BANANA REPORT: THE BONE OF CONTENTION AND ITS ACIDIC POLITICAL TASTE

The banana plantations: A source of corruption and human rights violation in Njombe-Penja

(Littoral Region, Cameroon)
Every effort has been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of June 2014. Nevertheless, Transparency International Cameroon cannot accept responsibility for the consequences of its use for other purposes or in other contexts.

Printed on 100% recycled paper.
TABLE OF CONTENTS

FOREWORD .................................................................................................................. 4
INTRODUCTION .............................................................................................................. 5
   Overview of the Njombe – Penja Subdivision ............................................................. 7
   Objectives of the study ............................................................................................... 9
   Methodology .............................................................................................................. 10
THE POLITICAL ECONOMY OF BANANAS AND ITS VARIOUS COMPONENTS ......... 11
   Production and the international trade of bananas .................................................... 11
   The Banana wars in the form of political and commercial conflicts ....................... 12
A CRITICAL HISTORY OF THE BANANA FROM ITS COLONIAL ORIGINS .......... 13
   Historical Background ............................................................................................. 14
   Actors in the banana-production sector in the Njombe-Penja Subdivision ............. 15
   The socio-economic profile of the Plantations du Haut Penja .................................. 16
   The Socio-Economic profile of "La Société des Plantations de Mbanga (SPM)"......... 17
THE BANANA AGRO-INDUSTRY: A NEST FOR TAX FRAUDSTERS ..................... 17
   The case of the Penja Rural Council ........................................................................ 17
   Proven cases of tax fraud ......................................................................................... 18
   The written response from the Directorate General of Taxation ............................. 19
THE BANANA AGRO-INDUSTRY: AN ARENA FOR HUMAN RIGHTS VIOLATIONS 20
   The behaviour of banana agro-industrial companies and their culpability in criminal
   activities ..................................................................................................................... 20
   Case Study: The Paul Eric Kingue Case .................................................................... 21
   A political and judicial plot? .................................................................................... 23
   Paul Eric Kingue vs the political and judicial steamroller ....................................... 24
   Lessons to learn from the Paul Eric Kingue case ..................................................... 31
THE BANANA AGRO-INDUSTRIAL COMPANIES- LAND ENTITLEMENT SUPERPOWERS 32
   The case of GPPAF CIG ......................................................................................... 33
   The judicial component of the PHP-GPPAF case ..................................................... 34
   Lessons .................................................................................................................... 37
THE BANANA AGRO-INDUSTRY: DAMAGE TO THE ENVIRONMENT ............. 38
   Increasing and recurrent problems related to pollution ......................................... 38
   The Proliferation of human rights violations ............................................................ 41
CONCLUSION .............................................................................................................. 42
ACRONYMES .............................................................................................................. 43
ANNEXES ................................................................................................................... 44
FOREWORD

The traditional view on Transparency International (TI) has often portrayed the organisation as a solely political entity, one that spends most of its time ranking states, public and private institutions; or less prosaically, as a pressure group used by the powerful against those with less power.

However, many are quick to forget the vision, missions and objectives of TI, as well as the role its local Chapter play in a developing country that aims at becoming an emergent country like Cameroon.

Since civil society has an important but delicate role to play in monitoring the relationship between governments and private companies, we have decided to lend our voice to the local population of Njombe-Penja on debates where they are for the most part side-lined.

Thus, by its committed engagement, this study should provide a diverse picture of this topic, and contribute in a debate about the exceptionally complex of banana production and the lucrative trade connected to it.

Transparency International Cameroon is extremely grateful to all those who agreed to take part in this study. The organisation is also thankful to its investigators for their dedication and availability in producing this study.

Charles Nguini, President
INTRODUCTION

Bananas at the centre of a regional system of domination and exploitation: collusion, corruption and coercion

Located in the heart of Central Africa, Cameroon is a country so well endowed by nature that it can justly be considered a real-life Eldorado. It has great economic potential, largely stemming from its rich soil, hydrologic (water), mineral (sub-soil), and biological (flora and fauna) resources, all of which position the country as a true agro-pastoral garden of Eden. For this reason, the greater part of its economic strength is built on this agro-pastoral potential. Political and institutional authorities who have controlled the state since the country gained independence in 1960 have indeed made agriculture a key sector for the economic development of Cameroon.¹

The option to base Cameroon’s economic growth on agriculture, as an ideal way of developing its natural resources, has given the authorities both a precious source of revenue and an opportunity to cater for the rural communities that rely on agriculture as their livelihood source of income.² Improving the living conditions of the rural population has been a key factor in the implementation of a planning policy that aims at substantially increasing the agricultural subsistence crop, as well as the industrial productivity. As a result, this sector employs between 40% and 60% of the working population of Cameroon.³ In 2003, the sector yielded close to 1.300

² ibid
billion CFA Francs in gross domestic product (GDP), which accounts for approximately 20% of total GDP and more than a third of the country's foreign exchange earnings.\(^4\)

For a long time now, banana cultivation has been one of the key components in the development of the agricultural sector in Cameroon, and has been the recipient of much of the enthusiasm directed towards agricultural development in the country. At the start of the 1980s, the Cameroonian Banana Organisation (OCB), a parastatal in development, was mandated to organise the banana trade sector.\(^5\) For this mission, the OCB was made financially autonomous, guaranteed by the allocation of government grants so as to ensure adequate production, assist growers and provide Cameroonian banana operators with loans and agricultural inputs. The attractive and enticing prospect of the banana trade, together with the possibilities of large-scale land acquisitions within the banana sector (land up until then almost considered terra nullius) aroused the interest of several multinational companies to enter the industry in Cameroon. Up to 1988, the banana sector in Cameroon was organised based on the coexistence of subsistence crop cultivation and industrial cultivation.\(^6\) In 1988, the organisation of production was subject to upheaval following the dissolution of the OCB, which simultaneously sounded the death knell for small banana producers. From this point onwards, banana-producing agro-industrial firms, consisting of major international groups, had free access to the sector. Under this system, Cameroon's banana industry recorded formidable growth, and the banana now occupies first place in the rankings of Cameroon's top export crops. As such, it is one of the most dominant economic sectors in the country.

\(^4\) ibid  
\(^5\) 1960-1980 set the stage for a planning policy aimed at stimulating economic development through intense agriculture. The policy targeted, above all, industrial agriculture and its exports (banana, rice, palm oil, sugar cane, rubber, tea, cotton... etc.). Parastatals were created with the aim of organising and boosting these sectors with technical and financial support, thus the appellation "Development Corporation", the most renowned being SOCAPALM, HEVECAM, SODECOTON, SODECAO, UCCAO, and of course, OCB.  
\(^6\) FAO: institutional arrangements for small-scale banana producers in Cameroon, Inter-governmental Group on Banana and Tropical Fruits, April 2011.
Cameroon’s bananas are considered among the best in the world\(^7\), and the country strives to attain first place in the rankings of the Africa-Caribbean-Pacific area (ACP)\(^8\), whilst the sector has also become one of the largest employers in Cameroon. The sector exported 297,210 tons of bananas in 2011\(^9\), with an average yearly production of 300,000 tons, and generates approximately 170 billion CFA Francs annually. In Cameroon, activities in this sector are conducted on land controlled by major agro-industrial firms, with farms located in the Moungo Division, Littoral Region.

The Moungo Division, which is curiously banana shaped on the map, is of strategic importance in the cultivation of bananas.\(^10\) This is due to the fertility of its volcanic sub-soil, its conducive climate, the industriousness of its agricultural labour force, and the deeply rooted plantation economy introduced during the colonial era. As such, the Moungo Division is the promised-land for banana producers in Cameroon. It is in this Division, filled with a long and rich economic history of banana cultivation, that the Njombe – Penja Subdivision is found, one of nine Subdivisions in Moungo. For many decades now, this Subdivision has been home to several companies involved in banana cultivation. Indeed, Njombe–Penja is home to two of the three largest private banana producers in the country: **les Plantations du Haut Penja (PHP)** and **Société des plantations de Mbanga (SPM)**. The Subdivision is also home to research stations for organisations such as the **African Research Centre on Banana and Plantain (CARBAP)**.

**Overview of the Njombe – Penja Subdivision**

An administrative unit with a turbulent history much like the rest of the Moungo Division, the Njombe-Penja Subdivision attained the status of territorial constituency by Presidential Decree N° 92/206 on 05 October 1992.

---


\(^8\) The daily newspaper Mutations, ‘Cameroon can become the 1st producer of banana in ACP countries’ Jean-Yves Brethes, CEO of SPM. Interview available on the website: www.Quotidienmutations.info


\(^10\) www.mincom.gov, geographical data on the Moungo Division.
The Subdivision stretches over an area of 260 km², with a population of 95,000 inhabitants.

The Penja Council for its part is a municipal-type local authority which was created by Decree No. 93/321 on 02 November 1993. It has a population of 31,792 inhabitants (2005 Population Census) and includes the town Njombe-Penja as well as the Bouba village.

