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A hard look on the regulatory framework on compensation of victims of professional risks in the private sector in Cameroon

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Abstract
Occupational risks are inevitable and adversely impact workers output when one occurs. Pursuant to this, the national and international community have recognized workers' right to social security because it is believed that work brings revenue upon which workers and their families depend. Therefore, the neglect of such a person in the event where he sustains an injury or contracts an illness, will have an unpleasant effect on his family. The Cameroonian social security draftsman has in this regard created the National Social Insurance Fund (NSIF) to carter for this and adopted laws to regulate the compensation of victims of professional risks. Nevertheless, following the recurrent outcry from uncompensated victims of professional risks, it is apparent that the regulatory framework is ineffective and inefficient due to legal and extra-legal lapses. Findings reveal that the regulatory framework is ineffective and, an effective compensation can only be realised in an enhanced regulatory framework in which both the laws and the organs of implementation are effective and efficient. On this note, it is imperative that, the list of occupational diseases should frequently be updated to include emerging diseases and the law should institute a deadline within which a case for compensation has to be dispensed with.

Keywords: Regulatory-professional risk-workers-private sector-Cameroon

Introduction

Health and social security at work are very important drivers for durable socio-economic development which permits workers to live a healthy and productive life during their years in service. The concept of professional risk does not exist as an island. It is commonly evoked in a discussion dealing with employment contracts [1]. By definition, Professional risks are dangerous substances or activities that workers are exposed to, when carrying out their assigned duties at their job places or during the process of executing an attached responsibility.

The English and American common laws prior to the late nineteenth century reflect the commonly held notion that work accidents occurred due to negligence on someone's part and without any specific acts regarding work injury compensation, disputes were settled using tort law remedies, either within the judicial system or through negotiations outside the court [2]. Regardless of how a settlement would be reached, employers had an upper hand. Their ironclad defence would often include one or more of the following three principles: contributory negligence [3], the fellow servant rule [4], and the assumption of risk [5]. However, this is not the case under the Cameroonian social security scheme which can be explained from the fact that the workers' compensation law in Cameroon is relatively new, and, as a result, is based on the modern perception on professional risks. This does not however imply that an employee who contributes to his injury shall be compensated as seen in article 37 of the 1977 law which posits that:

"An accident resulting from the commission of a felony or misdemeanour by a victim or an intentional fault is not subject to any compensation."

The above provision is in line with the criminal law principle which holds that, no man shall be allowed to take advantage of his own wrong as expressed in the Latin maxim, "ex turpi causa non oritur actio" which means "No cause of action arises out of a wrong."

A taste of history would reveal that the Cameroonian employment regime is built on a foundation of imported French and English laws as a result of her colonial past. In former West Cameroon administered as an integral part of Nigeria, the English Worker Compensation Act 1925 was the applicable legislative piece regulating the compensation of workers injured in the course of service. Whereas in former East Cameroon, the regime of compensation had a different outlook. Workers claims in this national divide were treated by insurance companies like Chanas, Assurances Mutuelles Agricoles du Cameroun (AMACAM), and Société Camerounaise d'Assurances et de Réassurance (SOCAR) [6]. This disparity in legal regimes and machinery for managing workers compensation in the country naturally led to a variety of available difficulties that necessitated the harmonisation of legislation dealing with professional risks [7]. The harmonisation was realised when ordinance No 73-17 of 22 may 1973 was passed, instituting the National Social Insurance Fund (NSIF) [8] commonly known by its French acronym CNPS to mean, Caisse Natioanale de Prévoyance Sociale. The NSIF which is a public establishment endowed with a legal status and financial autonomy is placed under the supervisory authority of the Ministry of Labour and Social Security and administered by a Board of Directors.

After the creation of NSIF, a panoply of texts was adopted in the likes of Law N° 77-11 of 13th July 1977 on the reparation and prevention of industrial accidents and occupational diseases modified by Law N° 80-05 of 14th

July 1980, as well as Decree N° 76-321 of 2nd August 1976 relating to the management of professional risks by the NSIF.

