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The appointment of public officials in Cameroon: An incomplete legal supervision

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Abstract
The appointment of public officials in Cameroon is a form of exercise of discretionary power framed by legality. This exercise, in fact, is subject of on the one hand to a certain number of rules intended to combat favoritism and nepotism in order to ensure equal access for citizens to the public service and, on the other hand, very strict jurisdictional control intended to ensure the observance by the appointing authority of the established regulations. Moreover, the legal framework for the freedom of choice of public officials by the political power has tended, in recent year, to be strengthened a little. In the meantime, public officials are, thanks to very strict regulation and jurisdictional control of the power of appointment, more and more effectively protected against administrative favoritism and arbitrariness. Of course, all is not yet for the best. The legal framework for the appointment still contains shortcomings, that is to say insufficiencies or even contradictions. Many questions remain unanswered. But the fact remains that the progress made in the regulation of the power of appointment is not negligible.

Keywords: appointment-public officials-legal framework-unilateral administrative act-administrative arbitrariness-discretionary power

Introduction

The appointment of public officials is in principle discretionary; the competent authority can appoint who they want, when they want and how they want [1]. However, this discretion has limits. The appointment of public officials is subject to a certain number of rules intended to combat favoritism and nepotism in order to ensure equal access of citizens to the public service. It is also under a very strict judicial control intended to ensure compliance of the appointing authority with the established regulations [2].

Because of the dangers of this discretionary power (favoritism, intervention of politicians), Cameroonian public law has been constantly modified, since independence, towards increasingly severe [3]. Restrictions, increasingly narrow limits of power of appointment. From this point of view, the history of the power of appointment in Cameroon can be analyzed within the framework of its limitation by law. Before seeing how these rules limit the power of appointment and why favoritism and arbitrariness persist in appointments [4], it is first necessary to clarify the concepts of supervision, appointment as well as public official.

The legal framework is all the laws and decrees that surround something [5]. In fact, the legal framework for the power of appointment is presented as a set of rules, means for limiting and controlling the power of appointment provided for by positive law with the aim of limiting the arbitrariness of the person who appoints and of checking the qualities of the one who is appointed. As for appointment, it can be analyzed as the designation, by a single individual, of a person to occupy a public office. Appointment, in its most general legal sense, is an act by which the competent authority designates the official to be employed in a specific post [6]. In other words, the appointment is the act by which the administration [7]. Places an agent in a position of responsibility defined by the different organizational charts, or created for the needs of service [8]. The appointment refers on the one hand to the ultimate measure of titularisation and secondly to a career management act [9]. For certain scholars, appointment refers to acts relating to the allocation of public posts [10].

The power to appoint is considered to be the power to choose a specific individual (appointment), which is bestowed upon the appointing authority by law.

A public official is any person who exercises his professional activity in the service of a public person [11]. And who is tied to it by public or private law. This notion (of public official) therefore includes people with different statuses, of disparate composition, including agents working on behalf of public administrations such as civil servants [12], state agents covered by the Labor Code, certain agents of public enterprises and senior civil servants.

With this clarification, the question arises as to whether Cameroonian positive law has sufficiently regulated and controlled the appointment in order to effectively protect public officials against favoritism and administrative arbitrariness. In other words, has modern Cameroonian public law sufficiently regulated the appointment of public officials in such a way that certain abuses can be avoided? It is obvious that the means of supervising the appointment provided for by positive law must be noted (I), it should be emphasized that the latter still harbors many incompleteness (II).

1. A legally conditioned act

To be considered regular, appointments must be made by competent authorities. The appointment of public officials is now subject to a number of rules designed to combat favoritism, nepotism and, aimed at ensuring equal access to public office. On this basis, the approach we retain in the context of this study will consist in demonstrating that, with the evolution of Cameroonian administrative law, we are witnessing, on the one hand, a strengthening of the rules

conditioning the external regularity of the appointment (A) and, on the other hand, a consolidation of the rules conditioning the internal regularity of the appointment of public officials (B).