Relations between the local population and banana agro-industrial groups in Njombe-Penja are not cordial. This is due to the fact that the industrial cultivation of bananas, just like in other agro-industries, is a source of numerous tensions that fuel disputes. From land grabbing to atrocious working conditions, to low wages and widespread pollution, the list of misdeeds blamed on banana-producing firms in the sector is a long one. Whilst it is true that the banana sector employs the majority of workers in this region, its local institutions and governance have contributed to a marked deterioration of the social situation in the Njombe-Penja Subdivision. Due to such problems, relations between the local population and the companies that run these plantations are generally tense. This was particularly the case with the so called “hunger strike” protests in February 2008, and Njombe – Penja was a central region that experienced clashes during these protests.

In a country awash with wheeler-dealing, a tell-tell sign of corruption, the banana sector in Njombe-Penja is one of the strongholds of such activities. It has become a source of greed because of the huge potential profits, real or alleged, the sector has to offer. Indeed, these potential profits attract multinational companies together with other actors such as...

---

12 Fanny Pigeaud, Indigestion de terres pour la République bananière, Défis Sud n° 89, Bimestriel juin-juillet 2009.
13 According to the NGO Transparency International, Cameroon was found twice (in 1998 and 1999) to be the country with the highest perceptible corruption index. However, according to the 2011 report of this NGO, there has been a significant drop in its ranking (134th). Nevertheless, corruption in the country remains endemic.
public administrators in the country. Satisfying the interests of these different actors is not always done in accordance with the human right laws recognised and set out in the preamble of the Constitution of the Republic of Cameroon. This reports was motivated by the authors’ perception of this state of affairs. It sets out to investigate the alleged crimes and misdemeanours carried out by business interests connected to the major banana agro-industry in Njombe-Penja.

This study, which focuses in particular on the industrial cultivation of bananas in the Njombe-Penja Subdivision, aims at evaluating the phenomenon of human rights violation within the global context of developing agro-industries in Cameroon. The study is particularly justified following the persistent complaints of local people in Penja regarding problems they suffer as a result of the actions of major industrial groups operating in their communities. The study examines these complaints put forward to the legal bodies responsible for settling such disputes.

**Objectives of the study**

This study has been conducted by Transparency International Cameroon (TI Cameroon). It was motivated by a complaint lodged by Mr Paul Eric Kingue (former Mayor of the Penja Council) accusing the company PHP, operating in the Njombe-Penja Subdivision, of corruption. It aims to elucidate these corruption allegations so as to enable TI Cameroon to be in a position to act in accordance with its mission to monitor, promote and strengthen the standards of good governance and the fight against corruption in the private sector. The aim of TI Cameroon, which has also been chosen as a technical partner of the GIZ-BCA business integrity project, is to investigate the commitment of PHP to good governance.

**Transparency International Cameroon** shall focus on ensuring that the commitments of PHP are in line with the principles of corporate social responsibility, to which the Compagnies Fruitières (majority shareholder of PHP) and Dole Food Inc. (40% stakeholder in Compagnies Fruitières) groups are bound. This study, commissioned by TI Cameroon, places
particular emphasis on acts of human right violation carried out in the banana industry in the Njombe-Penja Subdivision. It also focuses on issues relating to social responsibility that are fully demanded of PHP. Again, the study shall look at the nature of relations that exist between PHP and Cameroonian political, administrative and legal institutions, its relationship with the local population and their implications.

**Methodology**

This study is in the form of **applied research**. For this reason, the study is based on a methodology that includes a document analysis phase and a field analysis phase. **The document analysis phase** mainly comprises a review of available literature on cases of human rights violations, the social responsibility of the company and corporate governance. **The field analysis phase** analyses the contractual agreement between PHP and the government of Cameroon, the company’s financial obligations resulting from this agreement and its tax history throughout its long stay in Cameroon.

The field analysis carries out a detailed investigation of the trilateral trade ties between PHP, **Companies Fruitière** and **Dole Food Inc**. This will make it easier to ascertain the facts whilst also determining the impact of these human rights violations on the daily lives of the local population. To achieve the above, the study has carried out interviews with the different actors and operators in the industry: the local population, employees of PHP, local administrative and political authorities, civil society organisations, and private companies. By collecting this necessary and pertinent information, a clear and appropriate analysis of the prevailing situation in the banana agro-industrial sector in Njombe-Penja could be realized.
THE POLITICAL ECONOMY OF BANANAS AND ITS VARIOUS COMPONENTS

The banana sector is a key component of Cameroon's agro export political economy, and is a path to both profit and power.

Production and the international trade of bananas

As an agricultural product, the banana is one of the most important products in international trade. It occupies an important position relative to other traded agricultural products, sitting just behind cereals, sugar, coffee and cocoa, whilst also existing as one of the major sources of food the population of many developing countries. As a key product in the international food trade, the importance of the banana has been increasing in both the national and international geopolitical arena, particularly in those countries where it is grown. Bananas rely on a system whose structure symbolises the persistence of neo-imperialist and neo-colonialist dynamics within the globalised agricultural economy.

Six countries (India, Brazil, Ecuador, The Philippines, Indonesia and China) dominate the economic map of global banana production (55%). The international trade in bananas, it has become truly global, dominated by three major multinational firms- Chiquita Brands (formerly United Fruit), Del Monte, and Dole Food Inc. These three companies control 65% of the world’s banana exports, thereby enjoying a dominant position internationally. The global banana industry is particularly influenced by countries such as India and Brazil, which are among the leading banana producers. However, they are barely a part of the international banana trade. This situation is usually explained with reference to local consumption, attesting to the dominant position the banana holds in the diets of the local populations in these countries.

The international banana trade is dominated by three countries- Ecuador, Costa Rica and Colombia. It is as a result of economic convenience that these Latin American countries play host to the industrial and
commercial might of the giant multinationals that trade in bananas. For African countries, bananas remain an essential product for food security. For this reason, most of their production is destined for local consumption, and as a result Africa has remained a minor actor in the international banana trade. In 2007, Cameroon, Cote d’Ivoire and Ghana combined accounted for less than 4% of the world’s banana production. This justifies the view that Africa occupies only a minor position in the global banana trade.

In 2010, the African-Caribbean-Pacific (ACP) group countries had total export figures that represented about 23% of the international trade in bananas. These bananas produced in ACP countries are exported mainly to European Union countries. The main reason for this is that, since 1993, products from this area enjoy preferential access to the single market. Such preferential treatment, which runs counter to current competitive rules regulating international trade as set by the neoliberal policy of the World trade Organization (WTO), owes to the former colonial links with these countries. However, Latin American banana producers that have been excluded from this preferential treatment have criticised the system as being contrary to the new international free trade rules.

**The Banana wars in the form of political and commercial conflicts**

The "Banana wars" refer to the political and commercial disputes that arose between the EU and Latin American banana-producing countries. These disputes were laid to rest following the signing of the Geneva Agreement on the Trade in Bananas. Based on the terms of this agreement, from 15 December 2009 to 31 December 2010, preferential tariffs would be applied to bananas from Latin America destined for European markets. In the wake of this agreement, which saw the signing of, among others, the 2006 Cotonou Agreement between EU countries and ACP group countries under the auspices of the WTO, the EU adopted new laws on bananas. The

---

14 FAOSTAT 2007.
EU introduced a scheme to reduce the preferential treatment that had previously been bestowed on ACP bananas.

A number of decisions were taken to help the banana industry in the ACP countries adapt to these new and much more flexible European rules on the banana trade. Thus, with Cameroon, the EU provided the country with financial aid through the Special System of Assistance (SSA), which was aimed at helping the country negotiate the new trading scheme. This financial assistance was shared, on the basis of professional quotients, among the following major industrial operators in the country: the SPNP, SBM, PHP groups, COC, Del Monte, CDC, Agrisol Ekona and plantations de Manengouba SA(MBA). This aid to the banana agro-industries in Cameroon could help explain the export boom that followed; in 2006, the industry’s exports were 2.5 times higher than in 1990. Accompanying measures for the banana sector, planned for 2012, seem to augur a new era for the banana industry in Cameroon, with the sector now obliged to adhere to the new rules of international trade, particularly on the productivity requirements and competitiveness requirements imposed on banana-producing ACP countries.

A CRITICAL HISTORY OF THE BANANA FROM ITS COLONIAL ORIGINS

There are three versions of the story of the origin of banana cultivation in Africa. The first standpoint holds that bananas were introduced in the 16th Century by Portuguese navigators. The second view suggests that bananas were brought to Africa in the 8th Century AD by the Arabs and Persians. According to Norman Simmons, the third account puts forward that bananas were introduced into Africa around the 10th Century. However, archaeological discoveries suggest that the origin of banana cultivation can be traced back to 2500 years ago.
Historical Background

The organisation of industrial banana cultivation in Cameroon can be traced to the German colonial period (1889-1916) following the establishment of Cameroon's plantation economy. The proper realisation of Cameroon’s (then a Protectorate, or ‘Schutzgebiet’) potential was via agriculture and infrastructure, both of which materialised during German colonisation. Within this context of colonial domination and exploitation, large plantations of export goods such as coffee, rubber, palm oil and bananas were established with the aim of supplying metropolitan Germany. This exploitative economy favoured land grabbing and dehumanising working conditions, and would eventually lead to revolts in the plantations of the Douala region, as well as sparking tax strikes. Nevertheless, Germany's colonial domination was never questioned throughout this period. The system of colonial plantation agriculture was maintained thanks to the corporate interests of the colonial powers such as France, in spite of the transition to a territory under Mandate (1914-1946) and then to a Trusteeship (1946-1960).