Although we uphold that the Cameroonian social security regime is recent and should normally be embedded with modern tenets, it is however shrouded with some infelicities that weaken the system and consequently affect the effective compensation of victims of professional risks which include: the limitation of the scope of diseases considered to be occupational diseases, unspecified documents required to be furnished by victims and their heirs, failure by employers to assist the victims to recoup their compensation, negligence and corruption of investigative authorities in case of commuting accidents, NSIF's complicity with medical establishments to the detriment of victims, delays related to inquiry procedure and processing of compensations files. All these pitfalls question the effectiveness of the existing regulatory framework on the compensation of victims of professional risks in the private sector in Cameroon. Against this background, it is imperative to examine the following:

The anatomy of professional risks legal regime in Cameroon

As seen above, professional risks are dangerous activities that workers are exposed to when carrying out their assigned duties at their job places or during the process of executing an attached responsibility. The law requires that any employer who uses work products and techniques likely to cause occupational diseases referred to in Article 3 paragraph 2 of the 1977 Law shall be re- quired to make a declaration thereof before the commencement of the said work. By registered letter to the Minister responsible for Labour and Social Security. Such a declaration enables the Minister to determine the measures to be put in place in order to prevent professional risks. It is in this connection that all employers, except the State, who use the services of persons referred to in section 1(2) of the Labour Code, are obliged to affiliate with the NSIF.

Professional risk can culminate in temporary disability, permanent disability, or death. For the purpose of fixing the rates of contribution applicable to industrial accidents and occupational diseases, the legislator has classified risks into groups based on their gravity and frequency. Thus, risks considered as "low risk" fall under Group A, those considered "medium risk" fall under Group B, and those classified as "high risk" fall under Group C Professional risk can culminate to Temporary disability [9], Permanent disability [10] or death [11]. For the purpose of facilitating the fixing of the rates of contribution applicable to the industrial accidents and occupational diseases, the legislator has classified risks in groups based on the gravity and frequency of each [12]. In this vein, risks which are considered as "low risk" fall under Group A [13], those considered as "medium risks" are contained in Group B and those under Group C considered as "high risk".

The categories of persons covered by the Cameroon professional risks regime is extensive. This can be seen in the spirit of article 5 of the 1977 law which holds that, the workers referred to article 1(2)of the Labour Code, seamen who fall under Ordinance No. 62/DF/30 of 31st March 1962 establishing the Merchant Shipping Code, subject to the application of articles 148 et seq and 171 et seq of the said Ordinance and provided that the employer is affiliated with the NSIF, the managers of Limited Liability Companies provided that the said managers do not together own more than half of the share capital, apprentices, students in technical education establishments and persons placed in functional re-education and rehabilitation training centres for accidents occurring as a result of or on the occasion of this education or training as well as persons subject to the National Civic Service for participation in development. From the above provision, professional risk does not only cover workers as defined under section 1(2). This can be seen in its extension to students of technical education and vocational training. Articles 6 and 7 of the 1977 law follow suit from the above by stipulating respectively that, a worker who moves temporarily for needs of his work and by order of his employer outside the national territory continues to benefit from the advantages of the present law and obliges employers with the exception of the state, using the services of workers referred to in section 1(2) of the Labour Code to be affiliated to the NSIF. Article 6 is an extension of the explanation of the article 2 (1)(c) which talks of accidents sustained during travelling trips where the charges are paid by the employer in application of the Labour Code. This makes it imperative for us to examine the various types of professional risks under Cameroonian law.

The various genres of professional risks under Cameroonian law

The Cameroonian regime on professional risk compensates for two types of risk to wit; industrial or occupational accident and diseases.

1. Industrial accident and its determinants

Article 2 of Law N***o***. 77/11 defines industrial accident rather descriptively as referring to an accident in which a worker is involved regardless of its cause. Industrial accident can be the fault of both the employer and the employee. However, it is worthy to point out whether or not the victim would be compensated where the accident is the fault of the employee. This worry can be addressed by article 2 which states that:

"It is considered as work accident whatever be the cause, sustained by any worker as defined by article 1 of the Labour Code, a- in the course of the work, b- during the going and coming to work of a worker between his place of work and his principal or secondary place of residence, - place of work and restaurant, canteen or in a general manner, where he usually takes his meal, c) during travelling trips where the charges are paid by the employer in application of the Labour Code [14]."

From the above provision, not all accidents that occur to a worker are considered as industrial accident and hence subject to compensation. This statement finds justification in article 2 of the Law No. 77/11 read alongside article 96 of the Legal instruments governing social insurance institutions (OPS) of the CIPRES Member States of 12 December 2019. These two provisions which have the same wordings state extensively that:

"An industrial accident shall be deemed to be an accident, whatever its cause, if it occurs as a result of or in the course of work to any person employed or working, in any capacity or in any place whatsoever, for one or more employers. An industrial accident is also considered to be an accident occurring to an employee during the journey to and from

affairs, provided that the journey was not interrupted or diverted for a reason dictated by personal interest and unrelated to the essential requirements of everyday life or independent of the job: - between the employee's main residence, a secondary residence of a stable nature or any other place to which the employee habitually goes for family reasons and the place of work; - between the place of affairs and the restaurant, canteen or, in general, the place where he usually takes his meals or receives his pay; - during trips and missions duly authorised by the employer and related to the company's corporate purpose."