A. An act subject to very strict external regularity conditions

Before the democratic transition, the political context in force in Cameroon did not militate in favor of optimal protection of the rights of citizens. The efficiency of administrative action was preferred to safeguarding the rights of citizens. Hence, the primacy of the unilateral process in the selection of public officials. The commitment of the State of Cameroon through liberal constitutionalism, to establish a rule of law providing democracy, would militate in favor of the introduction of more democratic modes of selection of public officials. Consequently, Cameroonian positive law has evolved towards the generalization of the competitive process as a common law mode of selection of public officials (1). With this in mind, the obligation to consult before any appointment will become the rule (2).

The consecration of the competitive entrance exams as a common legal method for recruitment of public officials

Cameroonian administrative law has evolved towards the generalization of the competition process. In Cameroon, competitive exams have become the main method of recruiting public officials. The 1974 decree, generalized [13]. The use of competitive examinations that are used in all administrations and at all levels of the hierarchy and has become the normal or common law procedure for recruiting public officials. The legal consecration of competitive examinations results from the decree of February 18, 1974. The decree 94/199 of October 07, 1994, modified and completed on October 12, 2000 confirms this rule. This text states that: "*recruitment in the public service is done through competitive examinations.*" [14]. The competition rule is quickly taken up and adapted by the totality of the statutes of bodies that do not fall under the general statute. It thus interests almost all the agents of the Administration. But why this recruitment process? What are its purposes or functions? The competitive examination aims to further promote transparency in the choices made by the authorities holding the power of appointment. The margin of choice of these authorities is reduced since the latter usually limit themselves to ratifying the results of the examination. The competition process makes the power of appointment a competent, the exercise of which has only a purely formal legal meaning and in no way reflects a choice [15]. This legal framework for the choice allows the arbitrariness of the person who appoints and check the capacities of the one who is appointed. Of all the selection procedures, competitive examinations certainly offer the most guarantees against conscious or deliberate discrimination. Indeed, the competition generally closes a recruitment procedure; the appointing authority, bound by the jury's proposals, can only nominate the candidates appearing on a list, in the order of their ranking. Thus, the competition legally guarantees the objectivity and impartiality of the appointment. It ensures equality of opportunity; to open the civil service to all social strata of the nation. Similarly, the generalization of the obligation to consult before any appointment of public officials also aims to some extent to limit the power of appointment.

The submission of competent authority to very strict procedural rules

The advisory procedure calls for the various opinions which the administrative authority must request before the act is taken. It is quite common that the administrative decision is preceded by consultation with an organization or an individual responsible for giving an opinion on the action to be taken. Regarding appointment, consultative procedures have developed a lot in the past two decades in Cameroon. The texts of the democratic era now make a distinction between the notifying authority and the appointing authority, and the legislator clearly opted for appointments `` *on proposals or after notice* " to the detriment of direct appointments which were the rule in Cameroon. This generalization of the duty to consult in matters of appointment aims at greater objectivity and a certain efficiency in the practice of appointments made in the Cameroonian public service. The appointment may therefore be taken either "*on the proposal*" or "*after advice*" from such an authority or such advisory body. It is in fact a technique of restricting or even limiting the power of appointment. It shows that consultations can play a decisive role in the content of the decision which is ultimately taken at the end of this whole process.

Consultation brings practical restrictions to the discretion of the appointing authority. When the appointing authority must consult an organization, the latter must be regularly composed as prescribed by the texts [16]. So the consultative body is a kind of potential counterweight to the appointing authority. In this regard, the power of influence of the advisory bodies in matters of appointment is not to be neglected. Indeed, consultation presents itself as a factor in amending the appointment decision. It helps in reducing uncertainty and limit the uncertainty attached to public choices. As a result, whatever action is taken on the opinions obtained, a qualitative improvement in the decision on consecutive appointment can be expected. In all cases, it will be enacted with full knowledge of the facts and in consideration of the issues raised.