Independence in 1960 was accompanied by a drive to transform the agro-industrial economic and political landscape. From this period on, the new post-colonial authorities shaped government policies to turn Cameroon's agriculture into a driver of growth and development in the country. By so doing, they turned their backs on the colonial regimes that exploited and ultimately controlled industrial banana cultivation. What followed was the cohabitation of private agro-industrial companies in the banana trade with small producers- under the supervision of the OCB, which served as the State regulatory body. This cohabitation regime was called into question following the dissolution of the OCB in 1988, which also marked the end for small producers.

The dissolution of the OCB brought about a radical upheaval in the banana sector in Cameroon, which moved towards a regime marked by

---

15 For more on this, refer to page 5 of this document.
liberalised production and trade. In fact, the Association of Banana Producers/Exporters of Cameroon (ASSOBACAM), created in 1988 as the successor to the OCB, did not continue the latter's mission of supporting small banana producers, who were ultimately doomed as they struggled to stand up to the challenges of a competitive market. This opened up the way for private operators who, for the most part, comprised major foreign industrial firms. These major foreign companies, specialising in banana production, took advantage of the situation to strengthen their grip on existing banana plantations. These large firms were aided by the fact that certain production areas such as the one in Njombe-penja, in the Penja Council, became the private property of the PHP group. This major group went on to strengthen its grip over land ownership in this region by producing (predominantly) bananas and pineapples for the EU and pepper for local markets.

**Actors in the banana-production sector in the Njombe-Penja Subdivision**

In the absence of small banana-producers, the banana sector in Cameroon in general and Njombe-Penja in particular is dominated by national and international institutions, local and foreign research bodies, and private and public companies. Thus, at the national institutional level, the following ministries are involved: The Ministry of the Economy, Planning and Regional Development (MINEPAT), the Ministry of Trade (MINCOMMERCE) and the Ministry of Agriculture and Rural Development (MINADER), with ASSOBACAM completing this list. Regarding foreign institutions, the European Union (EU), the European Commission (EC) and the World Trade Organisation (WTO) are all involved.

Research bodies that operate in the banana sector in Cameroon include the Institute of Agricultural Research for Development (IRAD). Moreover, international bilateral bodies such as the French-based Centre for International Cooperation on Agricultural Research for Development (CIRAD), and multilateral bodies such as the African Research Centre on Banana and Plantain (CARBAP), the International Institute of Tropical
Agriculture (IITA), and the Food and Agricultural Organisation (FAO) are all active in the industry. In addition to these research institutes, three companies are present in the Njombe-Penja banana sector: "Plantations du Haut Penja (PHP)", the “Société des Plantations de Mbanga (SPM)” and the Douala Port Authority (PAD).

The socio-economic profile of the Plantations du Haut Penja

![Figure 1: Entrance to PHP](image)

In 1990, "Compagnie Fruitière" was able to acquire a majority stake in the now defunct Cameroonian Banana Organisation (OCB), the state-owned company created in 1968 that was in charge of organising the banana-production sector whilst also helping Cameroonian small-scale producers.

PHP has become one of the two major agro-industrial operators in the banana sector in the Njombe-Penja Subdivision, controlling 3000 to 6000 hectares of farm land which yield 120,000 tons of bananas each year, amounting to 45% of Cameroon's total banana production. The company also employs almost 6000 persons. Thus, PHP has become a veritable agro-industrial colony at the heart of the Moungo Division, and exists as the number one employer in the region and Cameroon's largest private sector employer.
The Socio-Economic profile of "La Société des Plantations de Mbanga (SPM)"

SPM is a French-owned company, based mainly in the Mbanga Subdivision. The company produces some 40,000 tons of bananas each year, and has a production capacity that ranks the company as the third largest agro-industrial firm in the banana sector, behind CDC and PHP. The company employs some 2000 workers and plans to increase productivity to 60,000 tons per year in the future, with a workforce of 3000 persons. In agreement with the two other companies, SPM provides advice and support in the development of new projects and the extension of pre-existing ones. The company has signed a contract with CDC to provide technical assistance for the development of 1,750 hectares of banana plantation. It is equally involved in another project, in collaboration with Cameroonian private investors, to develop 1,500 hectares of banana plantation. Through the restructuring of its production and finances, the company expects to contribute 500,000 tons of banana production to the industry.

THE BANANA AGRO-INDUSTRY: A NEST FOR TAX FRAUDSTERS

Companies in the banana sector in the Njombe-Penja area are extremely influential and are well disposed to use their economic and financial strength to collude in order to protect themselves from not fulfilling their tax liabilities.

The case of the Penja Rural Council

The Penja Council plays host to two of the three major banana-producing companies in Cameroon- the PHP and SPM groups. These companies have turnovers running into the billions of CFA francs. Ironically, in spite of the presence of such commercial giants, the Penja Council operates on a curiously modest budget, especially given that the production companies in this region would be capable of increasing the Council’s tax revenues considerably.
Based on this paradox of a local council with an inadequate budget and the long-term presence of the powerful PHP and SPM groups in the area, Mr. Paul Eric Kingue (the then Mayor of the Council) decided to seek the services of a Yaoundé based accounting firm in order to reliably evaluate the tax potential for his council. The findings of this evaluation revealed that the Penja Council was losing 2,750,000,000 CFA Francs\(^{16}\) in taxation. This was due to the non-compliance of the PHP, SPM and CAPlain Groups, who have paid no taxes for almost to 30 years.

This tax fraud led to efforts by Mayor Kingue to remedy the situation; ultimately, however, only a slight increase in the Council’s budget was achieved (from 150 million CFA Francs previously to 256 million CFA Francs in 2008).

**Proven cases of tax fraud**

During the investigation, it was proven that the tax-exemptions awarded to the agro-industrial companies operating in the Penja area, were gracefully granted. This reveals the existence of collusion, something that has had and continues to have a severely negative impact on tax revenues.

---

\(^{16}\) Equivalent to EUR 4,192,347
In fact, these exemptions, unduly granted to such companies operating in Penja, were a violation of the legal provisions set out in Article 160 of the General Tax Code. According to this Article, the aforementioned companies are obliged to acquire a business licence, with the proceeds from the licence fee going to the Penja Council. Furthermore, as stated in Article 156 of the General Tax Code, the non-payment of this licence fee, disqualifies the Council from receiving an additional 3% deferred from a national tax based on the company’s turnover as per Order N°0013/MINAT/13 January 1999, (See annex 6).

In addition to this business licence, 13 other direct council taxes and 2 local council decisions were not paid by companies operating in the area. This raises the suspicion that these companies have been involved in tax fraud for a long time; a practice that drastically reduces the tax revenues potential to which the Penja Council can rely on as a guarantee of a stable and consolidated budget. This is the situation Mr. Kingue planned to highlight and find solutions to. The constant recurrence of tax fraud practices is proof of the serious disregard these companies demonstrate towards the notion of good governance, the fight against corruption and their own social responsibilities, and also shows the destructive impact of collusive and corrupt behaviour on the Penja Council.

The written response from the Directorate General of Taxation

To shine more light on this issue, Mr. Kingue contacted the Executive Directors from both banana companies concerning tax discrepancies with the Penja Council and further issued a request for information. The response from the banana companies to this request comprised an attempt to corrupt him. Having been asked for clarification about their tax situation with the Penja Council, the PHP and SPM groups rather attempted to sign a

17 The daily Mutations, Le Cameroun peut être 1er producteur de banane des pays ACP, interview with Jean-Yves Brethes, PDG SPM, Op.cit., available on the website Quotidienmutations.info
corruption pact with Mr. Kingue, a strategy geared towards protecting themselves and their illicit tax arrangements.

Furthermore, in his correspondence N°5031/MINFI/DGI/LC/L, the Director General of Taxations confirmed the relevance of Mr. Kingue's request. In this correspondence, the Director General announced the reclassification of these banana-production companies within the common-law scheme, beginning from the following financial year. From this period onwards, Mr. Kingue became the target of numerous attacks and threats made by the heads of the major banana-production firms controlling general production in the Moungo Division, in particular those in Njombe-Penja Subdivision. The Mayor of Penja was then faced with the wrath of Mr. François Armel (CEO of PHP) and later the heads of the two other companies involved, who swore to have it back “by way of millions” of FCFA.

**THE BANANA AGRO-INDUSTRY: AN ARENA FOR HUMAN RIGHTS VIOLATIONS**

Due to their economic capacity, their political power and their social influence, banana production companies have often been seen to facilitate human rights violations.