From the above premise, the following determinants warrant consideration:

1.1 Accidents sustained in the course of work

Despite the law's silence on what will amount to "course of work", it is interpreted to mean the moment when the worker is affecting his task assigned to him by his employer, or accident sustained by a worker at his workplace. It must not be construed to cover only accidents sustained when carrying out an activity. If this is the case, it would mean that accident sustained during resting period caused by defects in the restroom will not fall under the umbrella of industrial accidents. Besides, article 2(c) of the Occupational Safety and Health Convention, 1981 (No. 155) defines workplace in the following words:

"all places where workers need to be or to go by reason of their work and which are under the direct or indirect control of the employer"

This criterion can however be watered down where the accident is caused by the employee himself. This can likely be the case where it can be proven that the worker was intoxicated at the time of the accident and was the cause of the accident. For instance, in the English case of Jones v. Lionite Specialties Ltd (1961) 105 Sol Jo1082, where a foreman was addicted to a chemical vapor from a tank and he was found lifeless in the tank as a result of the vapor [15]. The employer was held not to be liable for his death. Within the Cameroonian context, the NSIF will equally be exonerated from compensation where contributory negligence on the part of the worker is proven.

1.2 Accidents sustained to and from workplace

The Cameroonian social security legislator envisages a situation whereby an accident sustained by an employee from his residence to his workplace and from workplace to his residence to be covered by NSIF. In this vein, the route commences at the doorstep of the worker's residence. Therefore, the NSIF cannot be held to decline from compensating the victim where accident occurs at the worker's doorstep.

It should be noted that the regime on industrial accident equally applies to accidents sustained by a worker from his residence to the restaurant, canteen or, in general, the place where he usually takes his meals or receives his pay [16]. The place where meals are taken can equally be interpreted differently. At one time, it could mean the company's canteen or the restaurant chosen by the workers. In Yanou's view, it should be the place habitually used by the workers.

The means of transport is immaterial to rebut industrial accident. It must be said that once the worker is involved in an accident along his usual route, it will be considered as an industrial accident hence, subject to compensation by NSIF.

1.3 Accidents sustained by workers en route or on mission in the course of employment

Industrial accidents resulting from trips and missions duly authorized by the employer and related to the company's corporate purpose are very common with those occupations requiring workers to travel. In this regard, the accident has to be covered by the NSIF scheme [17]. The checklist of industrial accidents under this head may include:

1. Travelling in transport arranged by the employer;
2. Travelling on a specific journey as instructed by the employer;
3. Travelling on the employer's property or in areas where the public are denied access;
4. Travelling in the course of peripatetic occupation. Those who are door to door agents or domestic are therefore usually covered except when travelling to their first call of the day, or when on the way home, or if they deviate from their route for their own purposes.

From the above premises, one can conveniently asseverate that the criteria for qualifying an industrial accident in Cameroon are time and place.

It should be remark that the regime that governs industrial accidents caused by motor vehicle can be characterized as a mixed regime. This is in the sense that the NSIF and the insurer of the tortfeasor have their different prejudices to indemnify as it obtains in practice.

In this regard, when such an industrial accident leads to personal injuries, the NSIF indemnifies permanent disability, temporal disability, economic loss and moral prejudice. The tortfeasor's insurer on the other hand indemnifies only Pretium doloris and aesthetic damage governed by article 262 of the CIMA code. This implies that where the NSIF finds itself indemnifying a victim entirely, the tortfeasor's insurer shall be liable to the NSIF for the reimbursement of the amount corresponding to the Pretium doloris and aesthetic damage. The test is as found in article 262 of the CIMA code which posits that:

"The offer of compensation must indicate, in addition to the particulars required by article 231, the claims of each third-party payer and the amounts due to the beneficiary. It is accompanied by a copy of the statements produced by the third-party payers."

Regarding accidents that take away the live of victims, NSIF takes charge of the entire indemnification process to the heirs of the deceased.

