

Chapter 2

The Electoral Framework

Constitutional Background

The Constitution of the United Republic of Cameroon currently in force is the Constitution of 1972 as amended by Law No. 96-06 of 18 January 1996. It provides that the legislative power shall be exercised by Parliament comprising the National Assembly and the Senate, but the President of the Republic 'enacts' the laws passed by Parliament.

One of the distinctive features of the implementation of the Constitution as amended is that some of the new institutions it envisaged, which have a direct bearing on the elections for the National Assembly, have yet to be put in place. Specifically, a Constitutional Council charged with proclaiming the results of the elections is yet to be established. In the meantime, the Supreme Court is charged with performing the functions of the Constitutional Council.

The Legal Framework

The Electoral Law

The law governing election to, and membership of, the National Assembly is contained principally in Law No. 91-020 of December 1991 as modified by Law No. 97-13 of March 1997.

The 1991 law was the outcome of a 'tripartite conference' between the government, political parties and some eminent individuals. To that extent therefore, it was widely acknowledged as having established a broadly acceptable framework for the conduct of elections. On the other hand, the March 1997 amendments did not involve such a broad consensus and have been the source of many complaints by opposition parties.

The Ministry of Territorial Administration (MINAT)

There is no separate and autonomous body charged with organising and supervising the conduct of elections in Cameroon. The overall responsibility lies with the Vice-Prime Minister who heads the Ministry of Territorial Administration (MINAT). The machinery for the conduct of elections is thus inseparable from the system of territorial administration.

To facilitate day-to-day administration, the country is divided into ten Provinces each of which is further demarcated into Divisions. On 2 April 1997, the same day that the elections were announced, a presidential decree (No. 97-062) increased the number of constituencies to 58 in line with the total number of Divisions and redrew a number of electoral boundaries.

Constituencies and Constituency Boundaries

In terms of the electoral law, each Division constituted an electoral constituency for the purposes of the parliamentary elections. Each constituency was then allocated one or more of the 180 National Assembly seats on the basis of several criteria, including population density and geographical size. Controversy surrounded the amended electoral law, whereby additional constituencies could be created by presidential decree on the grounds of their 'peculiar situation', a term which was not defined by law; 16 'special constituencies' were created by the 2 April presidential decree.

Opposition parties alleged that the allocation of seats between the constituencies was inequitable and often resulted in the gross under-representation of constituencies where they enjoyed the strongest support.

Electoral Bodies

The electoral law also creates a series of Commissions charged with responsibility for various aspects of the electoral process. These are summarised as follows:

(a) *Commissions for the revision of the register of electors*

These Commissions exist at the council, sub-division or district levels, and their functions include:

- examining applications for registration and recording in the register the names of citizens who satisfy the age, residence or other requirements prescribed by law;
- deleting from the register the names of those who were disqualified or were not qualified to be registered as electors.

Membership of such a Commission comprises a chairman appointed by the SDO, the Mayor or a municipal representative and a representative of each political party contesting the election in the constituency.

(b) *Commissions charged with supervising the establishment and distribution of registration cards*

The functions of these Commissions, in each sub-division, include the following:

- supervising the production and distribution of registration cards;
- reporting on the distribution of the cards to the Sub-divisional Officer.

The membership of these Commissions is identical to that of the Commissions for the revision of the register of electors.

(c) *Local Polling Commissions*

The membership of these Commissions at polling station level includes a chairman appointed by the SDO, a representative of each candidate or list of candidates and, at the discretion of the Commission, two additional scrutineers. Their functions include:

- opening and closing the polling station under the provisions of the revised electoral law;
- ruling on any difficulty arising during the conduct of the poll;
- maintaining order at the polling station;
- immediately after the close of the poll, checking and counting the votes and proclaiming the results;
- recording the results on a *Procès Verbal* to be signed by all members of the Polling Commission and delivering a copy of the report to the SDO;
- ensuring the public destruction of ballots not subject to controversy after the count.

(d) *Divisional Supervisory Commissions*

These Commissions are in each Division, and have responsibility for:

- examining and adjudicating on all claims and complaints relating to the registration of voters and voters' cards;
- centralising and checking the operation of the local polling commissions, as conveyed by the SDOs;
- reporting on its functions to the National Commission for the Final Counting of Votes.

Membership of these Commissions comprise the President of the Divisional High Court as chairman; three representatives of the Administration appointed by the

SDO; one independent person appointed by the SDO in consultation with the political parties operating within the constituency; and one representative appointed by each political party contesting the election in the constituency.

(e) *The National Commission for the Final Counting of Votes*
The functions of this Commission include:

- the verification of polling operations on the basis of reports and documents forwarded by the Divisional Supervisory Commissions;
- the rectification of counting errors;
- examining any reports and ballot papers which in its opinion have been wrongfully invalidated;
- recording any observations it deems fit to make on the regularity of the polling operations, but without the power to declare election results invalid;
- drawing up a report and forwarding it together with all the reports and appended documents from the Divisional Supervisory Commissions to the Constitutional Council.

Membership of this body comprises: a Supreme Court Judge appointed by the President of the Supreme Court as chairman; two other judicial officers also appointed by the President of the Supreme Court; ten representatives of the Administration appointed by the Minister responsible for Territorial Administration; and ten representatives appointed by the political parties taking part in the elections. The names of the members of this Commission were published in a Ministerial Order on 16 May 1997 and the Commission first sat on 22 May 1997.

(f) *The Constitutional Council*

The Constitution provides for the establishment of a Constitutional Council with power to proclaim publicly the results of the elections, after verifying all polling operations on the basis of reports and documents forwarded to it by the National Commission for the Final Counting of Votes. It will comprise 11 members appointed by the Head of State from among persons of established professional renown and high moral integrity. Three will be designated directly by the Head of State, three each by the Presidents of the National Assembly and the Senate, and two by the Higher Judicial Council.

Under the terms of the Constitution, the Constitutional Council is the body entrusted to receive claims and challenges arising from the National Assembly elections. Such complaints must be received within the maximum prescribed period of four days from the closing of the polls. The Council may take additional evidence from parties or any individual serving as a representative of the government lodging complaints.

The Council has to adopt and proclaim the results within a maximum period of 20 days from the date of the poll.

As the Constitutional Council had not been created by the time of the 17 May 1997 parliamentary elections, the powers of the Council were being exercised by the Supreme Court, all the members of which were appointed by the Head of State, on the advice of the Higher Judicial Council.

The four days immediately after the poll on 17 May included three public holidays. We sought and received assurances from MINAT and the President of the Supreme Court that their functions would not be disrupted by these holidays. However, on visiting the *Palais de Justice* on 21 May, we were informed that because of the holidays which had disrupted the compilation of results by Divisional Supervisory Commissions, a certain latitude had been exercised in receiving challenges after the allocated time. At the time of writing this Report, the Supreme Court had not sat to consider matters arising from the elections.