**The behaviour of banana agro-industrial companies and their culpability in criminal activities**

As outlined above, the banana-production companies operating in the Moungo Division occupy a strategic position. In fact, these companies have developed such influence and power that they now have the ability to constantly decide on the fate of the daily lives of local populations. Due to their cosy relationship with the administrative or political authorities, these companies are for the most part protected by these institutions, which receive favours in return.
The PHP and SPM groups have been blamed for numerous rights violations regarding their workers and local communities. These banana-production companies in the Njombe-Penja Subdivision are accused of land grabbing, soil, water and air pollution, and the total disregard for workers’ rights and local governance. These accusations are corroborated in a 2007 report written by the Cameroonian NGO “Réseau de Lutte contre la Faim (RELUFA)” (Network for the Fight against Hunger). The report mentioned multiple violations of the laws of Cameroon, together with human rights violations, perpetrated by the PHP Company. In fact the PHP is also accused, amongst other things, of failing to fulfil its tax obligations, as defined at the end of Section 162 of the General Tax Code.

**Case Study: The Paul Eric Kingue Case**

The Paul Eric Kingue case is a real-life political drama that reveals the harmful impact of banana agro-industrial companies in the Penja municipality as they use their influential resources to crush anyone considered to be working against their interests.
A vivid portrait of Paul Eric Kingue: profile of the man who had to be silenced

Mr. Paul Eric Kingue, serving as the legitimate elected Mayor of Penja, was arrested in February 2008, accused of being one of the main instigators of the violence and protests that occurred in the towns of Njombe and Penja during Cameroon’s “Hunger Strikes” in February 2008. The son of a planter and hailing from the Njombe-Penja Subdivision, he has since childhood been acquainted with the arbitrary power exercised by agro-industrial companies that control the area.

Confronted by these all-powerful groups, companies that have seized the lands of the local population and left them to wallow in misery, Paul Eric Kingue saw in this a sufficient reason to get involved in politics.\(^\text{18}\) It is on this issue that Paul Eric Kingue built his reputation as a politician and local councillor, and he has dedicated his career to defending the local populations of the Moungo and improving their living conditions.\(^\text{19}\) The former mayor of Njombe-Penja therefore got into politics in order to change the prevailing situation of injustice and plunder that affects the population of Moungo. These people are paradoxically marginalised whilst their lands are being exploited by the big agro-industrial companies, who are the main beneficiaries of Njombe-Penja’s natural riches, this being one of Cameroon’s bread baskets.

A local councillor’s fight for social justice and its consequences

Paul Eric Kingue entered politics in order to ardently defend the rights of people in his community, and as such began his political career in the Moungo Division. Here he held successive elected positions; first he became subsection president of the ruling party Cameroon Peoples’ Democratic Movement (CPDM) before going on to become elected mayor of Penja at the end of the 2007. Shortly after his election, the new mayor was confronted

\(^\text{18}\) Paul Eric Kingue, « Un pan de ma vérité », p.3.
\(^\text{19}\) Ibid.
with the disheartening reality of local governance in Cameroon. He was faced with having to deal with the sorry state of the council’s administrative services and a huge debt related to unpaid electricity bills.

The new mayor took office on 25 September 2007. His first challenge was having to deal with the many months of unpaid electricity bills as well as the 3-month salary arrears suffered by council employees. It was then that Mr. Kingue discovered that the Senior Divisional Officer (S.D.O) for the Moungo region and the Divisional Officer (D.O) for Njombe-Penja, through the civil administrators, were collecting a monthly sum of 500,000 CFA Francs from the Penja council coffers. He also discovered that the S.D.O.’s secretary and driver, neither of whom were council employees, were also recipients of money from the council. Worse still, Mr. Kingue made a shocking discovery after going through the council’s financial records; namely, that none of the agro-industrial companies operating in the Penja municipality (PHP, SPM, and CAPLAIN) had paid any taxes to the Penja Council for almost 30 years. The mayor then undertook to put an end to this non-payment of tax, thereby igniting a republican and civil battle that would earn him the scorn of these agro-industrial giants.

**A political and judicial plot?**

According to Mr. Paul Eric Kingue himself, it is his efforts to force PHP to clear their debts with the Penja Council that have provoked such bitterness among the heads of these influential companies. The local councillor was compelled to handle the matter like a real case of debt settlement, calling on the CEO of PHP, political elites (some of whom were on the company’s payroll) and administrative authorities in an attempt settle the dispute.

**The February 2008 protests as a pretext to the political lynching.**

February 2008 will be remembered as a time of great instability and turbulence in Cameroon’s socio-political history. This month was

---

characterised by a surprising surge in social discontent, expressed through popular demonstration against the high cost of living. The Moungo Division has been a cauldron of social discontent and political protest since the colonial era, sometimes manifesting itself in armed conflict, and was in this instance accompanied by the turbulence triggered by social protest that began in Douala. This backdrop explains how the violence reached the Penja Council. The community witnessed serious unrest on 25-26 February 2008, which culminated in the intervention of the army and the police to restore calm on 27 February 2008. Despite his concerted effort to calm the rioters (in collaboration with the D.O.), Mayor Kingue was in fact accused of instigating these violent demonstrations in the Njombe-Penja Subdivision. Since then, Mr. Kingue has found himself confronted with considerable political and judicial bulldozer.

**Paul Eric Kingue vs the political and judicial steamroller**

On the request of the State Prosecutor, an initial hearing was held at the Nkongsamba Court, followed by a later hearing at the High Court. Here, the mayor was formally accused of aiding and abetting the looting and plundering that had occurred during the riots, as well as being accused of inciting this revolt, with the prosecuting parties comprising the State, PHP and SPM. Since the trial, many have sworn to destroy the mayor of Penja. Mr. Kingue’s first trial ended with him being suspended from his mayoral duties for 3 months by the Minister of Territorial Administration and Decentralisation; a trial conducted with disregard for the provisions that outline under which circumstances a mayor may be suspended in the case of his/her committing a criminal offence (Article 94, Paragraph 1, 2 and 3 of the 2004 Law on Decentralisation).

The protests were a political trap that snared Mr. Kingue, much to the delight of his opponents bent on bringing about his downfall. One of the protesters in Penja revealed to the media that he had been approached and coerced by some politicians and the judicial authorities of the Nkongsamba Magistrate Court, through financial incentives, to incriminate Mr. Kingue. From then on, the legal machinery was positioned to bring down Mr Kingue,
who was faced with a plethora of various charges and court trials. Three cases in particular corroborate this claim:

1. The case of the February 2008 riots;
2. The case of the embezzlement of 1,400,000 CFA Francs;
3. The case of the embezzlement of FCFA 10,292,000 CFA Francs.

1. The February 2008 protests as a trigger: Paul Eric Kingue vs the State Prosecutor; PHP, SPM, Daniel Songa et al.

**Review of the facts.**- The strike initiated by the National Syndicate of Bus and Taxi Drivers degenerated into a wave of protests, so called, “hunger strike” staged across Cameroon from 25-28 February 2008. In Penja, this manifested itself in multiple acts of vandalism perpetrated predominantly by youths: the breaking and entering into PHP warehouses and offices, burning of cars, looting of plantations, and other crimes.

Paul Eric Kingue, as mayor of the town, watched the riots from his home, and came out only after being forced to do so by the population after a young protester was shot by law enforcement officers on 27 February. Mr Kingue, travelling to the Gendarmerie alongside the D.O., addressed the angry crowd and managed through this intervention to bring peace and calm back to Penja.

At 1:00pm on 29 February 2008, he was suspended from his duties without explanation by the Minister of Territorial Administration and Decentralisation. One hour later, he was placed under arrest by the Nkongsamba Gendarmerie force.

Mr Kingue was accused of the following; mobbing, holding illegal meetings and organising protests (in accordance with law no 90/055 of 19 December 1990 on public meetings and demonstrations), mounting roadblocks, aiding and abetting arson, looting, destruction, dangerous activities, aggravated theft, and obstruction.

After a swiftly initiated trial, Mr. Kingue was sentenced by the Criminal Department of the Moungo High Court in Nkongsamba to 6 years
imprisonment and asked to pay 800,000,000 CFA Francs in damages to PHP.

The Littoral Court of Appeal in Douala later reduced the fine to 100,000,000 CFA Francs and reduced the prison sentence to 3 years after clearing Paul Eric Kingue of the charges of mobbing, holding illegal meetings and organising protest and roadblocks.

Since the Littoral Court of Appeal in Douala reassessed these sentences in 23 March 2011, the former mayor has been held in custody solely on the charge of aiding and abating looting. This demonstrates the manipulation undertaken throughout the judicial process, and as such it is impossible to be indifferent about this!

In fact, the evidence presented by the D.O. of Penja, Mr. Akoue Mengue Richard, indicates that he and Mr Kingue worked together to call the protesters back to order and restore peace to the Njombe-Penja region. These facts were confirmed by the Gendarmerie commander, Enonguene Soumelong; nevertheless, the Court of Appeal waved all these testaments aside and pronounced the following judgement:

“It is unquestionably the case, and has not been formally disproven, that: -the accused, Mr Paul Eric Kingue, was the leader of a gang of youths devoted entirely to his cause and to whom he offered generous gifts;

Considering that Paul Eric Kingue spread unacceptable, intolerable and reprehensible messages to these youths...

That Mr. Paul Eric Kingue, prior to the acts of looting, had deliberately made aggressive statements that instigated the perpetration of appalling acts by protesters (abating instigation), and that during the perpetration phase, he was as much involved as these protesters”.
Even though nobody testified to having seen Mr Kingue leading the protesters, the Court of Appeal stated peremptorily:

"That it is undeniable that the Syndicate of Transporters’ call for an industrial strike was just the desired opportunity for the protesters to act; the administrative authorities had lost the reins of control over the Njombe-Penja and was in a state of total confusion, owing to actions of Paul Eric Kingue”.