2. Occupational diseases

Section 3 of Law No.77/11 of 13th July 1977 on the compensation and prevention of industrial accidents and occupational diseases defines occupational diseases as any illness resulting from the exercise of certain professional activities [18]. The above definition is self-explanatory as it points out that only diseases connected to certain activities may be compensated under the occupational risk regime. But given that, the list of occupational diseases has already been established by law, the practicability of this definition is doubtful. This is because, since the law has pointed out the diseases considered to be occupational [19], it will be difficult for article 3 to be respected.

Occupational diseases are marked by the aspect of 'causal link' between the disease and the nature of work. In order to benefit under the occupational disease scheme, the petitioner must specifically prove that there is a causal link between his profession and the illness he is suffering from. If he cannot establish such a link, his claim has little chances of success. This was the substance of the decision of the Regional Social Insurance Dispute Commission in the case of Caisse Nationale de Prévoyance Sociale v. Fon Jacob Suit No.02/09/SIDC/SWR/SEC of the South West Insurance Dispute Commission [20].

The question is, should this be considered as the sole criterion to determine occupational diseases in the private sector? Given that the law has established a list of occupational diseases, it is difficult to think that the criterion of causality is respected. In this regard it is imperative to leave the list open. Again, we believe that the connotation, 'occupational' should mean all diseases contracted as a result of work and at workplace. This means that the scheme should cover even diseases that do not have a link with the work but which are contracted when the worker was on duty.

Preliminary matters in the compensation of professional risks in Cameroon

The preliminaries or steps to be followed to active the compensation of professional risks include declaration, investigation and medical examination of victims in case of physical injuries.

1. Declaration of professional risks

When a professional risk occurs, the foremost step to be taken by a worker is to declare its occurrence. In Cameroon, the legislator has adopted what may be termed, the theory of systematic declaration of occupational risks which involves bringing to the notice of the social security organization all professional facts likely to have short, medium or long-term adverse effects on workers [21]. In this regard, the worker must inform his employer whatever the triviality of the accident so that the professional nature of any subsequent complications easily finds a link with the exercise of the profession. This system of declaration is opposed to selective reporting which entails the reporting of only the most serious accidents or at least those that have a certain degree of gravity. However, a line must be drawn between reporting and compensation because there can be a formidable regulatory framework for reporting unaccompanied by effective compensation. We therefore opine in this light that; the theory of systematic reporting should entail the effective compensation of the reported risk irrespective of its triviality.

When an accident occurs or an occupational disease has been contracted, the victim must immediately, except in cases of force majeure, inform the employer or his representative [22]. On this note, the employer or his representative shall be obliged to provide first aid, notify the doctor in charge of the company's medical services; direct the victim to the company or inter-company medical centre or, failing that, to the public, Para public or private health or hospital facility; and declare the accident or occupational disease [23].

Where the victim of professional risk is not affiliated to the NSIF, the latter will nevertheless assume responsibility for the accident and later have recourse against the employer concerned to recover the benefits provided and possibly, damages. It is doubted if this really exist in practice given that the NSIF does not even compensate those who have been registered by their employers based on some excuses as non-furnishing of payslips for the past three months preceding the incident [24]. However, in China International Water & Anor v. Ndinwa Wifred Ndi (2005) 1CCLR111, a request by NSIF requiring the employer to affiliate the worker who had not been registered at the time of the accident was considered by the Court of Appeal as consistent with Law No. 77/11 of 13th July 1977 [25]. This corroborates the idea that the NSIF has the legal duty to get employers to register their members for the purpose of social insurance benefits. The punishment of employers who fail to declare professional risk or refuse to affiliate their workers to the NSIF or even being notified to do so has been taken care of by article 46 of the 1977 law. It provides thus:

"1) Is punished with a fine of from 50.000frs - 500.000frs and an imprisonment term of from one to six months or one of these two penalties, an employer who fails to make the declaration referred to in article 17(2). Is punished with the same penalties above, an employer who refuses to affiliate to the National Social Insurance Fund even after being given a notification to do so."

Given that some employers may neglect the health situations of a victim, the law equally punishes an employer whom after three days following the report of the professional risk to him, the victim has not resumed work and he fails in effect to draft a medical report [26]. In this case, the punishment is a fine ranging from 50 000 to 500 000 francs.

