

## **ANNEX 3**

Confidential

CENTRAL AFRICAN REPUBLIC  
Unity – Dignity – Labour

# NATIONAL GENDARMERIE

## CODE OF CRIMINAL PROCEDURE

- pages 19 to 21 -

#### CHAPTER IV

##### Orders to close an investigation

Article 89: When the case file is complete, and prior to communicating it to the Public Prosecutor's Office [*Ministère public*] for its submissions, the Investigating Judge must, on penalty of nullity, notify the advocate(s) instructed by the parties and set them a time-limit of five days to file any written submissions which they consider necessary.

##### Article 90:

- a) As soon as that procedure has been completed, the Investigating Judge shall communicate the file to the Prosecutor, who shall send his or her submissions to the Investigating Judge within the next five days at the latest.
- b) If the Public Prosecutor [*Procureur de la République*] considers that the act is punishable as a serious criminal offence, he or she shall forward the case file to the Principal Public Prosecutor [*Procureur Général*] before making his or her submissions.

##### Article 91:

- (a) If the Investigating Judge is of the opinion that the act constitutes neither a serious criminal offence [*crime*], a lesser offence [*délit*] or a petty offence [*contravention*], or if there is insufficient evidence against the person charged [*inculpé*], an order for the dismissal of the case shall be issued and, if under arrest, that person shall be released.
- (b) The Investigating Judge shall rule on the return of any property seized, assess the costs and order the civil complainant [*partie civile*] in the case, if any, to pay such costs. A civil complainant who had acted in good faith may, however, be exempted from all or part of the costs by a specific, reasoned order.

##### Article 92:

- a) Orders for Partial Dismissal [*Ordonnances de non-lieu partiel*] may be made in the course of the investigation in accordance with the aforementioned procedure.
- b) In the event of new evidence appearing, the investigation may only be resumed on application by the Public Prosecutor's Office.

Article 93: If the Investigating Judge is of the view that the act constitutes merely a petty offence, he or she shall commit the person charged for trial before a lower court [*Tribunal*] and, if that person is under arrest, order his or her release.

Article 94:

- a) If the offence is recognised as being punishable as a lesser indictable offence [*puni de peines correctionnelles*], the Investigating Judge shall commit the accused [*prévenu*] for trial before a lower court.
- b) If, in this case, the offence is punishable by a sentence of imprisonment, the accused, if in pre-trial detention, shall remain there on an interim basis.
- c) If the offence is not punishable by a sentence of imprisonment, the accused shall be released, on the condition that he or she appear on a given date before the competent Court.

Article 95:

- a) If the Investigating Judge considers that the act is punishable as a serious crime and that there are sufficient grounds for prosecution, he or she shall commit the person charged for trial before the *Cour Criminelle* and issue a custody order [*ordonnance de prise de corps*] in respect of that person.
- b) Notification of such committal for trial [*ordonnance de renvoi*] shall, on penalty of nullity, be given as soon as possible to the accused and his or her counsel, as well as the right to appeal the order within 48 hours of notification. A copy of the order shall be given to the accused.
- c) The accused shall remain in detention. If it has not been possible to arrest the accused, a search for him or her shall be instituted pursuant to the custody order.

Article 96:

- a) In every case, the Investigating Judge shall submit an inventoried copy of the case file to the Public Prosecutor.
- b) Cases closed by an order for dismissal shall be filed at the registry.
- c) In cases of committal to a lower court, the Public Prosecutor shall have the accused called for trial at one of the next forthcoming hearings.
- d) In the case of referral to the *Cour Criminelle*, the case file shall be forwarded to the Principal Public Prosecutor.

Article 97: Orders issued by the Investigating Judge pursuant to articles 91 to 95 shall contain the last names, given names, age, place of birth, address and profession of the person charged, a statement of the facts, a legal characterisation thereof, and a declaration stating whether or not there is sufficient evidence available.

Article 98: The Investigating Judge shall be required to send each month to the Principal Public Prosecutor, via the Public Prosecutor, a memorandum on

the investigations in progress. If an investigation has been in progress for more than three months, the Investigating Judge must indicate in the memorandum the circumstances delaying the conclusion of that investigation.

## CHAPTER V

### Appeals against orders of the Investigating Judge

#### Article 99:

- a) The Public Prosecutor may, in every case, appeal an order of the Investigating Judge. The person charged shall remain in detention until a ruling has been made on the Prosecutor's appeal, or until expiry of the time limit for appeals.

However, in the case provided for in article 91(a), the person charged shall be released immediately.

