

**SUMMARY OF THE 2006 ANNUAL  
REPORT OF THE AUDIT BENCH OF  
THE SUPREME COURT OF CAMEROON**

# **PRESENTATION**

This document is a summary of the Annual Report of the Audit Bench of the Supreme Court of Cameroon for 2006.

It gives a summary of the developments of the report, while respecting its original sections, that is:

- The foreword by the Chief Justice of the Supreme Court of Cameroon;
- General introduction;
- Part I: institution of the Audit Bench;
- Part II: General result of the work of the Audit Bench;
- Part III: Observations for the reform and improvement of the Bench and discipline of accountants;
- Conclusion;
- Annexes;
- Table of contents.

# FOREWORD

*Set up by Law No. 96/06 of 18 January, 1996, to amend the Constitution of 22 June, 1972, and organised by Law No. 2003/005 of 21 April, 2003, the Audit Bench of the Supreme Court started its activities after the appointment in April, 2004, of its President and the swearing-in of the new judges in December, 2005.*

*Thus, a little more than one year after this take-off, the Audit Bench has produced its first annual report in accordance with section 3 of the second instrument referred to above. This section states: "The Audit Bench shall submit to the President of the Republic, the President of the National Assembly and the President of the Senate an annual report setting out the general results of its deliberations and pertinent observations with a view to reforming and improving upon the keeping of accounts and the discipline of accountants. This report shall be published in the Official Gazette of the Republic of Cameroon."*

*In countries with established traditions, it is a great moment when the financial jurisdiction exposes the view it has on the use of public funds.*

*The 2006 annual report is simple in its conception and spirit. In spite of the special nature of control and judgement of accounts, a laudable effort at communication is perceptible and brings out three objectives:*

- *On the one hand the document has a didactic character. In this light, it is concerned with making known the mission of the Audit Bench and gives the situation of the mechanisms of its functioning. A number of technical concepts specific to a financial jurisdiction are herein explained. Developments found in the introduction and in the second part try to satisfy this exigency;*
- *On the other hand, the text exposes a pedagogic aspect in the sense that lessons are drawn from it following the observations or irregularities noticed during the examination of public accounts. The third part of the annual report translates this concern;*
- *Moreover, the report has an informative character. It informs public authorities as well as citizens of the genesis of the Audit Bench and the result of its activities. The developments contained in the three parts of the report translate this aspect.*

*Finally, armed with the lessons of this first year of existence, the conclusion traces the prospects of the future action of the Bench.*

*On reading this report, one should be able to have an idea of the Audit Bench as it was put in place and at the end of its first year of functioning. In this regard, taking into account the facts mentioned and the lessons to draw there from, it is a guarantee of the evolution that will reinforce the foundation of this young institution. This institution will find its mark in the*

*ambitions of the men and women who work there, in order that the streamlining of public finance becomes a reality and that the dictum by Jean Bodin who said "there is no wealth or force greater than men" has its full meaning.*

**Alexis DIPANDA MOUELLE**  
**Chief Justice of the Supreme Court**

# INTRODUCTION

This first annual report is the occasion to make known the jurisdiction, organisation and functioning of the Audit Bench of the Supreme Court of Cameroon, a new-comer in our legal landscape.

The jurisdiction of the Audit Bench is both jurisdictional and non jurisdictional.

The jurisdictional powers emanate from the provisions of Law No. 96/06 of 18 January, 1996, to amend the Constitution of 2 June, 1972, as well as Law No. 2003/005 of 21 April, 2003, to lay down the jurisdiction, organisation and functioning of the Audit Bench of the Supreme Court. These powers essentially deal with the control and ruling on accounts.

The non jurisdictional powers concern the opinions provided for by section 10 of the Law of 21 April, 2003, the writing of the annual report, notifications done by the Procureur General and the Registrar-in-Chief as well as all current management decisions.

With regard to its organisation, three aspects retain our attention, namely, the structure of the Audit Bench, its composition and sessions.

The Audit Bench has five (5) divisions. It includes a judicial side, a Legal Department and a Registry (sections 14 to 18 of the law of 21 April, 2003).

The sessions of the Audit Bench are provided for in sections 21 to 25 of the law referred to above. As the case may be, the Bench sits in ordinary, joint sessions or in chambers, considering the complexity of the matters and according to matters as decided by the President of the Bench.