The question of who bears the burden to sue the employer for the above-mentioned cases is a fundamental one. This is because, if such duty is solely left in the hands of the NSIF, so many employers will go unpunished given the ineffective control of companies carried out by Labour Inspectors who are better placed to know whether or not employers are affiliated to the NSIF and consequently coerce them to do so. Since the NSIF doesn't carry out such control which may enable them lay hands on defaulting companies, it is practically difficult to get hold of such cases except where a professional risk case comes to their knowledge. Given this setback, it will be in the best interest of the state to ensure that the privilege to sue an employer for failing to meet the above obligations be extended to the employee-victim and the labour inspectorate.

Per article 17(3) of the 1977 Law, where the employer fails to declare the professional risk reported to him by his employee, the declaration may be made by the victim or his dependants within a period of three years. The application for compensation of professional risk is usually made on a special form which the NSIF issues on request in three copies. The principal application is addressed to the Social Insurance Centre responsible for the place in which the accident occurred along with the initial medical certificate and the Labour Inspectorate within whose jurisdiction the company or establishment concerned is located, within three working days. The third copy is slotted in the victim's file [27]. Nevertheless, the application file must include the following documents:

1. application form duly signed by the employer of industrial accident or occupational disease;

2. initial medical certificate (an extension where necessary);
3. final medical certificate signed by the treating doctor;
4. invoices and prescriptions where applicable; application for reimbursement of medical and pharmaceutical expenses;
5. payslips for the past three months preceding the incident (This is necessary for the calculation of the average monthly remuneration.);
6. a copy of a valid national identity card. It should equally be accompanied by documents; which will allow payment for the benefit of the victim or his beneficiaries.

It should be noted that where an industrial accident results from a motor vehicle accident or any other grievous accident like electrocution, a gendarme investigative report must be attached.

As far as the medical determination of an industrial accident or occupational disease is concerned, it's gravity can only be established by a medical document. In the event of an accident, if the victim has not returned to work the day following the event, the doctor treating the victim draws up an initial medical certificate describing the victim's general condition, the consequences of the accident, the possible consequences and in particular the probable duration of incapacity to work [28]. This certificate must specify whether or not the victim is receiving regular care from a doctor or has been referred to a hospital. A final, descriptive medical certificate is drawn up under the same conditions as the initial medical certificate in the event of full recovery with or without permanent disability. It specifies, among other information, the final consequences of the accident, the date of resumption of work, recovery, death, as well as any findings that may be important for determining the cause of the origins of the injuries observed [29].

2. Investigation

After receiving information of the occurrence of professional risks, the NSIF may order for an investigation to be carried out in order to determine the causes, nature, circumstances of time and place of the accident and, the existence of any fault likely to affect the compensation, as well as the responsibilities incurred. However, when, according to the initial medical certificate, the accident appears to be a commuting accident or to have resulted in permanent total incapacity or in the event of death, the Labour Inspector or a sworn official under his authority, the Medical Labour inspector or the health and safety inspector shall carry out an investigation. In places where these do not exist, the investigation may be carried out by judicial police officers in accordance with the rules in use in their profession [30].

The investigative process has been greatly applauded for its adversarial nature. It requires that witnesses be heard by the investigator in the presence of the victim or his dependants and the employer or his representative. The victim may be assisted by a person of his/her choice. By virtue of article 8 of the 1978 Decree, the right to be represented equally applies to the victim's dependants in the event of a fatal accident culminating to death. When the victim is unable to attend the investigation, the investigator shall go to the victim to take his or her statements.

Where the accident is a commuting accident or caused by a motor vehicle, the investigator must carefully research in order to establish, if necessary, the reasons which would have determined the victim to interrupt or divert his journey. In the spirit of Article 9 of the 1978 Decree, Investigations especially in case of industrial accidents are carried out to ascertain the following:

- The identity, registration number with the National Social Security Fund and the victim's location;
- The occupational nature of the injuries;
- In the event of a fatal accident, the existence of dependants, their identity and the place of residence of each of them;
- The occupational category in which the victim was working at the time of the daily allowances and pensions. In order to collect these elements, the investigator may carry out at the establishment or establishments of the previous employer(s) all necessary observations and verifications;
- Where applicable, previous accidents at work and, for each of them: the date on which it occurred; the date of recovery and, if this results in permanent disability: the date and amount of the pension awarded.
- If applicable, the nature of the injuries.

After carrying out the investigation, the investigator shall prepare a report which shall be considered authentic until proven otherwise. This report, except in cases of force majeure, shall be drawn up within 15 days from the day on which the accident was reported. However, where the investigator appoints one or more experts, the time limits prescribed in Article 10 paragraph 2 shall be extended by 15 days and the expert's report shall be drawn up in duplicate and attached to the minutes of the inquiry. The expert's fee and the transport and travel expenses shall be borne by the NSIF.