- b) Any order which is subject to appeal by the person charged or by the civil complainant must be notified to those persons within 48 hours, and a copy thereof must be sent by the registrar by registered post to their counsel.
- c) The registrar shall, on penalty of a fine of 1000 francs, communicate to the Public Prosecutor, on the same day as it issued, any order that does not accord with the Prosecutor's written submissions.
- d) The civil complainant or his or her counsel may appeal orders issued in the cases provided for in articles 83(b), 84, 91, 92 and 93 of the present Code, orders ruling on jurisdiction and any order adversely affecting his or her civil interests. In every case, any provision of the order granting the release of the person charged shall be executed on an interim basis.
- e) The accused or his or her counsel may appeal only orders issued pursuant to articles 83(a), 84, 95 and those ruling on the jurisdiction of the Investigating Judge.
- f) An appeal by the Public Prosecutor, the civil complainant or the person charged must be lodged within 48 hours; this time limit shall start to run against the Public Prosecutor from the day on which the order was issued; against the accused and the civil complainant and their counsel, from the day that they were notified of the order by the registrar or from the day that they received the registered letter.
- g) The appeal shall be lodged by a declaration filed with the registry of the court to which the Investigating Judge is attached, or simply by letter addressed to the registry of this court. The date stamp of the post office shall be authoritative.
- h) The other parties shall be notified of the appeal forthwith by the registrar of the investigating court.
- i) In every case, the Principal Public Prosecutor shall have a right of appeal. The appeal shall be lodged by notice to the Court registry

within 48 hours of receipt of the order at the Principal Public Prosecutor's Office [*Parquet Général*]. The Principal Public Prosecutor shall be responsible for notification of the appeal. Any provision in the order granting release of the accused shall be executed on an interim basis.

Article 100: The appeal shall be brought before the Indictments Chamber [*Chambre d'accusation*] of the Appeals Court.

## CHAPTER VI INDICTMENTS CHAMBER

Article 101:

- a) The Indictments Chamber shall be composed of members appointed by the President of the Appeals Court under the following conditions:
  - 1. One Judge [*Magistrat du siège*], President;
  - 2. Two Judges [*Magistrats du siège*], each of whom may be replaced by a public official selected from a list of ten names drawn up by the Minister of Justice. The officials shall be sworn in as Judges by the President of the Indictments Chamber.
- b) The Indictments Chamber shall be completed by the presence of the Principal Public Prosecutor or one of his or her deputies, and shall be assisted by a Registrar.

Article 102:

- a) The Indictments Chamber shall hear:
  - 1. appeals against orders of Investigating Judges;
  - 2. applications for judicial extinction of convictions [*demandes en réhabilitation*].
- b) The President of the Indictments Chamber shall have the same powers as those vested in the Principal Public Prosecutor under article 20(c).

Article 103:

- (a) The Indictments Chamber is seized directly upon appeal by the Public Prosecutor's Office, a civil complainant or a person charged.
- (b) The case file shall be promptly transmitted to the Indictments Chamber by the Principal Public Prosecutor, who shall append his or her submissions thereto.

Article 104: Neither the civil complainant, the person charged nor the witnesses shall appear before the Indictments Chamber. The civil complainant and the person charged may submit a brief.

Article 105: The Principal Public Prosecutor, after having filed his or her written submissions, shall withdraw, as shall the registrar.

Article 193:

- a) The officer responsible for service of the summons shall personally hand a copy thereof to the person named therein, and shall have an acknowledgement of receipt specifically recorded on the original.
- b) If the person named does not know how to sign, he or she shall affix an imprint of his or her left thumb.
- c) If the person named is unable to sign, or refuses to sign or affix an imprint of his or her left thumb, the officer shall note this fact on the copy. The copy shall be returned forthwith to the issuing judge.
- d) If it has not been possible to serve the copy of the summons personally on the person named, it shall be delivered either to that person's home address, or to a neighbour or, failing this, to the town hall or to the head of the administrative district, or to the village or neighbourhood chief. In this case, the officer shall indicate on the original the category of the person to whom the summons has been delivered.
- e) If the home address of the person named is unknown, the copy shall be sent to the Public Prosecutor's Office of the competent court and displayed on the door of the audience chamber.
- f) Summonses concerning persons residing abroad shall be addressed to the competent authorities through the Public Prosecutor, the Principal Public Prosecutor, the Minister of Justice and the Minister for Foreign Affairs.

Article 194:

- a) Judgments shall be served in accordance with the same procedure as summonses from the Public Prosecutor's Office.
- b) Service of an extract from a judgment or decision signed by the registrar and the representative of the Public Prosecutor's Office, indicating the date of the judgment or decision, the court which made the ruling, the grounds for the conviction, the sentence given, and the legal texts applied, shall be equivalent to service of the judgment or decision itself.