QED. The real reason for fiercely pursuing Kingue was made clear by this statement of the Court’s:

"That Francois Armel (Chief Executive Officer of PHP) was very precise during the preliminary investigation when he said: ‘Since he became mayor of Penja, the atmosphere in the Njombe-Penja village has been delicate because of the slanderous statements directed at PHP and its managers. Such an atmosphere, characterised by systematic hatred and resentment, creates avenues for situations such as the one that has just occurred”.

And, in a reproachful manner, even when this was the main reason of Mr. Kingue's struggle, the Douala judges added:

"That Ambomo Guy Modeste (co-accused) later added that it was Paul Eric Kingue who opened his eyes to our misery, to the living conditions in our country, where youths cannot go to school because their parents work, yet others benefit”

The truth is, Paul Eric Kingue had to suffer a Kafkaesque trial throughout; the judges had already formed their judgement before the trial even began, based on indirect testimonies from witnesses who simply appeared out of nowhere, in complete violation of the law. Judges even allowed testimonies from individuals who were not on the witness list. From infringements on the rights of the defence, to violations of the principle of equality, the mayor of Njombe-Penja had his plate full from the very beginning. This case is currently pending at the Supreme Court.
2. The case of the embezzlement of 1,400,000 CFA Francs; Paul Eric Kingue, Nsaba Clement, Ndedi Ruth Chantal spouse Salla and Fongano Polycarpe vs. the State Prosecutor and the Penja Council.

**Review of the facts.**- Paul Eric Kingue was elected Mayor of the Penja Council in the twin elections (legislative and municipal) of 22 July 2007. As the new mayor, he inherited a total council budget of 108,000 CFA Francs (164 EUR). Faced with the necessity of running the council as well as the cost of the inauguration ceremony for the newly elected councils (at an estimated cost of 2,800,000 CFA Francs), the newly elected mayor passed the Order no 01/AM/CIPJA, which was approved by the supervisory organ for the execution of the aforementioned amount.

Acting in accordance with this Order, on 18 December 2007 Mr. Kingue ordered the disbursement of the sum of 1,400,000 CFA Francs (order no. 24/D/C/PJA/07), as well as the payment of 1,500,000 CFA Francs (order no. 25/D/C/PJA/) on the same day. Of all these decisions submitted to the supervisory ministry for approval, only order no. 25/D/C/PJA was approved by the S.D.O. of Moungo; order no. 24/D/C/PJA/ was rejected for violating a "prefectural" Order which limits the budget of all installation ceremonies to 1,500,000 CFA Francs. Several months after this ceremony and the payment of the sum, the municipal tax collector who had paid in the money wrote a short letter to the Senior Divisional Officer of Moungo and the Divisional Officer of Njombe-Penja. In this letter, he claimed that the orders which he had inadvertently submitted were false and contained forged (scanned) signatures of the S.D.O. Paul Eric Kingue was accused of receiving various sums of money from the cashier, both before and after the inauguration ceremony, released on “pieces of paper” and amounting to 1,400,000 CFA Francs. Mr. Kingue was accused of trying to justify these illegal financial irregularities with fake orders with the SDO’s forged (scanned) signature.
This time the Mayor of Penja was charged with embezzlement of public funds, false entry, and falsification of documents and misappropriation of funds.

Mr Kingue was found guilty of embezzlement of public funds by judgement no 19/CRIM of 14 January 2011 at the Moungo High Court in Nkongsamba and was slammed a 10 years prison sentence as well as a joint fine (with the Secretary General of the Council) of 999,096 CFA Francs. The other defendants were acquitted due to lack of sufficient evidence.

Once again, Mr. Kingue found himself up against the political and judicial establishment and their steamroller, the most obvious being the manipulation of facts and evidence in the courts by the judges. It is clear from Mr. Nsaba’s complaint that he proceeded with the smooth payment of Order no 19 in his capacity as municipal tax collector; however, the court states that these payments were in fact made by the cashier, who in turn paid the mayor in three instalments. This is even found in the trial notes when the cashier took to the witness stand and declared that she had never made any payment to the Mayor, adding that she had paid agents at the request of the mayor, who had commissioned them.

It is incomprehensible therefore how the court’s judgement could end up reading thus:

"to conclude on the charge of embezzlement, Paul Eric Kingue has presented evidence namely in the form of invoices and receipts for services rendered during the inauguration ceremony...”

Towards the end, the statement reads:

“that in the absence of supporting documents justifying the use of the 1,400,000 CFA Francs, and whilst his term of office to run its full course, Paul Eric Kingue has been found guilty beyond all reasonable doubt of the charge of embezzlement of public funds brought against him..."
Other excerpts from this statement clearly highlight the contradictions in the judicial process and the tenuous legal basis for a just sentencing.

Additionally, whilst Mr Kingue was summoned to court charged with complicity in the embezzlement of public funds, the first judge declared that he acted alone and acquitted the other defendants in the case, instead of amending the terms of the trial (Articles 3 and 362 of the Criminal Procedure Code). This represents another violation of the criminal procedural code which should realistically render the final judgement null and void.

In this second case, no evidence was presented to prove that the accused had obtained or come to be in possession of council funds by fraudulent means. Having no proof, the court nevertheless came to the following conclusion in an attempt to implicate Mr Kingue:

“That if it is true that the bonds signed for this purpose were not produced during the trial, then it is no less true that an audit of the Nkongsamba treasury on 11 October 2007 would prove the existence of these bonds, something Paul Eric Kingue cannot take issue with (see overleaf of the 9th role, last paragraph).”

Finally, in this second “weird” trial, the Littoral Court of Appeals will clear Paul Eric Kingue of all charges (judgement of 26 Marc 2012).

3. The case of the 10,292,000 CFA (15,690 EUR) embezzlement

Review of the facts.- While in custody at Nkongsamba prison on another charge, new charges were brought against Paul Eric Kingue which resulted in a fresh trial held on 18 August 2009. For this, he was transferred to the New-Bell central prison in Douala without any consideration. This time, Mr Kingue was accused of embezzling 10,292,000 CFA Francs.

Mr Kingue was sentenced to life imprisonment for the embezzlement of 10,292,000 CFA Francs (judgement no 51/CRIM on 29 February 2012, Moungo High Court (MHC). In November 2012, this sentence was reduced to 10 years by the Littoral Court of Appeal in Douala. Throughout this
confusing and incompressible judicial process, many instances of obstructions of justice were committed from the very beginning.

For example, Mr. Kingue was unable to present his case at the court as this was never formally arraigned. Moreover, the judge reported things that Mr Kingue alleges he never said. Worse still, the jury found Mr Kingue guilty on the basis of a revoked decree. All of these irregularities were reported to the authorities, including the National Human Rights and Freedom Commission, and were then submitted to the Minister of Justice and the President of the Republic.

**Lessons to learn from the Paul Eric Kingue case**

The right to a fair trial, among many other rights, was established by and enshrined in the preamble of the Constitution of Cameroon. The many irregularities and violations highlighted by the Paul Eric Kingue case undermine the system created to protect these same rights and freedoms. Human Rights organisations interested in this case are unanimous in their denouncement of the flagrant Human Rights breaches committed during Mr Kingue’s trials. The judicial irregularities and seemingly arbitrary judgements handed down by the law courts seem to suggest a judicial conspiracy against the former Mayor of Penja.

The Paul Eric Kingue case highlights some ridiculous irregularities in the judicial process; for example, judge handed down a life sentence based on a non-existent provision of a revoked decree. The administration is also not an innocent party in this, assisting in what appears to be a case of judicial harassment. The KUETE Commission, mandated by the Ministry of Territorial Administration and Decentralisation (MINATD) to investigate accusations of forgery and false entry, allowed intimidation of Mr. Kingue to take place, and the elected mayor was ultimately relieved of his duties even before his supposed guilt was proven. It seems as if the administration desperately wanted to get rid of an embarrassing representative at all costs.

22 Letter from the Mayor of Penja to the Prime Minister.
THE BANANA AGRO-INDUSTRIAL COMPANIES—LAND ENTITLEMENT SUPERPOWERS

Banana companies in the Njombe-Penja Subdivision wield great influence in the area as a result of the huge land, economic and financial resources they own and control. The Njombe-Penja banana, as such, is not a subject open for public discussion. Cameroonian film director Franck Bilieu, responsible for the 2011 documentary “Big Banana” which focussed on the socio-economic conditions in industrial banana cultivation in Penja, had a very difficult experience, with the government banning the preview and distribution of the film without any explanation as to the reasons. Industrial banana cultivation therefore appears to be an activity the authorities do not want any light shed on.

The industrial cultivation of bananas in Cameroon poses a serious threat to land ownership and land use for the local population.

