

RÉPUBLIQUE DU CAMEROUN

Paix – Travail- Patrie

MINISTÈRE DE LA COMMUNICATION

REPUBLIC OF CAMEROON

Peace- Work- Fatherland

MINISTRY OF COMMUNICATION

**CASE OF PUBLIC PROSECUTOR AND STATE OF
CAMEROON AGAINST ABAH ABAH Polycarpe, LOYSE
Lydienne, née YEN EYOUM, BALENG MAAH Célestin,
ENGOULOU Henri and NGWEM Honoré**

PRESS BRIEFING

**INTRODUCTORY STATEMENT OF H.E. ISSA TCHIROMA BAKARY
MINISTER OF COMMUNICATION**

Yaounde, 3rd October 2014

**The Secretary General at the Ministry of Communication,
The Inspector General,
Technical Advisers,
Distinguished Inspectors,
Distinguished Directors and Head of Divisions,
Distinguished Collaborators,
Fellow Journalists,
Distinguished Guests,
Ladies and Gentlemen,**

Since 26th September, the date on which the Special Criminal Court ruled on the case opposing the Public Prosecutor and the State of Cameroon, on the one hand, to Mr ABAH ABAH Polycarpe, the then Minister of Economy and Finance, Mrs YEN EYOUM Lydienne Épouse LOYSE, Barrister at the Cameroonian Bar, Mr BALENG MAAH Célestin, Bailiff, Mr ENGOULOU Henri, former Minister Delegate at the Ministry of Economy and Finance in charge of the Budget and Secretary General at the Ministry of Economy and Finance at the time of the offence and Mr NGWEM Honoré, Director of Legal Affairs at the Ministry of Economy and Finance at the time of the offence, some voices, especially those emanating from the defence of one of the accused, in the person of Mrs YEN EYOUM Lydienne Épouse LOYSE are being raised to denounce what they qualify as a travesty of justice underpinned by a subservience of the Cameroonian judiciary to the Executive Power, as well as a politicization of the case under the cover of a crusade against the embezzlement of public funds.

But before getting into the core of the matter, allow me to wish you once again, a warm welcome in this conference hall of my ministry, and to thank you for accepting my invitation.

**Fellow Journalists,
Distinguished Guests,**

The media campaign which I earlier mentioned in relation to the case of Public Prosecutor and State of Cameroon against Mrs. YEN EYOUM Lydienne Épouse LOYSE, actually started before the handing down of judgment by the Special Criminal Court, since followers and other sympathizers of Mrs YEN EYOUM had for a long time been storming radio stations and TV channels, one after the other, to either say how evil is the case against their *protégé*, or denounce the living conditions of the defendant at the KONDENGUI Central Prison, which according to them, are inhumane.

Certainly, they wished to use such a trick to move the people, or to gain some support beyond our borders, that could either soften or intimidate the Cameroonian Judiciary, so as to compel it to alter its quest for the truth and fair application of the law.

On 26th September 2014, the Special Criminal Court handed down its judgement, declaring the accused YEN EYOUM Lydienne and NGWEM Honoré guilty of embezzeling public funds and complicity in embezzling public funds, offences provided for and sanctioned by articles 74, 97 and 184 of the Penal Code.

Mrs YEN EYOUM was sentenced to a 25 year-imprisonment, with a warrant of committal.

Mr NGWEM was on his part sentenced to life imprisonment with a Bench warrant and life deprivation from articles 30 and 31 of the Penal Code.

The other accused, Mr ABAH ABAH Polycarpe and Mr BALENG MAAH Célestin were acquitted for unestablished facts.

Pursuant to the provisions of the Criminal Procedure Code in force, the Public Prosecutor and all condemned parties appealed to the Supreme Court.

Given the fact that the case is still pending, no comment will be made on the judicial handling of this legal file.

Nevertheless, due to the controversy that is voluntarily created around the conduct of this case, accusations of justice instrumentalization by the Executive Power in our country, in order to distort the outcome for alleged political motives, the Government has decided to inform the national and international public of the facts that led the State of Cameroon to, on the one hand, refer to Cameroonian courts for this case, and on the other hand, unfold the procedure that led to the ruling rendered on 26th September.

First, on the facts of the case:

In May 1994, the BARRY company, whose headquarters is in Douala, transferred the sum of 3 billion, six hundred and ninety-seven million CFA francs, into the SGBC liquidation account of the former National Produce Marketing Board (in its French acronym ONCPB), corresponding to the repurchase of shares belonging to the State of Cameroon in the capital of former ONCPB.

