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REPUBLIC OF CAMEROON  
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CAMEROON HUMAN  
RIGHTS COMMISSION

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STATEMENT BY THE CAMEROON HUMAN RIGHTS COMMISSION  
TO MARK THE SEVENTH AFRICAN DAY OF PRE-TRIAL DETENTION

25 April 2024

The Cameroon Human Rights Commission (hereinafter: “the Commission”), established by Law No. 2019/014 of 19 July 2019 and rendered operational on 29 April 2021, following the swearing in of its Commissioners before the Supreme Court sitting in Joint Benches,

*Bearing in mind* the Yaoundé Declaration, adopted on the last day of the 10th Biennial Conference of the Network of African National Human Rights Institutions (NANHRI) held from 21 to 23 October 2015 on the theme: “*Prohibition and Prevention of Torture: Successes, Challenges, Opportunities and the Role of NHRIs*”, in which the participants of this Conference proposed “*that 25 April of each year be recognised as African Day of Pre-trial Detention*”<sup>1</sup>,

*Also bearing in mind* that through the Yaoundé Declaration, NHRIs, members of NANHRI commit to further work towards the

reduction in the over-use of pre-trial detention, including by promoting legal and policy reforms on: alternatives to incarceration, para-legal based interventions [...] and pre-trial evaluation<sup>2</sup>,

*Noting* that “pre-trial detention” or “preventive detention” or “detention before judgment” is defined as “*the extent to which a judge deprives a person suspected of having committed a criminal offence, of his liberty before any judicial decision finding him guilty [or not] of the acts alleged against him*”<sup>3</sup>,

<sup>1</sup> See Yaoundé Declaration, The Tenth Biennial Conference of the Network of African National Human Rights Institutions (NANHRI), [https://www.cndh.ma/sites/default/files/declaration\\_de\\_yaounde\\_apt\\_rinadh.pdf](https://www.cndh.ma/sites/default/files/declaration_de_yaounde_apt_rinadh.pdf), accessed on 1 April 2024.

<sup>2</sup> *Ibid.*

<sup>3</sup> See Damien ROETS, « *Détention provisoire* (pre-trial detention) », in: Joël ANDRIANTSIMNAZOVINA *et al.* (dir.), *Dictionnaire des Droits de l'homme*, Quadrige/Presses universitaires de France, Paris, 2012, pp. 271-273, spec. p. 271.

**Also noting** that human rights instruments and most national legal systems distinguish between the detainee who is “a person [...] deprived of personal liberty, but has not been convicted of an offence”,<sup>4</sup> and a prisoner who is any natural person “deprived of liberty as a result of having been convicted”<sup>5</sup>,

**Noting** that while pre-trial detention is not in itself a violation of human rights, it nevertheless constitutes an obstacle to the exercise of certain human rights, including the right to the presumption of innocence, the right to freedom of movement, the right to private and family life and the right to physical integrity,

**Bearing in mind** the *Guidelines on Conditions of Arrest, Police Custody and Pre-trial Detention in Africa (Luanda Guidelines)* adopted by the African Union Commission at its 55th Ordinary Session in Luanda, in Angola, from 28 April to 12 May 2014, and specifically Guideline No. 10 which provides that:

Pre-trial detention is a measure of last resort and should only be used where necessary and where no other alternatives are available. Pre-trial detention shall only be ordered if there are reasonable grounds to believe that the accused will abscond, commit further serious offences or if there is a danger that the release of the accused will not be in the interests of justice if he refuses to present himself before the [competent courts],

**Also bearing in mind** the words of Mr Nelson Rolihlahla Mandela, the former President of South Africa and hero of the fight against Apartheid, who said:

“no one truly knows a nation until one has been inside its jails [meaning that] a nation should not be judged by how it treats its highest citizens, but its lowest ones.”<sup>6</sup>,

**Considering** the strategic objective of the Ministry of Justice recalled in the context of the implementation of the National Development Strategy (NDS 30) which is to “*strengthen the rule of law and the safety of goods and persons*”<sup>7</sup>, particularly through equitable access to the public service of Justice, the improvement of the quality of justice and the living conditions of persons under pre-trial detention,

**Emphasising** that the normative and institutional framework governing pre-trial detention relates to the conditions and modalities of detention, the prohibition of the use of torture, guarantees of trial fairness, respect for the dignity of detainees and the time limits for detention and the application of specific protective measures for vulnerable groups including juveniles and women,

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<sup>4</sup> See High Commissioner for Human Rights/Centre for Human Rights, *Human Rights and Law Enforcement, A Manual on Human Rights Training for the Police*, New-York and Geneva, 1997, 238 pp., spec. p. 75.

