

Law No 2004/016 of 22nd July 2004 to set up Organization and Functioning of the National Commission on Human Rights and Freedoms

The National Assembly deliberated and adopted,

The President of the Republic hereby enacts the law set out below:

CHAPTER I **GENERAL PROVISIONS**

Section 1:

(1) This law relates to the setting up, organization and functioning of the National Commission on Human Rights and Freedoms abbreviated "**NCHRF**" and hereinafter referred to as "***the Commission***".

(2) The National Commission on Human Rights and Freedoms shall be an independent institution for consultation, monitoring, evaluation, dialogue, concerted action, promotion and protection in the domain of human rights.

(3) The Commission shall have legal status and financial autonomy.

(4) Its headquarters shall be in Yaounde.

(5) The Commission may have branches in other localities throughout the country.

CHAPTER II **DUTIES AND MEANS OF ACTION OF THE NATIONAL COMMISSION** **ON HUMAN RIGHTS AND FREEDOMS**

I- DUTIES

Section 2: The Commission shall be responsible for the promotion and protection of human rights and freedoms.

To that end, it shall:

- receive all denunciations relating to violations of human rights and freedoms;
- conduct all enquiries and carry out all the necessary investigations on violations of human rights and freedoms and report thereon to the President of the Republic;

- refer cases of violations of human rights and freedoms to the competent authorities;
- as and when necessary, inspect penitentiary establishments, police stations and gendarmerie brigades, in the presence of the competent State Counsellor his representative; such inspections may entail the drafting of a report submitted to the competent authorities;
- study all matters relating to the promotion and protection of human rights and freedoms;
- propose to the public authorities measures to be taken in the area of human rights and freedoms;
- popularise by all possible means instrument, relating to human rights and freedoms and forge a human rights culture in the people through education, information and the holding of conferences and seminars;
- collect and disseminate international documentation relating to human rights and freedoms;
- liaise, where necessary with non-governmental organizations working for the promotion and protection of human rights and freedoms;
- maintain, where necessary, relations with the United Nations Organizations, international organizations, and foreign committee or associations pursuing similar goals; and inform the minister in charge of external relations thereon.

II- MEANS OF ACTION

Section 3: In order to discharge its duties, the Commission may, in accordance with the conditions defined by its rulf:5 of procedure:

- summon any party and/or witness for a hearing;
- request the competent authorities to carry out searches and require the production of any document or evidence in accordance with ordinary law;
- refer any offence noted in matters falling within the remit of this law to the minister in charge of justice;
- use mediation and conciliation between parties in non-criminal matters falling within the remit of this law;
- provide legal assistance or ~I~b: measures to furnish any form of assistance, in keeping with the laws in force;
- intervene. in any case, to participate in upholding the interests of victims of human rights violations.

Section 4:

(1) The Commission shall draw such conclusions as required by law for failure or refusal to reply to its summons, requisitions or questions.

(2) The Chairperson of the Commission may call on the authorities concerned to conduct a study or draft a report on a specific human rights issue within their sphere of activity.

Section 5: The Commission may, within its remit:

- entertain a simple request or denunciation from any individual or corporate body, or any public authority;
- carry out any investigation;
- on its own motion.

CHAPTER III **COMPOSITION, ORGANISATION AND FUNCTIONING OF THE COMMISSION**

I- COMPOSITION AND ORGANISATION

Section 6:

(1) The Commission shall comprise 30 (thirty) commissioners, as follows:

President: An independent personality, assisted by a Vice-Chairperson. Both shall be appointed by decree of the President of the Republic.

Members:

- 2 representatives of the Supreme Court who shall be members of the bench;
- 4 representatives of the National Assembly who shall be members of parliament designated by the President of the National Assembly;
- 2 representatives of the Senate designated by the President of the Senate;
- 2 representatives of the Bar;
- 2 lecturers in Law designated by the Conference of Rectors;
- 3 representatives of religious denominations, designated by their peers;
- 2 representatives of women's organizations, (duly established and working in the area of human rights), chosen by their peers;

- 2 representatives of non-governmental organizations and associations, (duly established and working in the area of human rights), designated by their peers;
- 2 representatives of workers unions, designated by their peers;
- 1 representative of the Cameroon National Order of Medical Practitioners;
- 2 journalists representing the public and private press, respectively;
- 4 representatives of government departments in charge of social affairs, justice, penitentiary affairs and women's affairs, respectively.