Concerning the functioning of the Bench, it should essentially be noted that the procedure for ruling on accounts of certified public accountants is written and in accordance with the provisions of the law relating to the functioning of the Supreme Court, subject to the specificities of financial jurisdictions.

De facto accounting are also liable to be controlled by the Audit Bench (section 39(2)) and where de facto accounting is discovered, it gives rise to an introductory brief issued by the legal department which, as the case may be, lead to the declaration of de facto accounting.

Appeals are lodged within fifteen (15) days following the service of the decision of the lower audit court (section 46).

# PART I

## INSTITUTING THE AUDIT BENCH

The process of putting in place of the Audit Bench took off in October, 2003, with the creation of an inter-ministerial Committee followed in July, 2005, by the planning Committee to make this institution effectively operational, both placed under the supervision of the Steering Committee of the Cameroon-European Union Matrix.

The objective was to ensure the smooth institution of the Audit Bench in order that it may examine the 2004 accounts before the end of 2005. A good number of actions were carried out, covering especially the following domains:

- 1) The appointment in April, 2004, of the first judges of the Audit Bench: the President and two Justices.
- 2) The selection of 22 candidates to perform the functions of Accounts Judge on the basis of defined selection criteria, relating to both the multi-disciplinary profile of the candidates and their seniority in their various professional corps and including an oral examination through discussion with a wide selection panel.
- 3) Training in ENAM from September to November, 2005, of the candidates for the position of Accounts Judge. At the end of the theoretical training that involved about thirty modules marked by an evaluation of the written knowledge, only 19 out of the 22 candidates were retained.
- 4) The preparation of some instruments indispensable for the control and ruling on accounts, notably the Instruction of the Minister of the Economy and Finance on management accounts and the Procedures Manual of the Audit Bench adopted during the General Assembly of the Bench on 31 December, 2005.
- 5) The appointment and installation of new judges of the Audit Bench who, after their training, were by two presidential decrees absorbed into the magistracy corps and appointed to various positions.
- 6) The occupation in February 2006 of the building taken over by the State on 2 June, 2005, to house the Audit Bench.

## **PART II**

# **GENERAL RESULT OF THE WORK OF THE AUDIT BENCH**

The main activity of the Audit Bench is jurisdictional and therefore concerns the examination and ruling on accounts. However, the essential work of the work of the Audit Bench during the 2006 financial year had to do with non jurisdictional work, notably improving firstly the working environment and framework.

### **A. NON JURISDICTIONAL ACTIVITIES OF THE AUDIT BENCH**

The non jurisdictional activities of the Audit Bench had to do with various domains.

#### **1. ACTIVITIES RELATING TO THE INTERNAL ORGANISATION OF THE AUDIT BENCH**

The activities in this domain concerned:

- The distribution of judges<sup>1</sup> and registrars into the various structures of the Bench by Order of its President. In all, during the 2006 financial year the Bench functioned with a total staff of thirty-six persons including 22 legal and judicial officers of the bench and 3 for the Legal Department and 11 registrars for the Registry.
- Designation of the Head of the Second Division in charge of the examination and ruling on accounts of regional and local authorities.
- Determination by Order of the President of the Bench on 20 February, 2006, of matters to be examined by the various sessions of the Audit Bench in ordinary or joint sessions or in chambers.
- Creation by Order of the President of the Bench of two committees: the Programming and Public Report Committee and the Documentation and Communication Committee. The two committees are operational.

#### **2. ACTIVITIES RELATING TO THE INTERNAL FUNCTIONING OF THE BENCH**

The activities of the Bench in this regard related to:

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<sup>1</sup> Cf. Order No 001/CDC/CSC of 30 December 2005



- **The Procedures Manual of the Bench** to ensure the harmonisation of the procedural practices in all the divisions of the Audit Bench.
- **The schedule of activities for 2006** clearly defining the results expected for each activity, as well as the actors and means to be used to attain the objectives.
- **Activation of the divisions of the Bench** through the institution of a Think Tank, the exploitation of whose results ensured the creation of awareness among the various structures charged with the production of accounts in view of their transmission to the registry within the statutory deadlines.
- **Examination guides in the divisions** to help in the mastery of the specificities of their domains of competence.

### **3. ACTIVITIES OF INFORMATION AND AWARENESS ON THE PREPARATION AND PRODUCTION OF PUBLIC ACCOUNTS**

- **Objectives of the awareness and information mission**

Faced with the delay noticed in the production and transmission of accounts for the 2004 and 2005 financial years to the Audit Bench, the President of the said Bench in March and June 2006 deployed mission teams to 124 structures concerned with the production of accounts all over the national territory for information and awareness purposes.