<sup>5</sup> *Ibid.*

<sup>6</sup> See “The Nelson Mandela Rules: UN Minimum Rules for the Treatment of Detainees”, [https://www.unodc.org/documents/justice-and-prison-reform/16-08696\\_F\\_rollup\\_Ebook.pdf](https://www.unodc.org/documents/justice-and-prison-reform/16-08696_F_rollup_Ebook.pdf), accessed on 1 April 2024.

<sup>7</sup> See *Medium-Term Expenditure Framework, Chapter 08 (MTEF 2024-2026)*, Department of Justice, 137 pp., spec., p. 11.

**Considering** the third indent of the preamble to the Constitution of 18 January 1996 which states that “*freedom and security shall be guaranteed to each individual, subject to respect for the rights of others and the higher interests of the State*”,

**Considering also** that this text is in consonance with the African<sup>8</sup> and universal<sup>9</sup> normative frameworks that “*protect the right to personal liberty, in that no one shall be arbitrarily deprived of his or her liberty*”<sup>10</sup>, while recalling that, “*considered as arbitrary, the deprivation of liberty which for one reason or another is contrary to relevant international provisions laid down [...] in the relevant international instruments ratified by States*”<sup>11</sup>,

**Recalling** Section 218(1) of Law No. 2005/07 of 27 July 2005 on the Criminal Procedure Code, which provides that:

Remand in custody shall be an exceptional measure which shall not be ordered except in the case of a misdemeanour or a felony. It shall be necessary for the preservation of evidence, the maintenance of public order, protection of life and property, or to ensure the appearance of an accused before the Examining Magistrate or the court.

**Emphasising** that pursuant to Section 15(1) b of Law No. 2017/012 of 12 July 2017 to lay down the Code of Military Justice:

the examining or trial judge may remand to custody any service man who commits an offence that seriously undermines military discipline, even where such offence is not a crime,

**Emphasising also** that Section 236(1) of the aforementioned Law on the Code of Criminal Procedure provides that:

Any person who has been illegally detained may, when the proceeding ends in a no-case ruling or an acquittal which has become final, obtain compensation if he proves that he has actually suffered injury of a serious nature as result of such detention,

**Bearing in mind** certain constraints in the operation of penitentiary institutions, mainly due to overcrowding, with an occupancy rate of 164.25 per cent, the 76 prisons in operation<sup>12</sup> in Cameroon, with a total capacity of 20,955 places, had a total population of 34,419 inmates as at 15 April 2024, including 19,109 remand prisoners (55.52 per cent) and 15,310 convicted prisoners (44.48 per cent)<sup>13</sup>,

**Recognising** that the imprisonment, often for many years, of people who are the economic backbone of their families while they await trial can impoverish their families and even entire communities from which they come, even though the people concerned may be presumed innocent and may be found not guilty at the end of the trial against them,

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<sup>8</sup> See Articles 6 and 7 of the African Charter on Human and Peoples' Rights adopted on 27 June 1981, entered into force on 21 October 1986 and ratified by Cameroon on 20 June 1989.

<sup>9</sup> See Article 9 of the Universal Declaration of Human Rights of 10 December 1948, Article 10(1) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted on 10 December 1984, entered into force on 26 June 1987 and ratified by Cameroon on 29 July 2010, and Articles 9 and 14 of the International Covenant on Civil and Political Rights adopted on 16 December 1966, which entered into force on 23 March 1976 and was ratified by Cameroon on 27 June 1984.

<sup>10</sup> See *Human Rights, The Working Group on Arbitrary Detention*, Fact Sheet No. 26, 53 pp., spec. p. 4.

<sup>11</sup> *Ibid.*, p. 5

<sup>12</sup> According to information provided by the Department of Penitentiary A on 19 April 2024, Cameroon currently has 11 central prisons, 48 main prisons and 17 secondary prisons,

<sup>13</sup> See Ministry of Justice, Department of Penitentiary Administration, *Renseignements sur la situation carcérale des détenus au Cameroun* (Information on the prison situation of detainees in Cameroon), 2 pp, spec. p. 1.