Article 195:

- a) Summonses for accused persons, civil complainants or persons civilly liable shall be served, on penalty of nullity, three clear days prior to the date of the hearing, in addition to time allowed on account of distance.
- b) However, summonses may be ruled null only at the first hearing, prior to any objection or defence.



Article 196:

- a) Additional time allowed on account of distance shall be one day per 50 kilometres or fraction of 50 kilometres, where the accused is resident in the Central African Republic;
- b) Where the accused is resident in another African state, the additional time allowed shall be two months;
- c) Where the accused is resident in Europe, Asia, the Americas or Oceania, the additional time allowed shall be three months.

Article 197: Where a civil complainant exercises his or her right to have a summons served directly, he or she shall submit a request to the enforcement officer, who shall act in accordance with the procedure provided for in civil matters. The information required by article 192 must be contained in the summons.

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- the fact that the judgment was delivered in public;
- the names of the President and his or her lay assessors, the representative of the Public Prosecutor's Office and the registrar;
- the identity of the accused [*accusé*];
- whether the decision was rendered after the parties had been heard, or *in absentia*;
- the offence on account of which the accused was committed for trial;
- the fact that the witnesses and experts had been heard under oath;
- the fact that the submissions of the Government Commissioner and of counsel for the defence had been heard;
- a declaration that the accused had been the last to address the court;
- the verdict of guilty or not guilty;
- the sentences handed down;
- the articles of law applied, without the texts themselves having to be reproduced.

Article 30: The judgment, as written out by the registrar, shall be signed forthwith by the President, the lay assessors and the registrar having comprised the court.

Article 31: The provisions relating to extenuating circumstances and suspended sentences shall not be applicable to acts falling under the jurisdiction of the Special Tribunal (*Tribunal Spécial*).

Article 32: Convictions for violations of state security may be accompanied by the total or partial confiscation of property.

Article 33 (new): Order no. 81.010 of 16.11.81.

No proceeding shall be admissible against any decision of the Chamber for the Oversight of Investigations [*Chambre de contrôle de l'instruction*] remedying defects in prior proceedings.

Decisions of the Special Tribunal shall not be susceptible of any form of appeal or review.

Nor shall any proceeding be admissible against the members of the Special Tribunal.

Article 34: On account of the costs incurred in the exercise of their duties, the members of the Special Court and the registrar may be awarded a special allowance, the amount of which shall be determined by Decree.

Article 35: Rescinded (Ord. 81.010 of 16.11.81).

Article 36: The present Order shall be registered and published in the *Journal Officiel* under the emergency procedure. It shall be enforced as a Law of the State.

Done at Bangui, dated this 23 July 1981.

David Dacko

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COURT OF APPEALS OF BANGUI      CENTRAL AFRICAN REPUBLIC  
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TRIBUNAL DE GRANDE INSTANCE      Unity – Dignity – Labour  
OF BANGUI  
\*\*\*\*\*  
OFFICE OF INVESTIGATIONS No. 1      Record no. 026/03

RECORD OF NOTIFICATION  
IN THE NAME OF THE LAW

On this *seventeenth day of September* two thousand and *four*,  
At *Bangui* at 12.25 p.m.;

We, *Pacôme-Arsène Kolomeke*, Sworn Registrar of Office of  
Investigations no. 1 of the *Tribunal de Grande Instance* of Bangui, Central  
African Republic;

Have notified: *to the Prosecutor of the Tribunal de Grande  
Instance of Bangui*

In the following proceedings against: *Ange Félix Patassé et al.*  
For: *Misappropriation of public funds, forgery and use of  
forged documents, violation of the internal security of the  
State and other offences*

The Order for: *Partial Dismissal and Committal to the  
Cour Criminelle*

Issued on, *16.09.04* by the Senior Investigating Judge of the *Tribunal  
de Grande Instance* of Bangui;

In accordance with the legal provisions of which he or she has been  
apprised;

On the basis of all of the foregoing, the present document has been prepared,  
which we have signed together with the \_\_\_\_\_;

**Note:** the present notification was given on the above-mentioned day,  
month and year to *the Public Prosecutor's Office of the Tribunal  
de Grande Instance of Bangui*, which signs together with us.

[stamped and signed]

[stamped and signed]

REGISTRAR OF OFFICE OF INVESTIGATIONS NO. 1  
*Pacôme-Arsène Kolomeke*

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COURT OF APPEALS OF BANGUI      CENTRAL AFRICAN REPUBLIC  
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[stamped and signed]

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*Pacôme-Arsène Kolomeke*