- **Observations noted during the missions**

- **Concerning State accounts**, the difficulties noted had to do with the insufficiency of personnel in charge of the preparation of accounts, conservation and filing of justificatory documents, the absence of the preliminary preparation of the accounts for examination and the non preparation of management accounts by stores accountants.
- **Regarding public administrative establishments**, the non application of Instruction No.02070/MINEFI/IGT of 22 December, 1998, relating to the summary nomenclature of accounts destined for accounting officers in public administrative establishments was noted.
- **Concerning public enterprises and public semi-public enterprises**, the issue arose as to the jurisdiction of the Bench to examine their accounts under the pretext that they do not have a public accountant on the one hand and on the other hand, that of the transmission of justificatory documents which they are bound to keep for ten years in accordance with the OHADA Uniform Act.

## **4. TRAINING ACTIVITIES OF PERSONNEL OF THE AUDIT BENCH**

In 2006 numerous training activities were carried out, notably:

- The seminar organised from 24 to 28 April, 2006, in view of the appropriation of the Procedures Manual of the Audit Bench by the judges and registrars of the Bench.
- The initiation seminar in the use of computers that held from 22 to 29 2005 at the Head Office of the Audit Bench.
- Courses and information missions organised in foreign financial jurisdictions, notably at the French "Cour des Comptes" and in its regional branches, as well as the Moroccan "Cour des Comptes".
- Participation in May, 2006, of members of the Audit Bench in a colloquium on the theme: "Performance and transparency in public financial management: the full use of the existing tools"

## **B JURISDICTIONAL ACTIVITIES OF THE AUDIT BENCH**

Before giving an account of the jurisdictional activities of the Audit Bench, the 2006 report describes its general functioning, it being a new institution.

### **1. FUNCTIONING OF A FINANCIAL JURISDICTION**

From the reception of the accounts to the execution of the judgement rendered, several steps are followed in application of the law<sup>2</sup> and the Procedures Guide of the Audit Bench.

- The reception of accounts at the level of the Registry which verifies whether they are complete before registering them.
- The examination by the judge rapporteur who verifies and examines all the elements of the account and where need be, making reservations, injunctions and discharge of accountants. It is an inquisitorial, written and secret procedure.

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<sup>2</sup> \*Cf. Law of 21 April 2003 relating to the Audit Bench

\* Cf. Law No. 75/16 of 8 December 1975 laying down the procedure and functioning of the Supreme Court as modified by Law No. 89/018 of 28 July 1989.

- The writing of the ruling and the draft judgement which will be communicated to the Legal Department for the writing of the conclusions before the session to deliberate is convened. Generally the Bench rules by respecting the principle of double rulings.
- The execution of the decision takes place following the notification of the accountant of the judgements of the Bench through the registry and/or Procureur General of the Supreme Court.

### • **Judgements passed by the Audit Bench in 2006**

During the 2006 financial year, the Audit Bench passed two rulings relating to the production of documents by accountants. One of these judgements concerned an order for the future.

## **2. STATISTICAL DATA RELATING TO ACCOUNTS**

These are a series of tables and graphs meant to present the situation for 2004 and 2005 and by each section; information relating to the expected accounts, submitted but unregistered accounts, registered and unregistered accounts as well as accounts under examination. In all, it can be noted that of the expected 477 accounts, 327 did not reach the Audit Bench in 2004 as against 370 in 2005, that is 68.5 % and 77.6% respectively.

### **PART III**

## **OBSERVATIONS IN VIEW OF THE REFORM AND IMPROVEMENT OF THE KEEPING OF ACCOUNTS AND DISCIPLINE OF ACCOUNTANTS**

Two categories of observations emerge from the Bench's report for the 2006 financial year: non jurisdictional observations (A) and observations on jurisdictional activities (B).

### **A. OBSERVATIONS CONCERNING NON JURISDICTIONAL ACTIVITIES**

They result from the evaluation of the state of the preparation of management accounts, conservation and filing of justificatory documents and the exploitation of accounts for the 2004 and 2005 financial years.

#### **1. EVALUATION OF THE PREPARATION OF MANAGEMENT ACCOUNTS OF PRINCIPAL ACCOUNTANTS OF THE TREASURY AND OF STORES ACCOUNTANTS**

The Audit Bench noticed that all Principal Accountants of the Treasury submitted their accounts after the deadline set by law. Stores Accountant on the other hand did not produce anything. The Bench equally noted the preparation for examination of accounts was not effectively ensured by the Ministry of the Economy and Finance as required by law and that the prior guarantees required of accountants by law before their taking office were not always subscribed.