What is opaque is the fact that, this Law makes it mandatory for the Social Welfare Centre and the Labour Inspectorate with territorial jurisdiction to be provided with copies of the investigation report whereas the victims themselves or their dependants can only be given such reports where they request it as prescribed in article 13 of the 1978 Decree. This implies that even if the victim or his dependant requests it, he may not be given based on the fact that the law does not oblige the investigator to do so. This legislative muteness has empowered judicial police authorities to use the issuance of accident reports as an income generating activity whereby, each accident report is paid for being issued to the victim. This is not a fair move in the sense that the report may be inaccurate but the victim may not be able to contest it early enough since a copy of the report is not given to him as of right like the Labour Inspector and the Social Welfare Centre. It is therefore imperative to oblige the service of the report to the victim and the dependants as the case maybe and he/she should be given a timeline to contest the report, if need be, since the nature of the report can influence the compensation.

3. Medical examinations of victims

The examination of victims of professional risks is carried out by approved medical doctors under the responsibility of the NSIF [31]. Medical examinations may be carried out where the NSIF contests the content of the final medical

certificate drafted by the victim's Doctor or where there is no final medical certificate.

Victims of an industrial accident or an occupational disease may be examined by the medical Doctor on the discovery or at the time of declaration of the industrial accident or occupational disease; during the period of disability; in case of deterioration of the victim's situation; at the time of resumption of duty or of confirmation of complete recovery from the accident or occupational disease. Following this, except in circumstances beyond his control, the victim must, when requested to do so, appear before the Doctor chosen by the NSIF alongside his complete medical file relating to the accident or occupational disease. In the event of unjustified refusal by the victim to undergo medical examination, any benefits or allowances due him may be withdrawn for the period during which such examination was not carried out [32].

Where there is disagreement on the medical examination report established by the NSIF's Doctor, a third-party medical examination shall be sought. Such medical examination shall be carried out by the Medical Inspector of Labour for the area or a Doctor chosen by mutual agreement by both the victim's doctor and the NSIF's Doctor from a list of experts drawn up by the Ministry of Public Health [33]. Where there is no Medical Inspector of Labour, a medical Doctor shall be chosen from the list referred to above by the Labour Inspector for the area [34].

Given that the medical examination maybe carried out at the request of the NSIF and of the victim, where the third-party medical examination is requested by the victim, he shall address a reasoned letter to the NSIF under registered cover or against an acknowledgement of receipt which must be done within 30 days following the refusal by the NSIF to settle any expenses with regard to the risk. This decree seems to be lopsided in the sense that it only requires the victim to address a reasoned letter to the NSIF without the latter being required to do so.

After the reception of the request for a third-party medical examination from the victim, the NSIF shall forward within 30 days a file to the Medical Inspector of Labour or to the designated medical expert, which must state: the findings of the victim's doctor; the findings of the NSIF medical doctor; copies of the application for medical expertise and the type of examination to be affected by the third-party Doctor. The designated Doctor shall, within 15 days following the date of receipt of the file, convene the victim and indicate the place, date and hour of the examination. The NSIF's Doctor and that of the victim may be present at the medical examination. The designated doctor has 30 days following the date of the medical examination to submit his report in two copies to the NSIF and a copy to the victim or his Doctor. This time limit may however be extended by 15 days at the request of the designated medical doctor [35].

Contentious procedure for compensation

When the NSIF rejects the claims of the victim after declaration either by himself or his employer, the procedure to be followed is well-tailored. It moves progressively from the seizure of the Administrative Complaints Committee to the Regional Litigation Commission in charge of Social Insurance, the Appeal Court and finally, the Supreme Court as will be discussed below.

1. Seizure of the Administrative Complaints Committee (ACC)

When the NSIF rejects the request for compensation of professional risk, the first step to take is to seize the Administrative Complaints Committee. This Committee which is constituted by the Board of Directors of the National Social Fund receives complaints from users. The complaints are addressed to the chairman of the Committee within three months following the decision rejecting the application for benefits or notice to pay contributions. If the committee fails to reply within three months following the lodging of the complaint, it shall imply rejection. The victim shall have a time limit of two months and the employer, fifteen days to refer the matter to the Regional Litigation Commission in charge of Social Insurance after being notified of the dismissal of the complaint by the ACC. Where the victim or employer does not respect the prescribed time limit, the concerned shall lose all rights of recourse.