Under the instructions of the then Minister of Industrial and Commercial Development (MINDIC), a part of this money, that is, 3 billion, two hundreds and nineteen million, CFA Francs, had to be reimbursed to the GORTZOUNIAN company, an operator of the cacao-coffee sector, to settle a debt owned by the State of Cameroon. The rest, that is, four hundred and seventy-eight million, CFA francs, were to be acquired from the liquidation of former ONCPB.

Contesting this ministerial measure, the liquidators of former ONCPB obtained the ring-fencing of the disputed sum that is 3 billion, two hundred and nineteen million, CFA francs, in an internal SGBC account. On June 10, 1994, the Wouri High Court rendered an ordinance compelling SGBC to pay to former ONCPB, the sum of 3 billion, nine hundred and eighty-seven million CFA francs, representing the main ring-fenced sum increased by interests and various fees.

Faced with the resistance of SGBC, contradicting the ordinance, the Wouri High Court rendered another judgment on October 21, 1994 endorsing the said ordinance, which was confirmed by the Littoral Court of Appeal on March 10, 1999.

SGBC, which continued to resist by applying for a postponement of execution, unsuccessfully appealed again before the Supreme Court with the rejection of the appeal and insertion of the enforcement order.

The ruling of the Supreme Court was served to SGBC on July 22, 2000 by Barrister BALENG MAAH Célestin, Bailiff in Douala acting on behalf of the State for an amount of 4 billion, two hundred and twenty-two million CFA francs.

A new tactic of SGBC, compelled Barrister YEN EYOUM Lydienne, in her capacity as State Counsel, to carry out on August 22, 2000 the attachment of funds from SGBC to the Bank of Central African States (in French BEAC) on the initiative of the above mentioned bailiff, namely, Barrister BALENG MAAH Célestin, worth 5 billion, one hundred and twenty-four million, CFA francs, in mainly, interests and various proceeding fees.

After contesting this attachment, considered exorbitant, SGBC ended up by proposing a mutual settlement of the matter, with the signing of a Memorandum of Understanding with the Ministry of

Finance to pay the sum of 3 billion, six hundred and thirty-seven million, nine hundred and seventy-two thousands, eight hundred CFA francs to the liquidation of former ONCPB.

On April 02, 2001 SGBC met its commitment and paid the above mentioned sum into the public treasury, upon full and final acknowledgement of the payment of the disputed attachment and settlement of all claims. For all her provided services, Barrister EYOUM therefore received her lawyer fees to the tune of three hundred and seventy-nine million CFA francs.

The case which was then considered settled bounced back on January 29, 2004, that is three years later, when SGBC was convened by the Ministry of Finance to be notified that it is still liable for the sum of 3 billion five hundred millions CFA francs.

SGBC then denied to pay the above mentioned amount, whose requests seems to be not in compliance with the Memorandum of Understanding signed with the same Ministry of Finance, under which SGBC had already met its commitment and paid the disputed amount.

Faced with this refusal, Barrister YEN EYOUM Lydienne carried out another attachment on the assets of SGBC located in the Bank of Central African States, for an amount of 2 billion, one hundred and fifty-five million CFA francs through Barrister BALENG MAAH Célestin, in his capacity as bailiff.

On December 16, 2004, Mr ABAH ABAH Polycarpe, the then Minister of Finance, gave a special power of attorney to Barrister YEN EYOUM, in her capacity as Counsel of the Ministry of Finance in this case, to recover the funds, subject of the second attachment.

Following the ruling of the single-judge, the Bank of Central African States transferred the disputed amount on December 21, 2004.

Two days later, on December 23, 2004, Mr ENGOULOU Henri, the then Minister Delegate at the Ministry of Finance, in charge of the Budget, requested on Barrister YEN EYOUM Lydienne, by means of a fax letter, to only transfer half of the received amount from the Bank of Central African States into the State account at the public treasury, that is the sum of one billion, nine hundred eighty-seven thousands and CFA francs, until an agreement was reached on the new fees to be paid to her for her services in the second phase of the proceedings.

It is obviously important to mention here that, by so doing, Barrister YEN EYOUM chose to ignore the endorsement ruling of the Littoral Appeal Court of August 08, 2001, which definitely settled the dispute. She went on to set her new fees to the sum of eight hundred and twenty-five million CFA francs, out of the three hundred and seventy-nine CFA francs previously paid to her.

In fact, what did Barrister YEN EYOUM do, after receiving the fax-letter signed by Mr ENGOULOU Henri?