![Figure 4: One of PHP workers’ living quarters (camp)](image)

The truth is banana plantations, as agro-industrial production plants, take up a lot of space. PHP has therefore devised a strategy of land-grabbing...
which comprises a policy of continuously appropriating and acquiring land in the name of the agro-industrial plantation, one that already boast vast estates of land. This policy of intense land grabbing is perpetuated by the plantation company to the detriment of the local population, and by so doing reaps the benefits of the relationships it has forged with the administrative and political authorities.

**The case of GPPAF CIG**

Since 1990, members of the Common Initiative Group (CIG) "Groupement des Petits Planteurs et Autres Fruits de Njombe-Penja" (GPPAF) (Association of Small Planters and Other Fruits of Njombe-Penja) had been renting a 63 Hectare plot of land from the Bonandam indigenous community cooperative called SOPRABO, which enjoyed an administrative lease of 175 hectares of land from the State. As a result of the financial risk attached to SOPRABO, this group no longer enjoys the benefits of this land, which has now been leased to PHP. At the time, the members of the cooperative leased out this 63 hectare plot to the GPPAF CIG at an annual cost of 20,000 CFA Francs/hectare.23

GPPAF CIG members lost their 63 hectares when the entire 175 hectare plot leased to the Bonandam community was transferred to PHP by the Moungo S.D.O. on a long-term basis. In a bid to avoid direct conflict with the population, the company signed a memorandum of understanding with the Bonandam community in which SOPRABO received 63 hectares on the condition that it would settle any existing disputes in the community and would also take part in the expulsion of “foreigners” who occupied these lands. Consequently, in 1995 SOPRABO attempted to evict GPPAF CIG from this plot of land through a bailiff, but ultimately failed. The matter was taken to court, but SOPRABO’s claims were rejected. It was at this stage that PHP intervened by trying to persuade the GPPAF CIG to leave through the offer of compensation, the terms of which were accepted by the CIG. In order to ensure the effective application of the provisions of decree no 2003/418/PM

---

23 RELUFA, Report of the Njombe Mission, April 2005 p1
of 25 February 2003 which set compensation rates for crops, members of the GPPAF CIG consulted the agriculture authorities of the Njombe-Penja Subdivision. The resulting expert analysis constituted the first drawback in the compensation process, as some crops were not accounted for in the overall calculation whilst others were only partially considered.\textsuperscript{24} Worse still, the expert analyses commissioned by GPPAF CIG were not submitted to the group itself but instead to the D.O. of Penja. This state of affairs created tension among the GPPAF CIG members, who accepted in good faith the principle of a fair compensation but did not know the basis of the evaluation.

Despite the planters’ refusal to accept the compensation offered, PHP gave the D.O. a total of 65 million CFA Francs as a settlement to the planters. The planters rejected PHP’s offer, considering it inadequate and proposed instead to be compensated 600 million CFA Francs, the amount which they themselves considered equal to the value of their crops. The planters’ rejection of the firm’s offer marked the beginning of a campaign of coercion undertaken by PHP, which usually comprised the misappropriation of funds, corruption and the intimidation of the planters by the administrative authorities.\textsuperscript{25} Once again, another meeting was scheduled in the D.O.’s office, one that was attended by many officials from administrative authorities. During the meeting, the planters received only one third of the expected compensation and were given six months to remove their crops from the land.

**The judicial component of the PHP-GPPAF case**

Having felt duped during the compensation process, GIC-GPPAF appealed to the Mbanga Magistrates Court to appoint a legal expert to evaluate the lands under cultivation, in accordance with the provisions of the law. However, the PHP group prevented this, swiftly deploying its heavy machinery to destroy the plantations in question, thereby destroying the

\textsuperscript{24} Ibid.

\textsuperscript{25} Interview with GIC-GPPAF members.
evidence and violating the measures taken by the court. The dispute between the parties involved worsened.

**Fraudulent Manoeuvres**

The Divisional Officer for Njombe-Penja announced, in obvious contradiction to the figures he had previously presented, that he compensated GIC-GPPAF planters to the sum of 50 million CFA Francs and members of the Bonandam community to the amount of 15 million CFA Francs. However, the figures he had previously published showed that less than 40 million CFA Francs had been distributed to this date. Similarly, forged compensation forms were brandished during the case, supposedly indicating that the planters received twice the amount they received in reality. These forged forms have nothing in common with the original. This shows how the members of GIC-GPPAF and those of the Bonandam community became victims of embezzlement, and proves that the compensation process, the general principles they accepted, was not carried out on the basis of honesty and integrity.

**False promises**

The PHP Group has not respected the deadline for withdrawing crops from the plantations through appropriate compensation as agreed with the members of GIC-GPPAF and the Bonandam community. Additionally, the banana production company in question has not kept its promise to pay compensation to the GIC-GPPAF planters. Consequently, members of the GIC-GPPAF appealed to the Mbanga Magistrates Court for an expert opinion on this and to ultimately receive comprehensive compensation. Although informed about the legal action taken by this group, PHP continued with the destruction of the plantations concerned.

**Distortion of debates**

The GPPAF planters’ request to the Mbanga Magistrates Court for legal expertise and the full payment of compensation ended up working to their own detriment. The Delegate of Agriculture, having carried out the expert

---

26 RELUFA, Report of the Njombe Mission, April 2005
report ordered and financed by GIC-GPPAF, declared having submitted it to the Divisional Officer, who in turn allegedly forwarded it to the Ministry of Territorial Administration and Decentralisation. The Delegate, having been ordered to submit the report to the Court for the subsequent hearing, in fact never did so; as such, the judges had no access to the expert report and its findings. After six hearings, the Mbanga Magistrates Court curiously declared itself incompetent to pass judgement on this case. The Court went further and released all persons summoned for the case.27 During this same period, managers of the PHP group and administrative authorities continued to carry out acts of intimidation against GIC-GPPAF members.

**The Appeal Procedure**

Dissatisfied with the decision of the Mbanga Magistrate Court, the GIC GPPAF appealed to the Littoral Court of Appeal in Douala. Despite the appeal, it took a whole two years for the file to reach this Court. This adds credibility to statements attributed by GIC-GPPAF members to the Director of External Relations of the PHP Group, who was alleged to have declared that his company would continue to corrupt judges and lawyers, even those working in the Appeal Court.28 When the file finally reached the Court of Appeal, the lawyer of the PHP Group proposed an out-of-court settlement to GIC-GPPAF members. However, the small sum offered in the proposal led, yet again, to the planters rejecting it. By the time the deadline set by the judge for an agreement to be reached had passed, the PHP Group abandoned its proposal and ask that the case be brought back to Court.

The Appeal Court agreed to rule on the dispute between the PHP Group and GIC-GPPAF planters, and examine its content and form. After the examination, the Appeal Court reaffirmed the judgement passed by the Magistrates Court, a ruling which once again did not favour the members of GIC-GPPAF. Although it seemed that the PHP group was wielding its economic and financial strength to put pressure on the courts, members of

---

the GIC GPPAF continued their fight and ended up bringing the case before the Supreme Court, where it is currently pending.

**Lessons**

Legal actions such as that undertaken by GIC-GPPAF members against the PHP group are common in the agro-industrial sector. This case pits two protagonists with very unequal resource bases, with a power ratio which completely favours the interests of powerful and rich groups. The PHP Group uses its economic and financial influence to maintain its hegemonic position in the face of local communities and planters who have little to no resources and influence. In such an asymmetric situation, it is inevitable that the members of GIC GPPAF were left disillusioned.\(^\text{29}\)

The PHP Group unscrupulously uses its political and administrative clout to weigh the judiciary balance heavily in its favour through clandestine means. This is far easier to do in a country like Cameroon, where the social and institutional system suffers from deep-rooted corruption. The PHP Group can utilise its links with political, administrative and judicial stakeholders to easily safeguard its interests and position in its legal battle with members of the GIC-GPPAF. Under such conditions, GIC GPPAF planters suffered financial and economical fatigue in their fight against this powerful agro-industrial group, whose presence is now entrenched in the Njombe-Penja Subdivision. As such, PHP, using all its full resources, has been able to push the growers into a precarious position.\(^\text{30}\)

---

\(^{29}\) Interview with GIC-GPPAF members.

\(^{29}\) Interview with GIC-GPPAF members.
THE BANANA AGRO-INDUSTRY: DAMAGE TO THE ENVIRONMENT

Industrial banana cultivation is an extremely demanding activity at the practical and technical level. In fact, such activity requires huge agricultural inputs, whose quality and impact on the natural environment must be meticulously regulated. This is because of the ecological risk associated with establishing and developing industrial banana cultivation. The right to a healthy environment is one of the rights and freedoms enshrined in the Preamble of the Constitution of 18 January 1996. As such, Cameroon’s constitution clearly demonstrates a commitment to environmental regulation and the ideal of a balanced ecosystem.

Law no.96 /12 of 15 August 1996, Article 17, obliges any entity wishing to undertake a project that is likely to have an impact on the environment (whether by its size, nature or any activities related to it), to proceed with a preliminary environmental impact assessment as stated in the project’s book of specification. This study is meant to evaluate the direct or indirect impact of the project in question on the ecological balance of the project site and surrounding area, or any other area, on the quality of life of the local population, and the project’s environmental impact. The facts indicate that the firms engaged in industrial banana cultivation in the Njombe-Penja Subdivision have never carried out such environmental impact assessments, this despite the fact that the exploitation of agricultural land for banana cultivation has been going on for more than two decades.