In addition, consultation can be considered as a factor to mitigate the discretionary nature of the appointment decision. To a large extent, it incorporates the views of the interlocutors (advisory bodies or the individual consulted) of the appointing authority. It expresses a compromise achieved between the various interests. The appointment decision is a negotiated decision. The association of persons foreign to the decision-making process calls into question the prerogatives of unilateral decision recognized by the appointing authority. When the appointing authority takes into account the opinions it has received, the decision no longer proceeds from its unique will. Mr. Yves WEBER makes the following remark which illustrates the nature of the decision well: if we consider reality, the unilateral legal act is no longer a single act. Formally unilateral, the act contains a rule of law which expresses an agreement, a reciprocal consent of the administration and the citizens. However, this bilateral act, which is the consultative act, actually controls the content of the final act which will be formally unilateral [17].

In any event, consultation is akin to negotiation between the appointing authority and its external partners. The appointment decision is not the result of an unilateral

initiative by the Administration, but the expression of a compromise between the points of view of various stakeholders.

Appointment advisory bodies can therefore be viewed as potential checks and balances on the appointing authorities. They can play in their own way the role of these "*intermediate bodies*", these "*intermediate powers*" placed between the State and the individuals are useful in most systems of government as emphasized by MONTESQUIEU (1748) "L'esprit des lois". As we can see, the power of appointment is today a "*supervised power*". Organizations or individuals, through the opinions and proposals they issue to the appointing authority, participate in the restriction and limitation of the power of appointment, as do the rules governing internal regularity of the appointment which have evolved in this direction and have been consolidated.

B. An act subject to very precise internal regulatory conditions

The power to appoint public officials is subject to careful regulation. In addition to the conditions of external regularity, substantive rules have been reorganized in order to subject the appointment to objective and impartial regulations. Today, substantive rules establish important safeguards against patronage and administrative arbitrariness. It includes rules such as equal access of citizens to public employment (1) or vacancy of the job position (2) prohibiting any appointment which does not have the sole purpose of filling a vacancy of employment.

The submission of the competent authority to the principle of equal access of citizens to public employment

The appointment of public officials to public office is subject to the principle of equal eligibility of citizens. The principle of equal access of citizens to public office dates back to the independence of Cameroon and is contained in the various successive constitutions [18].

It is expressed in article 6 of the 1789 Declaration of Human Rights that reads "*all citizens being equal in his eyes (the law) are also eligible for all public dignities, places and jobs, according to their capacity and without any other distinction than that of their virtues and talents*". Article 13 paragraph 2 of the African Charter on Human and Peoples' Rights reaffirms this principle: "*all citizens have the right to access public office in their countries*". The same is true of article 21 of the Universal Declaration of Human Rights of 1948 in paragraphs 1 and 2 and of article 25 of the International Covenant on Civil and Political Rights of 1966. It is confirmed in the revised constitution of January 18, 1996 which states in its preamble that: "*we the people of Cameroon, declare that the human person without distinction as to the race, religion, sex or belief, possesses inalienable and sacred rights "*. Furthermore, it affirms its attachment to the fundamental freedoms enshrined in international texts. Do the texts and the jurisprudence establish what the Constitution solemnly guarantees?

The General Rules and Regulations of the Public Service is unequivocal. It provides that: "access *to the public service is open without any discrimination, to any person of Cameroonian nationality fulfilling the conditions provided subject to the suggestions specific to each body*" [19]. This principle of equality prohibits the appointing authority from making distinctions between candidates on the grounds of their origins, opinions or gender. Consequently, all citizens have access to the public service, if they meet the general conditions of access to the determined post. Ostracism is not admitted in the public service and certain positions cannot be closed to certain citizens. This principle is an important safeguard for people who candidates for public office against administrative arbitrariness. At the same time, it is a means of limiting and controlling the power of appointment. Likewise, the appointment of an agent is only regular if there is "*an available position*".

