allowed for defaulting litigants to file appeals in civil matters; and
- Jurisdictional challenges that judges decide without the possibility of further review.

To remedy these issues, the Code of Civil and Commercial Procedure must be revised and modernized by incorporating provisions to reduce procedural delays. Some African countries with civil law traditions, such as Chad and Mali, have taken this approach.

Introducing strict rules to limit unnecessary adjournments is imperative. For example, Senegal has implemented monitoring and sanction mechanisms for judges who fail to adhere to prescribed deadlines.

Modernizing these procedures would ensure faster, more predictable justice and restore public confidence in Cameroon's judicial system.

Another solution could be to appoint a judge responsible for case preparation with short deadlines for submitting written arguments. If case preparation is completed within two weeks, hearings could be concluded in just one or two sessions.

Vague Legal Provisions Leading to Multiple Interpretations

Cameroon's legal framework includes conflicting provisions, allowing administrations and courts considerable interpretive discretion, resulting in inconsistent applications without a unified legal logic.

For example, regarding debt collection, the new Uniform Act and the Minister of Finance's circular of September 13, 2024, allow the Minister to decide whether to register debts ex officio. However, the law does not mandate this, meaning that "ex officio registration" is not truly automatic (see Article 30-1 of the revised Uniform Act). Such legal instability deprives creditors of effective guarantees and weakens the predictability of the law.

Similarly, judicial decisions often vary based on the judge's personal views, affiliations, or external pressures, creating ongoing uncertainty about case outcomes.

The Code of Civil and Commercial Procedure frequently uses vague terminology such as "the judge may," "reasonable period," "necessary," and "appropriate," making legal application inconsistent and subjective.

For example:

- Article 275 CPCC: "The competent court may, ex officio, at the hearing, and if necessary, order..."
- Article 113 CPCC: "The court may, if deemed necessary, visit the premises."
- Article 55 CPCC: "The court ruling on provisional execution may require a security deposit."

Furthermore, arbitration rulings are often difficult to enforce. State judges tend to circumvent arbitration agreements, effectively retrying cases already settled through arbitration clauses or arbitration agreements. This practice undermines arbitration, which is meant to be a predictable dispute resolution mechanism tailored to business needs.

The Need to Improve Judicial Working Conditions

Insufficient Human Resources

Delays in judicial proceedings, particularly criticized by the business community, are partly due to a shortage of judicial staff. This shortage results in excessive workloads for magistrates.

The number of judges is vastly inadequate compared to the caseload in courts. Judges often handle multiple cases simultaneously, far exceeding international standards, which recommend a maximum of ten cases per judge.

At the first-instance courts, judges frequently preside over multiple hearings daily, leading to frequent adjournments and excessively long case resolution times. This negatively impacts judicial efficiency and accessibility, as confirmed by the National Institute of Statistics' report on case resolution rates relative to case filings in Cameroon.

To ensure a better distribution of work, more magistrates must be appointed to the courts.

Lack of Adequate Infrastructure

A shortage of judicial infrastructure hampers the effective administration of justice. In major cities such as Douala and Yaoundé, insufficient courtroom space often forces multiple hearings to be held in the same room simultaneously.

For example, the imbalance between the number of civil and commercial cases filed annually (80,581 cases nationwide in 2018) and the limited number of courtrooms creates an unsuitable environment for conducting professional and fair trials. Urgent investment is needed in constructing and modernizing judicial facilities to meet Cameroon's needs.

Additionally, magistrates often lack adequate office space, forcing them to share offices and struggle with document management. This leads to:

- Disorderly accumulation of case files, increasing the risk of loss or mismanagement;
- Lack of confidentiality in meetings with litigants, particularly in commercial disputes involving sensitive information.

Poor Compensation for Magistrates

Given the sensitive nature of the judiciary and the significant stakes involved, it is essential to ensure the financial security of judges and provide them with living conditions that guarantee their neutrality and personal safety. Cameroonian judges' salaries and housing conditions should be reviewed to align with those of countries at similar development levels.

The Need to Strengthen Judicial Training

Enhancing Magistrate Training

As legal texts become more complex and judicial practices evolve, continuous training for magistrates is essential. To ensure high-quality decisions, the following measures should be implemented:

- A mandatory continuing education program linked to career advancement;
- Strict criteria for judicial appointments, particularly in courts of appeal and major urban jurisdictions such as Douala and Yaoundé.

For example, France's Supreme Judicial Council has established a certification system requiring magistrates to undergo regular evaluations, significantly improving judicial decision quality and procedural efficiency.

A Judiciary Lagging Behind in Technology

The lack of digitalization in Cameroon's judiciary significantly slows case processing. In contrast, countries that have implemented electronic case management platforms have reduced procedural delays and minimized document loss.

A study in Mauritania demonstrated the benefits of judicial digitalization. In France, the introduction of an electronic complaint filing and case-tracking system has dramatically improved access to justice. A similar reform in Cameroon would:

- Reduce delays in transferring case files between courts;
- Facilitate case tracking for litigants and lawyers; and
- Limit corruption risks associated with handling physical case files.

PROPOSALS

Based on the observations above, we recommend the following:

1. Legislative reform to modernize the Code of Civil and Commercial Procedure, reducing procedural delays and preventing abuse. This reform could follow the models of Chad and Mali, introducing strict rules on adjournments, prosecution deadlines, and appeal procedures.

2. Creation of specialized commercial chambers in courts to enhance judicial expertise and expedite commercial cases.
3. Establishment of a judicial oversight council to monitor commercial chambers, ensuring magistrate discipline and decision quality.
4. Judicial digitalization, inspired by successful models in Rwanda, Mauritania, and France, to improve efficiency and transparency.
5. Better staffing allocation, ensuring the number of magistrates matches the actual workload in each jurisdiction.
6. Mandatory continuous training and certification for magistrates, incorporating economic impact analysis in judicial decisions.
7. Improved compensation and benefits for judicial personnel to align with comparable economies.
8. These reforms will contribute to a more efficient, transparent, and predictable judicial system, ultimately enhancing Cameroon's economic attractiveness.