Increasing and recurrent problems related to pollution

The activity of agro-industrial banana cultivation in the Njombe-Penja Subdivision has been subject to criticism due to recurrent problems relating to pollution. This activity is clearly the source of numerous pollution problems, which all have a bearing on the living conditions of the local population who live in close proximity to the project sites. These agro-industrial banana plantations based in the Njombe-Penja Subdivision are sprayed with huge quantities of pesticides and, according to a study carried
out by the government, the resistance of some banana diseases (e.g., cercosporiose) to this pesticide has simply resulted in an increase in the spraying cycles (anywhere from 7 to 40 sprayings per month).\textsuperscript{31}

An intensification in the spraying of pesticides in order to protect banana production against diseases affects the entire town, as these pesticides are released from the air by plane. The \textbf{PHP Group} does not seem to have put in place appropriate security measures to safeguard against the dangers associated with this; for example, not even wind barriers have been installed, even though their impact would be limited. In order to conform to ISO4001 certification procedures, PHP’s plantations must be situated at least 300 meters from inhabited areas. Nevertheless, the aforementioned governmental study indicates that this distance is not always respected in reality. For the most part, plantations and inhabited areas are usually 10 metres away from one another.

\textbf{Figure 5: PHP Water Pumping Station}

For example, the PHP Group water pumping station has been directly established on a river which runs through the town and which is used by the

local people for their household activities. As a result, highly toxic fuel waste is poured into these waters\textsuperscript{32}, and such waste disposal poses a threat to the immediate environment and to the health of the local people. In addition, the PHP Group are highly suspected of using certain prohibited substances in the chemical treatment in its banana production. In an article posted on the website of the newspaper “\textit{Libération}” on 18 May 2009, a French journalist accused the PHP Group of spraying chlordecone, a banned pesticide, on its plantations.\textsuperscript{33}

![Figure 6: A watercourse, metres away from an inhabited area](image)

The spraying of chemical products intended to treat its banana plantations carried out by the PHP Group can cause health hazards for neighbouring farm owners in the local area. These farm owners complain of suffering nausea and chest pain after spraying cycles.\textsuperscript{34} As for the employees of banana-production firms, they are victims of prolonged exposure to chemical products. These employees, exposed for several years to these often toxic chemicals, end up contracting diseases most likely caused by such

\textsuperscript{32} Interview with the local population.

\textsuperscript{33} Created by the American army, chlordecone is a pesticide made from very toxic chlorine, and suspected of being behind many cases of cancers.

\textsuperscript{34} TETANG TCHINDA J. and FOKA Germaine, \textit{Utilisation des pesticides dans la zone agricole du Moungo}, Op. Cit., p.3.
exposure to these toxins. The uncontrolled large-scale spraying of chemical products by the PHP Group is harmful to the local population because these noxious substances, transported by water and wind, penetrate the soil. Consequently, foodstuffs in this agricultural region are produced on polluted soil and are likely to be contaminated. It is through this that a vast pollution chain takes root.

**The Proliferation of human rights violations**

The investigation carried out on the Paul Eric Kingue case shows how human rights protection in Cameroon is undermined by powerful interest groups capable of continuing the violation of the rights of less powerful individuals/groups. The former mayor of Penja found himself in a political and judicial trap in which the hidden machinery of power, comprising the major agro-industrial firms in the Njombe-Penja Subdivision, perpetrated corruption and influence-peddling in order to silence a local councillor bent on investigating the mismanagement of his council’s tax affairs. Major multinational companies, exploiting agricultural land in the Njombe-Penja constituency for banana cultivation, used their full power resources to penetrate the political, administrative and judiciary milieu in the Moungo so as to maintain their hold over the entire area.

The Paul Eric Kingue case demonstrates how political, administrative and judicial decision makers, caught in the web of corruption and collusion created by the main banana-production companies in the Njombe-Penja Subdivision, contribute to maintaining a permanent environment conducive to human rights violations against their citizens, in this instance the former mayor of the Penja Council. This case study shows how those regions exploited by agro-industrial interests, in this instance the banana plantations of the Njombe-Penja Subdivision, can end up being controlled by major companies which repeatedly use their excessive and opaque influence to coerce fragile and precariously-placed local communities. This brings to light the problems of governance in a system that is dominated on an institutional level by collusion and corruption, and where powerful interest groups are given free rein to commit human rights abuses.
CONCLUSION

The different stages of the Paul Eric Kingue case demonstrate how the Mounge Division and the Njombe-Penja Subdivision are systematically bled by the large agro-industrial companies operating there. These companies have established genuine colonies on the land on which they operate, and act as if they have complete legal jurisdiction in these regions. In order to do this, agro-industrial firms that control the banana sector in Penja use their economic, commercial and financial influence to form strong ties with the political, administrative, judicial and security institutions there.

The Paul Eric Kingue case shows how an elected mayor, steadfast in his opposition to the unlawful practices of major banana producers operating in his area of jurisdiction, was silenced by agro-industrial companies which have become influential vehicles of hidden power, not only within the Mounge Division but also in Cameroon as a whole. It is obvious that such an accumulation of power and influence emerges through various abuses of power and influence-peddling.

Thus, this case has shown how powerful banana-production companies, with their opaque and obscure interests, coerce, corrupt and collude with other institutional actors in order to transform the regions in which they operate into quasi-colonial territories where local populations are exploited, bullied and harmed.
ACRONYMES

ASSOBACAM Association of Banana Producers/Exporters of Cameroon
CARBAP African Research Centre on Banana and Plantain
EC European Commission
CDC Cameroon Development Corporation
CIRAD Centre for International Cooperation on Agricultural Research for Development
CPC Criminal Procedure Code
DEC Delegation from the European Commission
FAO United Nations Food and Agricultural Organisation
FCFA "Franc des Colonies Françaises d'Afrique"
GIZ-BCA Deutsche Gesellschaft für Internationale Zusammenarbeit - Business Council for Africa
IITA International Institute of Tropical Agriculture
IRAD Institute of Agricultural Research for Development
MINADER Ministry of Agriculture and Rural Development
MINCOMMERCE Ministry of Trade
MINEPAT Ministry of the Economy, Planning and Regional Organisation
MINFI Ministry of Finance
OCB Cameroonian Banana Organization
COMB Common Market Organization for Bananas
WTO World Trade Organisation
PAD Douala Port Authority
PHP Plantations du Haut Penja
PM Prime Minister
RELUFA Network for the Fight against Hunger
CPDM Cameroon People Democratic Movement
TGI The High Court
UE Union Européenne
Annex 1.

ANNEXES

Monseur le Maire,

Faisant suite à votre requête relative à la levée de l'exonération de patente dont bénéficient les sociétés PHF, SPM et CAPLAIN,

J'ai l'honneur de vous faire connaître que l'Administration fiscale relève de la stricte application de la loi et notamment de l'article 160 du Code Général des Impôts qui assujettit à la contribution des patentes les sociétés qui mentionnées.

A cet effet, dès le début de l'exercice prochain, les entreprises en question seront reversées dans le régime de droit commun.

S'agissant des avantages accordés à ces entreprises au titre de leur éligibilité aux régimes du Code des investissements, une étude approfondie y sera consacrée par mes services.

Veillez agréer, Monseur le Maire, l'expression de ma considération distinguée.

[Signature]

Le Directeur Général des Impôts

Laurent Nkodo
Les confidences du père de Joël Matip

Retour sur les conditions de sa sélection en équipe nationale.
Entretien exclusif avec Jean Matip.

On m’a proposé 5 millions pour accuser Paul Eric Kingué
Monsieur Paul-Hyacinth NGOM

Votre lettre du 19 janvier 2013

Je vous remercie de votre correspondance dans laquelle vous avez bien voulu apporter un éclairage sur votre situation, dont la pression contemporaine est d'ailleurs largement faite écho.

Je dois vous assurer que l'Union européenne attache une très grande importance à l'amélioration du fonctionnement de la justice au Cameroun. Elle apprécie l'action en un appui financier significatif dans ce domaine, et se fait régulièrement le releveur dans le cadre de son dialogue politique structuré avec les autorités camerounaises, de ses préoccupations quant aux dysfonctionnements qu'elle peut observer. Si elle préfère généralement évoquer des problèmes systématiques plutôt que des cas individuels, vous avez assuré qu'elle est informée de ces cas qui lui sont signalés et qu'elle continue d'appeler à un respect scrupuleux des droits de la défense pour toutes les personnes ayant affaire à la justice.

Dans l'espoir que vos difficultés peuvent rapidement trouver une solution, je vous prie de croire, Monsieur, à l'assurance de ma considération distinguée,

[Signature]

[Stamp]
Annex 4.