The submission of the competent public authority to the rule of the prior at the work place

The reason for the appointment must necessarily be the existence of a vacant post which must be filled [20]. The vacancy of a job occurs when a job is not yet, or is no longer occupied by a public official holding the job. The responsibilities in question here are specific to a given job position. This vacancy may occur following the appointment of a public official who occupied a job to other functions, without appointing somebody immediately to replace them. It can also occur when the state is called upon to create new institutions or else to develop new organizational charts within existing institutions. Jobs that are created by new institutions or by new organizational charts remain vacant until they are filled.

The public official can therefore only be appointed to a vacant post. Certain texts oblige the Administration to advertise vacations. The vacancy rule is expressly provided for in the General Rules and Regulations of Public Service which provides that: "any *recruitment or integration into a public service framework which does not have the exclusive object of regularly filling a vacancy in a job is prohibited*" [20]. This rule does not however apply only to jobs covered by the general statute, but to all public jobs. It has important legal consequences: the prohibition of redundant appointments, advance and retroactive appointments and appointments for orders.

Supernumerary appointments are irregular, unless otherwise supported by legislative provisions. The concept of redundant appointment has never been defined, but in principle it is assessed in relation to number of posts in the executive or grade category. Determining the surplus is much easier when the number of jobs is fixed by the statute or by a special text than when it results from financial provisions.

Be that as it may, any appointment made in excess of the number of staff has the character of a surplus appointment. Advance and retroactive appointments are in principle prohibited. Advance appointments are those made well in advance, to secure a candidate a position that is not yet vacant [21].

These appointments, which are generally intended to secure an agent a job which he does not yet have the right to hold and which encroach on the power of another authority are completely irregular.

They are prohibited as contrary to the nature of things and because there is a good chance that they are measures of convenience (they are in fact generally so).

Not only are early appointments prohibited, but also retroactive appointments. It is those made with this clause that the public official will be deemed to have been appointed to office at a time prior to his actual appointment.

These appointments are irregular because they are contrary to the principle of non-retroactivity and because the vacancy must be noted at the time of the appointment.

Appointments for orders are also prohibited. This means appointments made not to meet the needs of the service in a post, but purely fictitious appointments, intended solely to provide an individual with personal benefit; the appointee does not actually want to hold the position; he simply wants to have the title in order to invoke it later to get another job.

These appointments for orders are therefore null and of no effect. This solution is fair and just for the agents.

It would indeed be unfair for officers in managerial staff, who are required to do their job normally, to be supplanted by agents appointed without regard to the needs of the service, and not being able to attack these appointments of pure convenience.

In sum, the powers of the appointing authority are severely restricted. However, like an octopus, personal relationships, family relationships and political recommendations are still the best weapons for accessing public employment today, and the freedom of government authorities in this area still seems complete. Power remains master of the choice of its servants. These observations lead us to note that the framework for the power to appoint public officials is incomplete.

2. II- An insufficiently supervised (framed) act

Despite the measures enacted to regulate the power of appointment, many shortcomings remain in positive law, perpetuating the arbitrary in access to the public service. Consequently, it appears that the Cameroonian public service belongs to wealthy people [22].

This situation did not fail to arise indignation in public opinion and in the political class. Political power (government and parliament) remains hostile to such regulation. Measures taken against favoritism and the intervention of politicians continue to be ineffective in the face of this phenomenon.

Thus, the legal framework for the appointment still contains shortcomings, inadequacies or even contradictions. There are inevitably gaps in the legal system, as the legislator cannot, of course, foresee everything. Many questions remain unanswered. As an instrument for rationalizing the discretionary choice of agents, the supervision of the power of appointment is subject to a limitation that is both incomplete (A) and inappropriate (B).