Barrister YEN EYOUM first transferred the entire funds from the Bank of Central African States for the second attachment, that is 2 billion, one hundred and fifty-five million CFA francs into her private Standard Chartered Bank account Number 01 001 206 676 900.

Subsequently, the defendant proceeded to a second transfer representing half of the initial sum received into the bank account of a certain company OFALY SARL P.O. BOX 2820 Douala, where she had a right to sign, and at the same time she transferred the remaining half into the State treasury.

This account number opened in the same bank was 01 020 112 56 7000.

However, it should be recalled that the special power of attorney given to Barrister YEN EYOUM for the recovery of funds representing the second phase of the procedure clearly indicated that all the funds were to be transferred into the State treasury.

Moreover, it is established, in conformity with the law (Article thirty-seven of Law N°90/059 of December 19, 1990 to organize the Bar's profession), that funds received by a barrister in his capacity as trustee of a client do not belong to him, and have to be transferred into a special account titled « customer-account », and not in a private account.

It is therefore on this basis that the Yaoundé Special Criminal Court established the guilt of the defendant and sentenced her to twenty-five years imprisonment and the payment to the State, in solidarity with the co-accused, also found guilty, of the sum of 1 billion one hundred and fifty-three million CFA francs, as well as the seizure and placement of their assets under judicial custody.

Fellow Journalists,

Allow me to say a word on allegations stated some time during these proceedings, following the illegal arrest and custody of Barrister YEN EYOUM, throughout the period preceding her sentencing by the Yaoundé Special Criminal Court.

On the alleged illegal arrest, it is worth noting that the finding of the violation, the arrest and the placement under pre-trial custody of Mrs. YEN EYOUM, have been carried out in perfect conformity with the Penal Procedure Code in force in Cameroon.

Concerning allegations regarding her arbitrary detention which her defendants intended to plead on the one hand, on the maintaining of this pre-trial detention above the legal period, that is six months renewable twice, and no longer than eighteen months, and on the other hand, they complained against the delay in hearing her case in court. It is obvious that all these allegations are ungrounded.

In fact, it is worth mentioning that, immediately after her arrest, Barrister YEN EYOUM and her counsels had multiplied incidents of procedure and pre-judicial exception, all in reality serving as mere tactic.

Allow me to give you few illustrations:

On April 28, 2010, following her arrest, Barrister YEN EYOUM seized the Mfoundi High Court with a request for immediate release based on her unlawful arrest.

The said request was rejected as ungrounded by the court on May 27, 2010. The defendant appealed against this decision before the Centre Court of Appeal, which confirmed the ruling of the previous court. Moving forward in their tactic, Barrister YEN EYOUM and her counsels went further and appealed against this pre-judicial ruling on September 30, 2010.

On 15th March 2012, the Supreme Court declared this appeal inadmissible.

To further illustrate this dilatory tactic, we should indicate that in addition to the request for immediate release I mentioned earlier, Barrister YEN EYOUM and her counsels, submitted up to five request for release, which were all rejected by the Investigating Judge.

On 8th July 2011, that is to say within the legal timeframe of pre-trial detention as provided by the Criminal Procedure Code in force in Cameroon, The Investigating Judge referred Barrister YEN EYOUM to the Criminal Bench of the Mfoundi High Court to be judged on the charges against her.

As we can notice, the referral order from the Investigating Judge was issued within the 18-month timeframe provided by the Criminal Procedure Code. It therefore appears that within this timeframe, the divested Investigating Judge could not perform any further act.

Moreover, in keeping with the provisions of article 262, paragraph 2 states that and I quote: **"When the person charged or placed under judicial oversight is referred to court for crime, the referral order does not put an end to pre-trial detention or to the judicial oversight"**. End of quote.

- Yet, the charges against Barrister YEN EYOUM and the others are crimes indeed, in as much as they are liable to imprisonment for a term of imprisonment greater than or equal to 10 years.
- Barrister YEN EYOUM and her co-accused were then kept in pre-trial detention until the ruling of the Special Criminal Court before which they stood trial in perfect conformity with the laws of Cameroon ; that is to say, in perfect lawfulness.
- Barrister YEN EYOUM and her Counsels did not undertake to challenge the referral order, but to raise exceptions related to the incompetence of the ruling court, and to request that the proceedings be invalidated.
- On 29th February 2012, these exceptions were rejected as being ungrounded, but on the same day, the accused appealed.
- The Court of Appeal of the Centre further confirmed the judgment and ordered the return of the case to the Mfoundi High Court.
- Once again, on the same day, the accused appealed the decision of the Court of Appeal before the Supreme Court, but refused to pay to the Registry, the funds required for the reproduction of the procedure file as normally required, until the Public Prosecutor finally carried out the reproduction by their own means.
- The Specialized Bench of the Supreme Court that is normally competent in this prior-to-ruling procedure rendered its decision on 29th October 2013 and declared inadmissible. The appeals of Barrister YEN EYOUM and the others, referring the case to the Special Criminal Court, under the transitional rules provided by the law establishing the said court.