2. Seizure of the Regional Litigation Commission in charge of Social Insurance (RLCSI)

This Commission settles disputes in the first instance resulting from the implementation of law and regulations governing social insurance in respect of liability, basis of assessment and collection of contributions and the granting and payment of allowances. The RLCSI is activated by a simple application or registered letter addressed to its secretariat. Among the documents to be annexed to the application, is proof of seizure of the ACC or a notice showing that the applicant's petition has been rejected as the case may be. In the absence of such proof, the Commission will out rightly boot out the application for failing to respect this requirement. Where, the above requirement has been fulfilled, the Commission shall sit and be presided over by a judge who in this case is the president of the High Court situated in the regional headquarter. For instance, if the victim lodges the complaint in the West's RLCSI, the competent court president will be that of the High Court of Mifi (Bafoussam)who shall then sit alongside the secretary and assessors.

The chairman of the Commission summons the parties and witnesses at least fifteen [15] Ibid, Article 10. days before the date of the hearing. The parties are to enter appearance, except in situations where their absence is justified. They may be represented or assisted by an employer or worker of the same branch of activity or by a representative of the trade union or employer's association to which each party belong. An expert can equally be summoned where need be. Safe in the case of a counsel, any authorized representative of the parties shall be appointed by a written document such as a Power of Attorney. An absent unrepresented plaintiff may have his suit struck out except where it can be shown that the circumstances justify his absence. Where his action is struck out, he may make a new application to the Commission subsequently. After all issues have been exhausted in the Commission's view, it will then render its decision which is susceptible to appeal.

3. Recourse to the Appeals and Supreme Courts

The decisions of the RLCSI are subject to appeal and parties have 15 days from the day following the delivery of the judgment to lodge an appeal. The appeal is lodged through an ordinary application or by registered letter sent to the

secretariat of the RLCSI which shall then forward the case file to the registry of the competent Court of Appeal. Appeals from these courts to the Supreme Court follow the usual practice and procedure.

It must be stated clearly that there is a dividing line between the procedure to be followed when it comes to disputes relating to the recovery of compensation and calculations in relation to contributions. As has been demonstrated above, the procedure to be followed for disputes relating to recovery of compensation starts by seizing the ACC, the RLCSI, Appeals Court and moving to the Supreme Court as the last resort. On the sphere of disputes in calculations, after seizing the ACC, the next step is to seize the Administrative Court of the said region. It therefore implies that the last resort will be the Administrative Bench of the Supreme Court in the situation where any of the parties are not satisfied with the Regional Administrative court's verdict.

Shortfalls worrying the effective compensation of victims of professional risk in the private sector in Cameroon

The treatment of claims in the event of professional risk in the private sector in Cameroon is unenviable. This is primarily blamed on weaknesses that shroud the process, hence, affecting the compensation and its purpose even. This warrants the examination of legal (1) and extra-legal challenges (2) simultaneously with suggestions in order to reshape the state of affairs in relation to the compensation of victims of professional risk in the private sector in Cameroon.

1. Legal hurdles

The legal hurdles plaguing the effective compensation of victims of professional risk in the private sector in Cameroon entail those puzzles connected to the laws governing the sector. They include the limitation of diseases considered to be occupational diseases (1) and the non-specification of documents required to be furnished by victims and their heirs in case of death (2), as examined below:

1.1 Difficulties surrounding the limitative nature of diseases compensable by the NSIF

Article 73 of Ordinance No. 59-100 of 31 December 1959 to provide for the compensation and prevention of industrial accidents and occupational diseases in Cameroon states that:

"A list of occupational diseases which may be compensated in the same way and under the same conditions as industrial accidents shall be exhaustively fixed by an order of the Minister of Labour after consultation with the Higher Council for Occupational Injuries and occupational diseases, established in accordance with TITLE III above. This list shall be presented in the form of tables corresponding to each disease presumed to be of occupational origin. Each table shall contain:

a. The acute or chronic manifestations of intoxication which may be experienced by workers habitually exposed to the action of the harmful agents mentioned in the annexed table, as a result of the performance of the work described by the same table
b. Microbial infections which may affect persons habitually engaged in the work listed in the table;
c. Ailments resulting from a particular environment or attitude caused by the performance of the work listed in the table
d. Microbial or parasitic diseases which may be observed during work in areas which will be recognized as particularly infested and which will be delimited by order of the Minister of Labour after the opinion of the Higher Council for Industrial Accidents..."