A- An incomplete legal supervision

Incomplete supervision can be considered as either as the absence of applicable legal provisions, or as a case not provided for by law, but which should be geared towards restricting and controlling the power of appointment. The incomplete supervision can be revealed in all situations which are normally intended to be covered by law and which, however, are not. Thus, the shortcomings in the supervision of the power of appointment are, on the one hand, linked to the lack of supervision of the administration's discretion before and after the competition (1), and, on the other hand, the absence of a definite determination of senior posts in the State as well as objective criteria for appointment (2).

1. The absence of a real right to compete and a real right to appointment at the end of test of candidates

The candidate who fulfills all the required conditions has no right to compete, he needs the approval of the competent administrative authority to participate in the competition. Likewise, success in the competition does not give the definitively admitted candidate a real right of appointment to the posts put up for the competition. On the first aspect, it should be noted that the power to decide on the list of competitors admitted to compete is discretionary [24]. Indeed, under the terms of article 34 (1) of decree n ° 2000/696 / PM of September 13, 2000 fixing the general regime of administrative competitions, "the *list of candidates authorized to compete is determined by the Minister of the Public Service or on his delegation, by the competent provincial official, at least ten (10) days before the date of the tests*". Thus, the admission to compete as it is framed in Cameroon is still a source of abuse. There is a risk of abuse since the Administration can exclude certain candidates from the list. He is free to not justify his decision to refuse admission to compete. The shortcoming is that, relying on its discretion, the Administration may refuse to make his reasons known to the judge. There is a risk of arbitrary insofar as the appointing authority can take refuge behind its discretionary power to eliminate from the competition list certain candidates because of their political, religious or union opinions. Moreover, candidates who are civil servant are much more exposed to administrative arbitrariness than candidates who are student. Indeed, the Administration's right to exclude a candidate based on their way of serving has been affirmed in many cases [23]. It is extremely easy for the hierarchical authority which knows the agents well to hide behind the behavior of the interested parties in the service to reject the candidacy of those of them which it would consider embarrassing or unfriendly.

All things considered, admission to compete is still a source of too much abuse for its replacement by a right to compete to be considered. We propose, for example, a system in which all individuals, fulfilling the conditions required by legislative or regulatory texts, have a real right to compete, or at least a legal capacity. The right to compete allows the principle of equal eligibility for public office to take precedence over the discretion of the Administration. In addition, it is desirable that the legislator reconsider his copy to establish the obligation for the competent administrative authority to justify the decisions refusing admission to compete. One of the fundamental interests of the right to compete is in fact to make the exclusion of candidates a real disciplinary sanction, which would put the ousted candidates in a position to obtain, in accordance with the case law of the administrative judge [25], the statement of the complaints raised against them. In addition, on many points, the right to compete retains a certain interest for candidates. Thus, in terms of judicial control, the right to compete would lead to a systematization of the legal classification of facts, particularly in matters of professional competence where the absence of such control makes it possible for candidates who are civil servants to be subjected to the arbitrariness of the hierarchical authority which can hide behind the professional incapacity of the interested parties to exclude those of them which it would consider unfriendly. The right to compete would also be

interesting as far as the compensation for illegally ousted candidates is concerned. With a real right to compete, those concerned would no longer have to report "*high probabilities*" for the responsibility of the State to be engaged with regard to them. In the absence of a real right to compete, candidates are at the preliminary stage of the competition poorly protected against the arbitrariness of the Administration. Are they protected after the tests? In other words, does success in the competition give the definitively admitted candidate a real right of appointment to the jobs put in the competitions?

Far from it, because the candidates accepted in the competition have no right to be appointed to the jobs put in the competitions. They have no right to a future appointment, they only have a simple vocation, a simple legal capacity to occupy these jobs. Despite the success achieved, the candidates' careers depend on the good will of the Administration.