(2) Commissioners shall be appointed by decree of the President of the Republic, upon the proposal of the services, socio-professional associations or bodies to which they belong, at the behest of the Chairman of the Commission.

Section 7: The Chairperson, Vice-chairperson and Commissioners shall be chosen from among personalities of Cameroonian nationality, living in the national territory and enjoying their civic and political right, as well as a reputation of integrity and of high moral rectitude.

Section 8:

(1) The Chairperson, Vice-Chairperson and Commissioners shall be appointed for a five-year term of work, renewable once.

(2) Their term of office shall end at its normal expiry period, as a result of death or resignation, or following the loss of the status that justified their appointment, or even by dismissal on account of a gross misconduct or acts incompatible with the duties of Commissioners.

(3) In the event of the death of a Commissioner while in office or of inability to pursue his duties, he shall be replaced by the head of the body or authority that he is representing, for the remainder of his term of office.

Section 9: Before assuming office, the Commissioners shall take the oath before the full bench of the Supreme Court.

Section 10:

(1) Commissioner may not be prosecuted for any ideas or opinions expressed in the line of duty.

(2) However, Commissioners shall be bound to reserve and secrecy during their tenure of office.

Section 11:

(1) To discharge its duties, the Commission shall have a Permanent Secretariat headed by a Secretary-General who shall be appointed by decree of the President of the Republic, on the recommendation of the Chairperson of the Commission.

(2) The organization and functioning of the Secretariat general shall be defined by regulation.

Section 12:

(1) The Chairperson, Vice-Chairperson and Secretary General shall be entitled to a monthly remuneration and special benefits.

(2) The amount of the monthly remuneration of the Chairperson, Vice-Chairperson and Secretary-General of the Commission, and the nature of special benefits referred to in Section 12 (1) shall be determined by decree of the President of the Republic, on the recommendation of the Prime Minister.

Section 13:

(1) Commissioners shall be entitled to session allowances and mission expenses.

(2) The session allowance and mission expenses referred to in Section 13 (1) shall be determined upon deliberation of the Commission and approved by the Prime Minister.

II- FUNCTIONING

Section 14:

(1) The Chairperson of the Commission shall convene an ordinary session once every six months. The Commission shall:

- approve its programme of action and the draft annual budget;
- consider and approve the report, drawn up on issues falling within its remit or that have been submitted to it;
- consider and approve its progress report;
- define the salary and special benefits scale of staff, according to the resources of the Commission;
- determine the session allowances and mission expenses granted to its members;
- take all measures needed to ensure the smooth functioning of the Commission;

- consider any other matters dealing within its limit;
- approve its internal regulations.

(2) The Commission may meet in extraordinary session, as and when necessary.

Section 15:

(1) The Commission may not validly deliberate unless two-thirds (2/3) of its members are present. Where such quorum is not reached at the first meeting, it shall be reduced to one-half (1/2) of the Commissioners at subsequent meetings.

(2) Each member shall have one vote. Decisions shall be taken by simple majority of members present. In case of a tie, the Chairperson shall have the casting vote.

Section 16:

(1) The Chairperson shall represent the Commission in civilian life and before the law courts. He shall direct and administer the business of the Commission.

(2) Where the Chairperson is temporarily absent or unavailable, the Vice-Chairperson shall deputize for him.

(3) Where such absence or unavailability exceeds a period of 6 (six) months, the President of the Republic may proceed to replace the Chairperson of the Commission.

Section 17:

(1) The Commission shall have four (4) working groups whose duties, organization and functioning shall be detailed by the internal regulations.

(2) Each working group shall be headed by a chairperson, who shall assist the Chairperson of the Commission in monitoring the day-to-day activities of the Commission.

(3) Working group chairpersons shall be entitled to special allowances whose amounts shall be determined upon deliberation of the Commission and approved by the Prime Minister.