*The Commission remains* attentive to the actions carried out by international human rights mechanisms in the handling of alleged human rights violations made by persons under the authority of the State, including notably, Opinion No. 1/2023 concerning Mr. Thomas Awah Junior issued by the United Nations Working Group on Arbitrary Detention at its 86th session from 27 March to 5 April 2023, in which it requests information from the Government on the follow-up of the recommendations expressed in its opinion, particularly, to inform the Working Group:

- whether and when Mr Awah was released and
- whether Mr Awah has obtained redress for the damage suffered, particularly compensation,

*The Commission welcomes* the invitation extended by His Excellency Filippo Scammacca Del Murgo, the Italian Ambassador, to Prof James Mouangue Kobila, the Chairperson of the Commission, to the presentation ceremony of the project “*Strengthening the rule of law and the administration of justice that respects dignity and human rights in Cameroon: It's a worthwhile*”, in Yaoundé, on 7 February 2024. This project, which will run until January 2026, was warmly welcomed by the CHRC Chairperson who hoped that it would focus on improving health care in prisons, including persons on remand<sup>14</sup>,

*The Commission commends* the organisation, by the Office of the United Nations High Commissioner for Human Rights, of the Regional Conference on the Optional Protocol to the United Nations Convention against Torture (OPCAT) on 18 December 2023 in Yaoundé, on the theme: *Carrying the torch of torture prevention in East and Central Africa*<sup>15</sup>. The conference, attended by more than 60 representatives from 18 countries in East and Central Africa, was an opportunity for States to share their experiences, challenges and good practices in the prevention of torture,

*The Commission notes with satisfaction*, the joint publication of Orders No. 423/MINJUSTICE of the Ministry of Justice and No. 000002/MINAS of the Ministry of Social Affairs of 19 September 2023 to appoint assessors in juvenile delinquency and probation officers whose mandate should contribute to the decongestion of prisons through the implementation of alternative measures to deprivation of liberty,

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<sup>14</sup> See « *Droits des détenus : Les propositions du Pr James Mouangue Kobila, l'un des invités de l'ambassadeur d'Italie au Cameroun, Son Excellence Filippo Scammacca Del Murgo* », ("Rights of detainees: Recommendations of Prof James Mouangue Kobila, one of the guests of His Excellency Filippo Scammacca Del Murgo, Italian Ambassador to Cameroon") <https://cdhc.cm/index.php?page=news&post=Droits-des-d%C3%A9tenus---Les-propositions-du-Pr-James-Mouangue-Kobila--l%E2%80%99un-des-invite%C3%A9s-de-l%E2%80%99ambassadeur-d%E2%80%99Italie-au-Cameroun--Son-Excellence-Filippo-Scammacca-Del-Murgo&id=162>, accessed on 15 April 2024.

<sup>15</sup> See “OPCAT Regional Conference: Carrying the torch of torture prevention in East and Central Africa”, <https://www.apr.ch/en/nouvelles-et-blogs/conference-regionale-de-lopcat-porter-le-flambeau-de-la-prevention-de-la-torture>, accessed on 1 April 2024.

***The Commission is still concerned about:***

- the persistence of mostly or abnormally long pre-trial detention, which contributes to prison overcrowding and the deterioration of prison conditions, while increasing the risk of cruel, inhuman or degrading treatment of prisoners
- the sluggishness in processing the cases of detainees under judicial investigation, as well as the difficult communication between the Legal Department and the Prison, which exacerbates the ignorance of some detainees about the status of their judicial matters
- the lack of a strict framework for the time limits of the pre-trial phase<sup>16</sup> which contributes to an excessive prolongation of the period of detention of the persons concerned,

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***The Commission strongly condemns***, the following cases of abusive pre-trial detention brought to its attention since 25 April 2023, acts that contribute to intensify overcrowding and subsequent deterioration of conditions for detainees:

- the case of Mr Moussa Adamou, Mr Bello Wanto and Mr Hammadou Déré, who were remanded in custody in the Ngaoundéré Central Prison on 29 November 2023 and who were still there on 18 March 2024, despite the order of release issued in their favour by the investigating judge of the Ngaoundéré military court on 1 March 2024. On the evening of 19 March 2024, the victims regained their freedom. The Branch Office also informed the victims of this pre-trial detention which was decided on the basis of unfounded allegations and extended for 18 days after the order of dismissal of the case, of their right to appeal against unlawful detention before the Compensation Commission set up by the Supreme Court, in application of Sections 236 and 237 of the Criminal Procedure Code
- the case of Mr Ibrahim Abbo and Mr Ibrahim Sali, who were detained in the Ngaoundéré Central Prison from 3 July 2023 to 13 December 2023, and who were kept in the said prison, despite the order to release them issued by the investigating judge of the Ngaoundéré Military Court on 30 November 2023. On 13 December 2023, CHRC Adamawa Branch visited the said prison and the Prosecutor's Office of the Ngaoundéré Military Court, where it advocated on behalf of the two detainees, who were released the same evening. The Adamawa branch informed the victims that they could refer their illegal detention to the Supreme Court Compensation Commission, according to Sections 236 and 237 of the Criminal Procedure Code.<sup>17</sup>
- the case of Mr Vounpah, who was remanded in custody in Guider Principal Prison on 9 May 2023 and remained there until 2 February 2024, despite the investigating