However, the establishment of a real right of appointment for the benefit of successful candidates would be interesting not only for the candidates but also for the Administration and the public service. A right of appointment would be fairer, more equitable for candidates. It is indeed not normal that individuals who have based all their hopes on a success in the competition and have sacrificed everything for this purpose see, in spite of the success obtained, their career depend on the goodwill of the Administration which can delay their appointment or dismiss it by a subsequent modification of the statutory texts governing the jobs put up for competition. The establishment of a right of appointment as soon as candidates are placed on the admission list would certainly be likely to discourage these unfair practices for candidates. A right of appointment would also be attractive to candidates in terms of compensation. Indeed, with a right of appointment as of registration on the admission list, admitted candidates who, due to a change in the statutory texts, could not be appointed in the jobs put in the competition, could be compensated for breach of the equality of citizens before public charges.

The absence of a real right to compete and a real right of appointment at the end of the tests is likely to discourage certain candidates and to deprive the Administration of certain skills. Consequently, the institution would gain a lot in case a real duty of appointment for the benefit of successful candidates be imposed. Likewise, the uncertain determination and the absence of real objective and impartial procedures for the appointments to higher positions in great state organs, undoubtedly open a path to favoritism and administrative arbitrariness.

2. The absence of a definite determination of senior government posts and objective criteria for appointment

Appointments to senior government positions are at the discretion of the government. This exception to the principle of recruitment by competition of civil servants is surreptitiously provided for in article 21 paragraph 3 of the decree of 07 October 1994 on the general statute of the public service of the State. This provides: "*certain functions requiring their holder's loyalty to the institutions of the Republic or absolute loyalty are the subject of a specific text*". This particular text has not yet been enacted to date. Therefore, what are the jobs in the senior public service the appointments of which are left to the discretion of the government? What exactly is their legal regime? And what is the practice followed by the Cameroonian public administration? Regarding the first question, it is clear that Cameroonian positive law does not clearly determine the jobs of the senior civil service, whose appointments are left to the discretion of the government. Actually, if the concepts of senior civil servant or senior civil servant are commonly used, there is no definition even a little precise, neither legal nor sociological. Unlike France, which clearly listed these jobs in a text [25], Cameroon did not deem it necessary to define and determine these jobs. This uncertainty in the definition and determination of the content and the legal regime of the jobs in the senior organs of the State, is a major gap which opens the way to administrative arbitrariness as the practice in the matter reveals us. In reality, the government can choose non-civil servants outside any competition procedure, taking into account the political, religious, philosophical opinions of the candidates as well as their gender. Civil servants as well as people outside the Administration can be appointed. People in higher jobs are in an extremely precarious situation, since their appointment is essentially "*revocable*". The administrative authority can thus terminate the functions exercised by the holders of these jobs at any time, in the absence of any disciplinary error and for simple reasons of political convenience. Is this discretionary regime not at the origin of many abuses and other abuses observed in the practice of appointments to posts in the senior civil service? In practice, appointments to high civil service jobs reveal numerous practices of favoritism and discrimination. As a result, the Cameroonian civil servant is not protected from the political world. Recruitments and promotions depend closely on political patronage symbolized by appointment to a position of responsibility. Career dynamism is closely linked to the discretion to appoint. In a multi-party context, the progression or stagnation in the career is conditioned by loyalty to institutions. A change of government can speed up or slow down career development. The legal framework for the power to appoint public officials in Cameroon remains inadequate.

B-An inappropriate legal supervision

The inappropriate supervision of the power of appointment relates to rules or standards which exist, but which are not suitable for settling the cases for which solutions are sought. These are also cases where certain established rules contradict the objective sought by the regulations; for example, a system of law contains a rule that orders one thing to be done and another that prohibits doing that thing. This means that the enactment of measures and mechanisms to prevent favoritism and the arbitrariness of the person who appoints is not enough. If favoritism and arbitrariness persist in appointments despite the existence of these measures, it is not only because of the imprecision of the texts which govern the power of appointment (1), but also, and perhaps especially, the consecration of the regional balance policy in appointments (2).