From this succession of incidents and procedures and prejudicial questions willingly raised by Barrister YEN EYOUM and her Counsels, we can therefore conclude that the interested persons were overtly seeking for a procedural defect that could prevent the examination of the file on the merit, and to obtain the nullity of proceedings in as much as the embezzlement of public funds were overt in the light of the common law, and to themselves as legal practitioners.

In the same manner, we heard here and there, allegations of justice subservience by the Executive Power, politicization of proceedings, or even appalling conditions of detention of the defendant at the Kondengui Central Prison.

With regard to the allegations of justice subservience, we have presented the facts that led to the prosecution of Mrs YEN EYOUM and her co-accused before the courts, the unfolding of this trial until the ruling, in a way that facts speak for themselves, in terms of independence and objectivity with which the Cameroonian Judiciary proceeded.

And even if one has to consider allegations of interference or influence of the Executive in the work of the Judiciary, there would still be the need to find the motives of such interference.

Mention is being made of political persecution.

But let's wait a minute: Who is Barrister YEN EYOUM in the political landscape in Cameroon?

I'm simply taken aback with this question, if I have to go by the fact that I am a political leader, a former elected representative of the people, and several time-Member of Government for twenty years now!

You therefore agree with that this argument is ungrounded.

It is but regrettable to notice that for some time now, the political argument has been systematically brandished each time public action is set on motion to accuse citizens, within the framework of trials on cases of embezzlement of State funds.

With regard to the case at hand, some people are trying to present the foreign nationality of Barrister YEN EYOUM as an argument that could favour her release, and at the same time proclaim her juridical immunity.

And once again, no matter the influence of the country that we belong to, the only principle that prevails in matters of judicial responsibility, is the territoriality in the commission of the offence.

An offence committed in a country is by principle, judged by the courts of this country, and according to the laws of the country, without consideration of the nationality of the person prosecuted, except in case of force majeure requiring an extradition of in some conditions that are either established by the law of the country where the offence was committed or by conventions signed by States.

We therefore understand that those who are brandishing this argument wholefully want to see our justice subjected to the diktat of some foreign countries.

In any case, there are Cameroonians being prosecuted and jailed in foreign countries!

Cameroon respects the sovereignty of those countries, as well as the independence of their Judiciary.

We request that the same be applied, when individuals, holding foreign nationalities, are in conflict with the law in our country, for facts which took place within our national territory.

Regarding reference made here and there to the power of remitting or commuting sentences, recently used by the **President of the Republic, His Excellency Paul BIYA**, to release some individuals serving terms of imprisonment and sentenced for siphoning public funds, He is the only one empowered to exercise this prerogative, in conformity with the provisions of the Constitution.

He did it recently, both at a historic and exceptional occasion in our country, because He thought it wise that this moment could justify a gesture of humanism and forgiveness of the national community vis à vis certain individuals, even if they had embezzled public funds.

In any case, He never did it under any kind of internal or external pressure.

Regarding the conditions of detention of Barrister YEN EYOUM, the Government is striving as much as it can to create acceptable living conditions in our prisons.

This compatriot, even if she is a brilliant barrister, is placed today in the same conditions as any other detainee of her kind.

There is therefore no persecution against her.

But Fellow Journalists,

For a country like Cameroon, one should also be able to settle and make choice between roads, hospitals, schools, Government schools or universities to be built, in a context of lacking of enough financial resources.

Despite this, the Government committed itself in a program to rehabilitate our prisons which will contribute, undoubtedly, in improving the living conditions in our prisons.

To conclude, I would like to say that the **Head of State His Excellency Paul BIYA**, committed himself, few years ago, in a vast movement of moral cleansing regarding public governance and protection of public wealth.

He is, for this purpose, receiving the support of the national and international community.

Many friendly countries continue to congratulate him, every day, and express him their support in this crusade against embezzlers of public funds.

This is a major task, on our way towards emergence by 2035.

We should then continue to trust our justice and all the institutions **the Head of State** has set up, to guarantee the protection of public wealth, and generally, to protect assets of the national community.
Thank you very much for your kind attention.