<sup>16</sup> According to Sections 119 to 121 of the Criminal Procedure Code, which regulate the time limits for police custody, and article 221 of the same Code, which regulates the time limit for pre-trial detention, there is no provision that regulates the time limit for the trial, contrary to Section 10(5), of Law No. 2011/028 of 14 December 2011, as amended by Law No. 2012/011 of 16 July 2012, to set up the Special Criminal Court (SCC), which sets the time limits to six months for the panel of the SCC, to issue its decision once it is seized.

<sup>17</sup> Contribution of the CHRC Adamawa Branch to mark the 2024 African Day of Pre-trial Detention, 2 pp.

judge's order of 21 July 2023 to dismiss the case. The victim of this pre-trial detention, decided on the basis of unfounded allegations and in addition, extended for seven months and 12 days after the order to release, was only released on 2 February 2024, due to the diligence of the CHRC North Branch with the Deputy State Counsel and the Guider Prison superintendent<sup>18</sup>

- the case of Mr Ikri Djague, held for one month and 22 days in Tcholliré Principal Prison even after the examining judge of the Tcholliré Court of First Instance issued a no-case ruling on 5 June 2023. Aware of the situation, the CHRC North Branch contacted the Administrative and Judicial Affairs Officer of the said prison, who indicated that the failure to issue an order of release signed by the examining judge justified the victim's continued detention. The CHRC North Branch met with the Presidents of the Mayo-Rey High Court on 27 July 2023 and the prisoner was finally released the same day
- the case of some inmates of Ntui Principal Prison who told the CHRC Centre Branch team during an unannounced visit to the said prison on 25 June 2023 that they were unaware of their situation in prison<sup>19</sup>. A list of detainees affected by this problem was established and sent to the territorially competent Legal Department by Letter dated 26 June 2023, from the CHRC Centre Branch Head. A team from the Ntui Legal Department carried out an inspection of this prison on 5 July 2023, and the clarification of the prison situation of all concerned resulted in the release of around ten prisoners,

*The Commission reiterates* its recommendation made to mark the previous African Day on Pre-trial Detention, notably to further respect the principle of liberty of the accused, which is inherent in the presumption of innocence and use pre-trial detention only in exceptional cases to reduce the prison population, as overcrowding in prisons affects detention conditions and increases the risk of ill-treatment,

*The Commission recommends*

*To the Government as follows:*

- ensure that prison registers and files are properly kept so that the situation in prisons and the legal proceedings of prisoners can be better monitored
- ensure that the rate of cases adjudicated within a reasonable time is improved
- accelerate the effective implementation of Orders No. 423/MINJUSTICE and No. 000002/MINAS of 19 September 2023, to appoint assessors for juvenile delinquency and probation officers, whose mandate should help to reduce prison overcrowding by implementing alternative measures to detention

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<sup>18</sup> Contribution of the CHRC North Branch to mark the 2024 African Day of Pre-trial Detention, 5 pp.

<sup>19</sup> Some prisoners are unaware of their situation in prison because the results of the hearings in which their cases are discussed take a long time to reach the prison registry. However, the intellectual discomfort of some or the trauma of prison life does not always guarantee that all those concerned understand what has been decided at these hearings.

- further raise awareness among the public and detainees in particular, including in cooperation with organisations promoting and defending human rights, of the existence and effectiveness of the Commission for Compensation for Illegal Pre-trial Detention or Police Custody,

*The Commission reaffirms* that it will spare no effort to further actively raise awareness against the excessive use of pre-trial detention and advocate for the observance of its conditions. This will be done through training workshops, awareness-raising and information campaigns, advocacy, fact-finding missions, as well as through the handling of complaints and self-initiated investigations,

*The Commission calls upon* anyone who is a victim or witness of arbitrary or abusive pre-trial detention to report these human rights violations by contacting it, including through its toll-free number, 1523 (free call, even without credit).

### Useful CHRC addresses.-

Website: [www.cdhc.cm](http://www.cdhc.cm)

Facebook and X account (formerly Twitter): **Cameroon Human Rights Commission**

WhatsApp account: **691 99 56 90.**

Yaoundé, the 23 April 2024

James MOUANGUE KOBILA