The vagueness of the texts governing the power of appointment

The factors of the ineffectiveness of the appointment power framework must first be sought in the rule of law itself. Effectiveness depends on the nature of the rule (imperative or incentive, public order or interpretative.) and its content

(clarity, consistency, precision.) [26]. Speaking of this second factor, with regard to the texts regulating the power of appointment, we criticize their vague and not very expressive character [27].

The lack of conciseness and clarity of the texts constitutes an unfortunate gap in the supervision of the power of appointment in Cameroon. The texts limiting the power of appointment contain many rules which are ambiguous. The use of vague and unintelligible terms and expressions permits those who interpret them, (the authorities with the power of appointment) the ability to make unexpected decisions. Thus, when the texts supervising the power of appointment, contain gray areas whose precision must be made, the discretionary power of the Administration is exercised. The appointing-interpreting authority therefore has the power to determine and guide the prescription of the referent. By way of illustration, the Cameroonian Electoral Code provides in its article 12 paragraph 1 that: "*Members of Electoral Board shall be designated from the midst of independent personalities of Cameroonian nationality, reputed for their stature, moral uprightness, intellectual honesty, patriotism, neutrality and impartiality"*. Reading the text, one clearly discovers the will of the legislator to regulate the power of appointment. However, this limitation can only be formal, because, how can we establish the neutrality and impartiality of a person for the Electoral Council so much as it is one of the criteria to be fulfilled to claim nomination? Who is one of the criteria to be fulfilled to claim nomination? Is it neutrality and impartiality vis-à-vis the political parties which exercise in the political field? Is this neutrality vis-à-vis the power in place? Considering the vague and not very expressive character of the Electoral Code on the criteria of the appointment, one must conclude that the supervision remains formal and consequently, of a doubtful effectiveness. It is then the Administration which in the interpretation must be able to clarify the standard to be applied by removing it from the apparent darkness in which it finds itself. This favors the administrative arbitrariness which the management nevertheless seeks to avoid. In the same vein, article 6 paragraph 1 of decree n ° 2000/048 establishing, organizing and operating the PCRA [28].provides that to be eligible for appointment to the Board of Directors of this body, one must belong to the category of " *personalities of established professional reputation*". But what is an established professional reputation? Is it a person who imposes himself in his professional field or who is the authority on the matter?

This laconic nature of the texts is a generating element of discretion [29]. Mr. Nchouwat spoke in this connection of strategic laconic nature [30]. Because its aim was to put the Administration in an advantageous situation. It is always the generality or the silence of the texts that will allow the appointing authority to strategically make and break the rule of law. A silent text is a text which avoids giving a precise position on events likely to occur. It is up to the Administration to determine the meaning of the text by means of interpretation. The texts regulating the power of appointment of public officials in Cameroon are for the most part simply display and accumulation texts. Display text is text that may well obey the formal requirements of the standard, but which presents itself explicitly and even implicitly as having no binding force. The excessively general nature of the texts governing the power of appointment is a factor of discretionary power. However, for Professor NLEP, the line between discretion and administrative arbitrariness is difficult to draw [31].

This characteristic turn these texts into program laws [32], the imposition of which on the authorities holding the power of appointment will only be subject to their agreement. Likewise, the almost systematic practice of the policy of regional balance in appointments constitutes a serious gap in these regulations for candidates for posts of public responsibility.

Putting the principle of equal access to public employment into perspective through the recognition of the regional balance policy

Despite the fact that the principle of equal access to public employment is taken up in Cameroonian law, the fact remains that the general statute of the public service is characterized by the permanence of a selection system based on criteria foreign to the capacity of candidates through the concept of regional balance. Thus, as Professor LEKENE DONFACK observes, several subjective mechanisms have been implemented over time to the detriment of objective recruitment rules [33]. Ordinance No59/70 of 27 November 1959 on the General Rules and Regulations of the Public Service proposed a system for admitting people from areas that were not sufficiently educated to public jobs. In the same logic, under the terms of article 60 paragraph 1 of decree no 2000/696 / PM of September 13, 2000 setting the general system of administrative competitions, the Prime Minister is required to take "*a decree… which fixes the quotas of places reserved during administrative competitions for candidates of each province*". Paragraph 2 of the same text continues: "The *province of origin of a candidate is considered to be the province of origin of his father or, where applicable, that of his mother*".