COMMISSION NATIONALE DES DROITS DE L'HOMME ET DES LIBERTÉS

Secrétariat Permanent

Division de la Promotion et de la Protection des Droits de l'Homme

0995999

NATIONAL COMMITTEE

HUMAN RIGHTS AND FAIR

PERMANENT SECRETARY

HUMAN RIGHTS PROTECTION

AND PROMOTION DIVISION

Yaoundé, le 10 MAI 2012

Le Président

2ème Conseiller

Al to Son Excellence Monsieur le Président de la République, Président du Conseil Supérieur de la Magistrature

YAOUNDE

Monsieur le Président de la République:

J'ai l'honneur de vous saisir au sujet de la récente médiation de Monsieur Paul Eric JOUNGUE pour volation de son droit à un procès équitable par le Tribunal de Grande Instance (TGI) du Mongo (Nkongsamba).

Pourquoi j'ai décidé d'une somme de dix millions deux cent quatre-vingt-sept mille huit cent sept francs (10 287 887 FCFA) après qu'il était décidé de la Cour d'Instance de la Commune Rurale de Pyra, Départemental du Mongo, de ne pas procéder à l'octroi d'une instruction définitive à l'encontre de la personne de cet individu.

Le requérant, qui dénonce cette condamnation, moit en cause les dérogations du TGI de Nkongsamba, à savoir le Juge d'Instruction MONDRONGOU A MBELE et les Juges de la cellule IAMBE IAMBE MBELE et METANGMI NTEGOM NGUMBE.

Il ne procède entre autres à ces dommages :

- Chaque fois que j'avais le droit de faire constater l'inadéquation de l'instruction et de jugement, procédures pourtant passées par les articles 40 et 41 du Code de Procédure Pénale (CPP), vous prétendez qu'aucune preuve n'est à dresser.

- En même temps que j'avais des raisons d'alerter la Cour d'Instance de la Commune Rurale de Pyra, Départemental du Mongo, de ne pas procéder à l'octroi d'une instruction définitive à l'encontre de la personne de cet individu, vous prétendez que l'instruction a été effectuée.

- Vous prétendez que l'instruction a été effectuée, mais la personne que je prétends n'y a pas été invité.

Je dois également préciser que lors de la médiation, vous avez affirmé que la personne qui est visée n'y a pas été invité, ce qui est contraire à la loi.

La personne que je prétends n'y a pas été invité, et je prétends que la personne n'a pas été invité, ce qui est contraire à la loi.

Je vous prie d'agréer, Excellence, Monsieur le Président de la République, l'expression de ma haute considération.

P.F. A. JOUNGUE
Annex 5

Paul Eric KENGU
Ex-Maire de Njambe-Penja inculpé à
la Prise centrale de New Bell
Conseiller municipal

Object: Démonstration contre les sociétés PHP,
SPM et CAPMAIN pour "Détournement et
Réception sans droit" des sommes dues
à la Commune de Penja

Monsieur le Président,

En date du 3 Décembre 2007, la Direction Générale des Impôts, à la suite de sa notification de la soumission à la Cour en vertu de l'article 266 du Code général des Impôts, a réclamé à la Commune de Penja un montant de 2 713 000 000 F CFA (Dix-huit milliards soixante-dix mille francs CFA), correspondant à la somme due par les sociétés PHP, SPM et CAPMAIN pour "Détournement et Réception sans droit" des sommes dues à la Commune de Penja.

En conséquence, la levée des exonérations fiscales et réductions d'impôts accordées systématiquement à ces sociétés, notamment en vertu de la loi nº 75-98 du 31 juillet 1975 (loi nº 75-98 du 31 juillet 1975), a entraîné une perte financière considérable pour la Commune de Penja.

En outre, les sociétés PHP, SPM et CAPMAIN ont reçu des subventions de l'Etat en vertu de la loi nº 75-98 du 31 juillet 1975, mais ces subventions n'ont pas été utilisées pour l'intérêt général de la Commune de Penja.

Ces faits sont constitutifs d'une infraction à la Loi nº 75-98 du 31 juillet 1975 (loi nº 75-98 du 31 juillet 1975), et ils constituent un acte d'ilégalité devant être reconnu par la justice.

C'est pourquoi je vous prie de bien vouloir recevoir cette lettre, afin que vous puissiez prendre les mesures appropriées pour protéger les intérêts de la Commune de Penja.

Yours faithfully,

Paul Eric KENGU
Ex-Maire de Njambe-Penja

Douala, le 31 Décembre 2011

Transparency International Cameroon
Annex 6

ARRETE N° 0013/ MINAT DU 13 JANVIER 1999

Portant détermination des critères d’éligibilité des communes à la retenue différée de 3% du reliquat des centimes additionnels communaux,

Modifié par l'arrêté n°00273 bis / a/ MINAT/ DCTD du 27 septembre 2000.

LE MINISTRE DE L'ADMINISTRATION TERRITORIALE

Vu la constitution ;
Vu le code général des impôts ;
Vu le code de l'enregistrement, du timbre et de la curatelle ;
Vu la loi n° 74/23 du 5 décembre 1974 portant organisation communale ensemble ses textes modificatifs subséquents ;
Vu la loi n°87/015 du 15 juillet 1987 portant création des communautés urbaines ;
Vu la loi des Finances de l'exercice 1998/1999 ;
Vu l'ordonnance n° 62/0F/4 du 7 février 1962 portant régime financier du Cameroun ;
Vu le décret n°94/232 du 05 décembre 1994 précisant le statut et les attributions des Receveurs Municipaux ;
Vu le décret n°95/690/PM du 26 décembre 1995 fixant les modalités de répartition du produit des centimes additionnels communaux modifié et complété par le décret n°98/263/PM du 12 août 1998 ;
Vu le décret n°97/205 du décembre 1997 portant organisation du Gouvernement ;
Vu le décret n°97/207 du décembre 1997 portant formation du Gouvernement ;
Vu le décret n°98/147 du 17 Juillet 1998 portant organisation du Ministère de l'Administration Territoriale ;
Vu l'arrêté n°36/MINAT/MINEFI du 13 décembre 1996 portant modalité d'assiette, de recouvrement et de reversement d'impôts et taxes destinées aux communes et au FEICOM modifié et complété par les arrêtés n°293/ MINEFI/MINAT du 27 décembre 1996 n° 00264/MINEFI1 MINAT du 23 octobre 1998 ;
Vu l'arrêté n°031/CA/PM du 04 juillet 1996 fixant les attributions, l'organisation et les modalités de fonctionnement de l'Agence comptable du FEICOM ;
Vu l'instruction conjointe n° 00438/MINAT/MINEFI du 05 décembre 1997 fixant les procédures D'émission, de recouvrement et de reversement des recettes collectées par les Agences régionales et les correspondants FEICOM ;

ARRETE :

Article 1° — En application des dispositions de l'article 3 alinéa 2 du décret n°98/263/PM du 12 Août 1998, une dotation au moins égale à 3% du reliquat centralisé des centimes additionnels communaux après retenue à la base est répartie aux communes génératrices de centimes dont le produit est encaissé en dehors de leur territoire du fait de l'application des dispositions fiscales relatives au lieu d'imposition.
Article 2 (nouveau). — La dotation de 3% est répartie entre les communes lorsque celles-ci remplissent les conditions ci-après :

1. Abriter des activités industrielles, commerciales ou de prestation de services génératrices de centimes additionnels communaux ;

2. Abriter une structure concourant de manière significative à ces activités.

Les entreprises visées aux paragraphes 1 et 2 doivent réaliser chacune dans la commune un chiffre d'affaires annuel au moins égal à trois cent (300) millions de francs.

Le chiffre d'affaires annuel pour l'ensemble de ces entreprises doit être au moins égal à un milliard cinq cent millions (1.500 000 000) de francs.

Article 3 (nouveau). — La répartition est faite sur la base de coefficients proportionnels au niveau des activités génératrices de centimes additionnels et évalués à partir du chiffre d'affaires du pénultième exercice.

Le coefficient applicable à chaque commune éligible est égal au chiffre d'affaires des activités génératrices de centimes dans la commune, divisé par le chiffre d'affaires calculé sur les mêmes bases pour l'ensemble des communes éligibles.

Sur le total des chiffres d'affaires déclarés, le maximum à retenir pour une commune éligible ne saurait être supérieur à quinze (15) milliards de francs.

La charge des éléments d'appréciation et des pièces justificatives pour être éligible à la dotation visée à l'article 1er incomble à la commune postulante.

Les justificatifs à prendre en compte pour l'appréciation du chiffre d'affaires des entreprises susvisées sont :

- une copie certifiée conforme de la patente de l'entreprise pour l'exercice, l'activité et l'établissement concernés ;
- l'attestation du Chef de Centre des Impôts justifiant du prélèvement de la retenue de base pour ces entreprises et du paiement de leurs droits hors de la commune ;
- une attestation de paiement de la taxe communale assise sur les salaires.

Les documents susvisés doivent être visés par le Chef de Centre des Impôts compétent.

Article 4 (nouveau). — Une décision du Ministre de l'Administration Territoriale, consécutive à un avis du comité conjoint de suivi des impôts locaux fixe, avant le 31 juillet de chaque exercice budgétaire, la liste des communes éligible à la répartition de la dotation de 3% ainsi que les coefficients applicables.

Article 5. — Le présent arrêté sera enregistré, publié suivant la procédure d'urgence, puis inséré au journal officiel en français et en anglais.

Yaoundé, le 13 janvier 1999
Le Ministre de l'Administration Territoriale
SAMSON ENAME ENAME