#### **2. EXPLOITATION OF ACCOUNTS OF PUBLIC ADMINISTRATIVE ESTABLISHMENTS AND PUBLIC AND SEMI-PUBLIC ENTERPRISES**

An appreciation of the difficulties in the exploitation of accounts of these bodies must be done according to whether they are public administrative establishments or public or semi-public enterprises.

- **Public administrative establishments**

In violation of the law, the organic instruments of certain structures prescribe commercial accounting as management instrument, while others have instituted two types of accounting. In certain public administrative establishments, the principle of the separation of functions of authorising officer and accountant is not always respected.

- **Public and semi-public enterprises**

A number of enterprises have posed the problem of the jurisdiction of the Bench to rule on their accounts and the Bench has envisaged solving this problem in relation to section 41 of the Constitution which states that "*the Audit Bench shall be competent to control and rule on public accounts, as well as those of public and semi-public enterprises*".

## **B OBSERVATIONS CONCERNING JURISDICTIONAL ACTIVITIES**

In this context, there are specific difficulties resulting from the examination of accounts according to divisions.

### **1. TREASURY ACCOUNTS**

The difficulties faced in the examination of the accounts of the First Division are of various types and ranged from the interpretation of the instructions and regulatory instruments (problem of production of administrative account of the authorising officer accompanying the management account), to the presentation of management accounts themselves (accounts not in conformity with the format prescribed by the ministerial instruction,) as well as the behaviour of Principal Accountants of the Treasury (absence of reaction to the requests by judges).

### **2. ACCOUNTS OF REGIONAL AND LOCAL AUTHORITIES**

The examination of accounts of regional and local authorities faced two types of problems: reception of administrative accounts at the registry of the Audit Bench in lieu and place of management accounts and the poor presentation of management accounts forwarded to the Bench, which accounts were not in conformity with the provisions of the MINEFI/MINATD joint instruction.

### **3. ACCOUNTS OF PUBLIC ADMINISTRATIVE ESTABLISHMENTS**

The examination of accounts of these establishments had difficulties in the sense that they generally lacked the general balance of accounts which helps in determining the account line and from the fact that a number of accounting officers are ignorant of Instruction No. 02070/MINEFI/IGT of 22 December, 1998, relating to the summary

nomenclature of accounts destined for accounting officers of public administrative establishments.

#### **4. ACCOUNTS OF PUBLIC AND SEMI-PUBLIC ENTERPRISES**

Difficulties relating to the instruction of accounts of the Fourth Division are of three types:

- partial transmission of accounts without justificatory documents contrary to the letter and spirit of the organic law of 21 April, 2003;
- difficulties regarding the preparation of accounts because the management organs provided for by law<sup>3</sup> are not always operational;
- examination difficulties regarding the mandate of the management organs, where the mandates of these organs expired without being renewed at the date of production of the account. This poses the problem of the validity of the financial statements established by the management organs whose capacity is in doubt.
- Auditors who, to be able to certify validly, must obtain certification from CEMAC and registration in the National Order of Chartered Accountants (ONECCA).

### **C RECOMMENDATIONS**

The Bench formulated several types of recommendations.

- **Recommendations relating to the revision of instruments notably:**

- ❖ the law of 21 April, 2003, relating to the Audit Bench

The reformulation of sections 1 and 8 of the aforementioned law to take account of the fact that there are no public accounts in the structures concerned, as well as section 39 and to replace the concept of de facto accounting unknown in public finance by the notion of de facto management and to extend the jurisdiction of the Bench to de facto management.

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<sup>3</sup> Cf. Law No. 99/016 of 22 December 1999 on the General Rules and Regulations governing public establishments and public and semi-public enterprises

❖ Regarding Law No. 99/016 of 22 December, 1999, on the general rules and regulations governing public establishments and enterprises of the public and semi-public sectors, the Bench recommends that the provisions of section 112 be applied on enterprises which are not yet endowed with the required management organs, that the duration of the mandate of the various management organs be respected and that ONECCA see into the uniformity of the procedure of authentication of certified financial statements.