Thus, the application of the policy of regional balance in access and promotion in the public service compels the authority holding the power of appointment, to systematically ensure that the configuration of the administrative structure respects a certain balance of socio-cultural essence; the principle of equal access to jobs and public functions is thus put to the test in Cameroon. This categorical imperative can also push the Administration to trample on the rules governing the power of appointment. The case of the Higher Teachers Training College Maroua in 2008 [34], the general outcry provoked by the case known as the "*IRIC scandal*" [35]. and the events which occurred at the University of Buea on November 29, 2006, during admission at the Faculty of Biomedical Sciences [36]. are there to prove it. In reality, a practice in the distribution of public positions has since been anchored in Cameroonian customs as a principle of government. However, the constraint on the appointing authority is twofold. On the one hand, it is macro-cultural: respect for national North-South or English-French-speaking duality. On the other hand, it is micro-cultural and concerns ethical or regional balances. In practice, the policy of regional balance leads to administrative arbitrariness and favoritism. Not only does it call into question the fundamental principle of recruitment by competition, but also that of equal eligibility for public employment. It is at the origin of the practice known as "*wild debauchery*" which, in general, consists in appointing an agent to a function which has nothing to do with his basic qualification nor with his real level of competence. This practice remains a very common incongruity. Its starting

point is admission to compete in a large school; where, very often, graduates who do not have the corresponding academic course apply to be trained. Thus a graduate in biology is trained as an official of financial management although he has no concept in law or economics. Similarly, in administrative services, there is sometimes a mathematician appointed head of the legal unit and a literary head of the computer and statistics unit while the agent with the profile remains without responsibility. Moreover, in a country where even the results of beauty contests must take into account the necessary ethnic and regional balance, appointments to positions of responsibility must reflect this unwritten rule of Cameroonian political life, namely regional balance and ethnic. This is how the "*legal packaging*", that the appointment texts acquire by passing through the Presidency of the Republic, the Prime Minister and the Ministries, sometimes simply puts an end to a sort of "*corridor parliamentarism*" in which the tribe, region, religion and party are valued at the expense of competence.

Conclusion

How to make Cameroonian positive law more effective in the fight against favoritism and arbitrariness in the appointments to positions of responsibility? How can the legal framework for the power of appointment be made more effective in order to guarantee real equality of opportunity for candidates for public office?

The conditions for effective supervision and the possible remedies for these shortcomings would first of all require radical measures resulting from a determined and unequivocal political will. It should nevertheless be added that the legal framework for the power to appoint public officials deserves to be completed. Consideration should be given to developing, in equity, equal opportunity for all, real policies for recruiting Cameroonians into the national public administration. It is the price to pay to appease the flame of the disputes, the indignation and the feeling of a fed up that one generally observes during the various administrative contests, the appointments and the promotions in the function public.

In addition, it is necessary to restore the authority of the State, which in this particular case, bows to the appointments in a rigorous application of the texts in force. Besides, a quasi-reform of the general statute of the state public service must be envisaged. The following are particularly targeted: appointments to senior positions in large organs of the state, clearly listing the positions concerned in a text and establishing objective criteria for appointment. For administrative competitions, reviewing the overly "cultural" nature of tests and a greater diversification of the intellectual or professional origin of the members of the juries is a necessity.

It will also be necessary to establish a real right to compete and a real right to nominate candidates after the tests. Finally, the place of the authorities called upon to intervene in the nomination procedure must be redefined. This presupposes the rigorous adjustment of their organic independence.

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