

THE CAMEROON CRIMINAL PROCEDURE CODE.

PREPARED BY THE
NICO HALLE & Co. LAW FIRM



LAW FIRM ADDRESS:

Nico Halle & Co. Law Firm

B.P.: 4876 Douala

Immeuble Pharmacie Bell

8 Avenue Douala Manga Bell

Face SGBC Bali

Douala – Cameroon.

Tel: +237 33 42 64 79

Fax: +237 33 43 26 34

Hotline: +237 77 53 75 52

Email: hallelaw@hallelaw.com

Web Site: <http://www.hallelaw.com>

IP Department: <http://www.wipnetglobal.com>

Contact Person: Nico Halle, Senior Managing Partner.

THE CAMEROON CRIMINAL PROCEDURE CODE.

The Cameroon Criminal Procedure Code was harmonised, amended and put into force in 2005 by law N° 2005/007 of 27 July 2005. This Code lays down the principles and procedures involved in criminal actions. This law stipulates the rules which deal particularly with the investigation of offences, the search and identification of offenders, the method of adducing evidence, the powers of those charged with prosecution, the organisation, composition and jurisdiction of courts in criminal matters, verdict, sentencing, the right of the parties and the methods of executing sentences. As a matter of fact, the Code is well defined and structured.

With the advent of this new Code and the present state of affairs reigning in the country, one can say here that Cameroon is witnessing a positive change in its Judicial System. The Code has brought in a lot of changes which were not seen in the past. The basic human rights of all citizens are guaranteed in this Code. For example, the presumption of innocence in any legal suit which is of prime importance to the suspect is well defined. Unlike the old Code which stipulated that guilt must be proven beyond reasonable doubts, this new Code is to the effect that any person suspected of having committed an offence shall be presumed innocent until his guilt has been legally established in the course of a trial where he shall be given all necessary guarantee for his defence. This in effect means that guilt must be proven at all cost. There must be no doubt in establishing guilt. The least doubt disqualifies guilt. The presumption of innocence shall also apply to every suspect, defendant or accused.

As concerns arrest, it shall be done by a judicial police officer, agent of judicial police or any officer of the forces of law and order. However, any person may effect arrest only in cases of a felony or a misdemeanour committed flagrante delicto. Arrest shall be done upon proof of an arrest warrant duly signed by a recognised officer or authority.

At the level of investigation, it shall be done by the judicial police or investigating police officer when the person concerned is still considered as a suspect and also by an examining Magistrate when he is considered as a defendant. It should be noted that at this level, the presumption of innocence still holds and the suspect or defendant has the right to remain silent or may decide to speak only in the presence of his Counsel. If at the end of the investigation no incriminating document or fact is found against the suspect or defendant, he/she is set free. If he is detained, bail can be granted upon application if it is aailable offence.

On the other hand, if the suspect is not within the jurisdiction of the court seized, the examining Magistrate through a rogatory commission shall order his arrest in the other jurisdiction. If he is out of the country, the Legal Department shall pass through the Ministry of Foreign Affairs to the other diplomatic mission of the country of residence of the suspect. So there is no question of saying because a suspect is not resident in Cameroon or is not within the jurisdiction, he cannot be apprehended. The Code has taken care of this worry. This process is known as Extradition. Extradition can be effected only when there is an extradition treaty between the countries involved.

Also, the method of initiating a criminal procedure has been made quite easy and simple. An aggrieved party may initiate a criminal procedure by way of a complaint directed either to a State Counsel or to the police station. It is only upon investigation by one of these authorities that a criminal action may be ascertained and thereafter sent to the court for a full trial. There is also a probability for one to seize the Court directly.

Furthermore, as concerns the jurisdiction in criminal matters, the competence of courts has been well defined and classified. For example, the Court of First Instance shall have jurisdiction to try simple offences and misdemeanours and also juvenile, the High Court shall have jurisdiction to try felonies and where applicable, related misdemeanours and simple offences.

At the level of judgment, all judgments shall be pronounced in open court, written down and it should be a reasoned judgment. No judgment shall be given in closed doors, even if the trial took place in closed doors. After judgment is pronounced, any party who is not satisfied has the right to go on appeal. This is a fundamental right enshrined in the Criminal Procedure Code provided the conditions for appeal are respected. If the accused is imprisoned, he has the right to apply for bail, which if granted is free of charge.

The Criminal Procedure Code now makes both the Court of Appeal and the Supreme Court trial courts and not courts of law. In the past these courts were considered as courts of law because their role was to see whether the Law was properly applied by the trial Court. Now these courts are regarded as trial courts because any matter that goes to them is tried afresh as if it had never been tried before.

The Code also makes the examining Magistrate to be part of the bench. At first he was not part of the bench. This is in a bid to see that justice is well administered and that the matter is given a fair trial.