❖ On the instruction of 21 October, 2005, by the Minister of the Economy and Finance relating to management accounts, the Bench recommends the method for the treatment of special treasury accounts by accountants be specified and improvements made on the general balance of accounts concerning the names of all accountants who passed through the treasury station and over their effective period of activity.

• **Recommendations concerning the preparation of formats of accounts**

❖ **Re accounts of Principal Accountants of the Treasury:**

There is need to see to:

- the scrupulous respect of the instruction relating to the administrative control of accounting stations on 31 December, each year;
- the creation of an interface between the accounting of the Treasury in income (CADRE) and revenue collection offices (TAXATION, CUSTOMS) in order to know at any moment the amounts of payments and collections as well as the remainder to be collected;
- the conclusion of the reform of the State's financial system, ensuring the production of an administrative account of the authorising officer, matching the management account of the accountant;
- the preparation for examination of management accounts by the competent services of the Ministry of the Economy and Finance (A.C.C.T).

❖ **Re accounts of stores accountants, the Bench recommends:**

- the preparation of an account format for stores accounting;

- the concomitant signing of basic general inventories and handing over reports between the outgoing and incoming accountants by the teams supervising the operation.

❖ **Re accounts of Accounting Officers of public administrative establishments, the Bench recommends:**

- putting in place a sectorial accounting standards for public administrative establishments;
- preparation of a guide for the preparation of the management accounts of Accounting Officers such as the ministerial instruction of 21 October, 2005, on the State's management accounts;
- putting in place a computer application for the processing of accounting suited to each public administrative establishment;
- the adoption by the rules and regulations governing public establishments of accounting in conformity with the prescriptions of Law No. 99/016 of 22 December, 1999, on the general rules and regulations governing public establishments, enterprises of the public and semi-public sectors;
- appointment of a public accountant in all public administrative establishments.

❖ **Re accounts of Council Revenue Collectors, the Bench recommends:**

- the organisation of training seminars for Council Revenue Collectors on the new council sectorial accounting system;
- the drafting and publication of an instruction relating to the production of management accounts by Council Revenue Collectors;
- the short-term computerisation of the accounting of Council Revenue Collectors.



- **Recommendations relating to the obligations of public accountants**

- The Bench recommends seeing to it that the formalities linked to swearing-in and constitution of guarantees by the accountant take place before he assumes office.

- **Recommendation concerning building the capacities of the Audit Bench**

The Bench wishes:

- that support staff be placed at its disposal among whom are: verification assistants (staff of Categories A and B of the Administration), secretaries, archivists, documentation officers as well as drivers;
- for the intensification of permanent training of all the judges and registrars through refresher courses, seminars, colloquiums in foreign financial jurisdictions as well as in national and international audit bodies;
- that the library of the Bench be set up;
- that a modern filing system be set up lodged in an appropriate site that can be expanded;
- the putting at the disposal in the medium-term, taking into account its possible growth of staff on the one hand and archiving on the other, of a more spacious building, the present one already proving to be small;
- for the promotion of a consultation framework with MINEFI in view of improving the keeping and presentation of management accounts;
- for the promotion of a consultation framework with services of the Supreme State Audit for a concerted application of legal provisions in matters of public finance and standards of international audit organisations (AFROSAI, INTOSAI, etc).
- for the adoption of a special instrument, as in other countries where financial jurisdictions exist, granting advantages to the staff by taking into account the specific mission of this jurisdiction by being inspired both by the models of these countries and the national context.

## CONCLUSION

The 2006 Annual report ends with the conclusion that this first year was essentially a take-off year devoted to putting in place the foundation of this institution, to ensure its functioning, hence, the pre-eminence given to internal organisation, training of staff and creation of awareness among bodies that produce accounts.

For the 2007 financial year, the actions carried out in the previous year will be consolidated, just as emphasis will be laid on the principal mission of the Bench, that is, the examination and ruling on accounts through a rigorous programming of activities.

## ANNEXES

The following situations are successively annexed to the report:

ANNEX No. I: INDIVIDUAL SITUATION OF TREASURY ACCOUNTS

ANNEX No. II: INDIVIDUAL SITUATION OF ACCOUNTS OF REGIONAL AND LOCAL AUTHORITIES (COUNCILS)

ANNEX No. III: INDIVIDUAL SITUATION OF ACCOUNTS OF PUBLIC ADMINISTRATIVE ESTABLISHMENTS

ANNEX No. IV: INDIVIDUAL SITUATION OF ACCOUNTS OF PUBLIC AND SEMI-PUBLIC ENTERPRISES