Section 18: The following may not be designated working group chairpersons:

- (a) members of Government and persons ranking as such;
- (b) senators and Members of Parliament;
- (c) judicial and legal officers in active employment and members of the Constitutional Council;
- (d) law enforcement officials and staff;

- (e) chairpersons and members of regional councils, government delegates, mayors, municipal councillors or any other official of regional and local authorities;
- (f) national, regional or local elected representatives;
- (g) traditional rulers.

Section 19:

- (1) Within the framework of its activities, the Commission shall hold deliberation, make recommendations, give its opinions and draw up reports.
- (2) The Commission's annual reports shall be submitted to the President of the Republic, the President of the National Assembly and the President of the Senate.
- (3) The Commission's half-yearly report shall be submitted to the Prime Minister, the minister in charge of Justice and the minister in charge of territorial administration.
- (4) The Commission's deliberations, recommendations, advisory opinions and reports shall be published, at the behest of its Chairperson.

CHAPTER IV
FINANCIAL PROVISIONS

Section 20: The Commission's resources shall be derived from:

- annual State budget allocations;
- support from national and international partners; donations and legacies.

Section 21:

- (1) The Commission's resources shall be public funds and, as such, shall be managed in accordance with public accounting rules.
- (2) Resources derived from international partners shall be managed according to the relevant treaties.

Section 22:

- (1) The Chairperson of the Commission shall be the principal authorizing officer of the budget. The Commission shall designate sub-authorizing officers on the recommendation of its Chairperson.
- (2) The Secretary-General may be designated as authorizing officer delegate by the Chairperson of the Commission.

Section 23:

- (1) The Commission's draft annual budget and investment plan shall be prepared by the Chairperson, adopted by the Commission and submitted to the Prime Minister for approval within the framework of the preparation of the finance law for the year.
- (2) The Commission's budget shall be the subject of a specific heading under the finance law.
- (3) The Commission's financial year shall run from 1 January to 31 December.

Section 24: The Commission may, at the behest of its Chairperson, open accounts with banking institutions approved by the monetary authority.

Section 25: An Accounting Officer and a financial Controller shall be attached to the Commission. They shall discharge their duties in accordance with the instruments in force.

CHAPTER V
STAFF

Section 26:

- (1) The Commission may employ:
 - staff recruited directly;
 - civil servants on secondment;
 - state employees governed by the Labour Code transferred to the Commission at the behalf of the Chairperson of the Commission.
- (2) The Commission's staff referred to in Section 26 (1) shall have the relevant profile for the positions they hold.
- (3) Civil servants on secondment and State employees transferred to the Commission shall, throughout their tenure of office at the Commission, be bound by the instruments governing the Commission and their labour laws, and, as concerns civil servants, be subject to the Public Service General Rules and Regulations governing advancement, retirement and the end of the secondment.
- (4) Disputes between the above-mentioned staff and the Commission shall fall within the jurisdiction of ordinary law courts.

Section 27: The amount of staff remuneration and allowances shall be defined by an order of the Prime Minister, upon the proposal of the Commission.

CHAPTER VI **CRIMINAL PROVISIONS**

Section 28:

(1) Whoever, having been duly served with a summons, fail to appear before the National Commission on Human Rights and Freedoms, shall be liable to the penalties provided for in Section R 370 of the Penal Code.

(2) The summons shall be evident by any written medium.

CHAPTER VII **MISCELLANEOUS, PROVISIONAL AND FINAL PROVISIONS**

Section 29: All previous provisions repugnant hereto, in particular those of Decree No 90/1459 of 8 November 1990 to set up the National Commission on Human Rights and Freedoms, are hereby repealed.

Section 30:

(1) The National Commission on Human Rights and Freedoms shall, by right, replace, the old "National Commission on Human Rights and Freedoms".

(2) The property and staff of the old "National Commission on Human Rights and Freedoms" shall be transferred to the National Commission on Human Rights and Freedoms.

Section 31: A decree of the President of the Republic shall define the conditions of implementation of this law.

Section 32: This law shall be registered, published according to the procedure of urgency, and inserted in the Official Gazette in English and French.

Yaounde, 22nd July 2004

Paul Biya,

President of the Republic.