From the above provision, it can be inferred that only diseases that have a causal link with the nature of activity carried out by a worker in the enterprise can be compensated by the NSIF. In this regard, illnesses that do not have a direct link with the activity or working environment as stipulated in the above provision or do not appear in the table mentioned above, shall not be subject to compensation. It must be mentioned that, the list of occupational diseases is inexhaustive and more to that, out-dated, since it does not take into account emerging diseases and the epidemiological or anatomic discrepancies and realities between humans. This implies that emerging diseases like Corona Virus contracted at workplace will not be considered by the NSIF as an occupational disease due to the fact that it is not caused by the nature of work exercised by the worker. It must be borne in mind that there are persons who easily contract diseases compared to others and the law has to consider this aspect in order to ensure fairness. For instance, several nurses may be working on a patient suffering from a deadly disease like cholera or tuberculosis and all taking the same prevention measures but just one of them may contract it due to his/her weak immune system. In order to balance this equation, it is strongly recommended that the Ministry of Labour should regularly revise or update the lists of occupational diseases to meet up with emerging state of nature which comes with new diseases. In a nutshell, the criterion of causality should not be considered as the sole factor to establish occupational diseases.

1.2 Non-specification of documents to be furnished by victims or their heirs

The compensation of victims of professional risks in Cameroon can only be effectuated if the concerned furnishes all the documents so required. It must be remarked that the law regulating this sector is silent on the required documents. Thus, it is the NSIF's responsibility to demand the required documents as the case may be. In this regard, the NSIF may use this prerogative to torment the victim by asking virtuous documents in order to discourage the victim from claiming his benefits given that there is no standard documentation required by law which has greatly affected the timely compensation of victims.

To avoid the recurrence of such a scenario, we firmly recommend that, the Cameroonian legislator should follow the footstep of the CIMA legislator as to what concerns the various documents required in case of death and personal injury [36]. As such, the law should distinguish between cases of death and personal injuries clearly bringing out documents to be furnished when the victim has fully recovered and when he has not fully recovered as will be seen below.

a. In case of death, the heirs should be required to provide the following:

- Certificate of Cause of Death and Death Certificate of the victim;

- Letters of Administration with a Certificate of Non-Appeal and/or Non-Opposition;
- Certificates of Life of the heirs;
- Receipts of proof of funeral expenses;
- Birth Certificates of the heirs;
- National identity cards for adults.

b. In case of personal injury, a line should be drawn between when the victim has fully recovered and when he has not.

when the victim has fully recovered, he should be required to furnish the following documents:

- National identity card;
- Initial medical certificate;
- Final medical certificate signed by the Medical Doctor;
- Medical bills or receipts and prescriptions annexed to them;
- Payslips for the past three months preceding the incident; and

where the victim has not fully recovered, the following should be required of him:

- National identity card;
- Initial medical certificate;
- Invoices and prescriptions; and
- Receipts (if any).

This precision will enable the victim or heirs to be able to easily identify the various documents to be furnished and will consequently booster the compensation process.

2. Extra-legal hurdles

Extra-legal hurdles or challenges are those that do not fall within the letter of the law. In other words, they consist of those challenges that have impaired the compensation of victims of professional risks other than weaknesses in the laws governing the sector. Such challenges include the following:

2.1 Delays related to inquiry procedure

When a professional risk affects a worker, the NSIF may order for an investigation to be carried out in order to determine the causes, nature, circumstances of time and place of the accident and, the existence of any fault likely to affect the compensation, as well as the responsibilities incurred. When, according to the initial medical certificate, the accident results to permanent total incapacity or death, the Labour Inspector or a sworn official under his authority shall carry out an investigation. In places where these do not exist, the investigation may be carried out by judicial police officers in accordance with the rules in use in their profession [37]. After carrying out the investigation, the investigator concerned shall draft a report which shall be considered authentic until proven otherwise.

It must be intimated that this investigation procedure is usually too lengthy for the following reasons:

- Insufficient human and material resources of medical staff and labour inspectorate services and lack of qualifications;
- Few occupational health specialists and labour inspectors, general practitioners or other specialists operating in the enterprises; and
- Lack of equipment for exploration or confirmation of diagnosis.

Against this backdrop, it is important to train and recruit more engaged medical staff and labour inspectors to effect investigation of professional risks and purchase equipment that will permit these actors to properly effect their duties.

2.2 NSIF's complicity with medical establishments to the detriment of victims

Article 2 of Decree No. 78-480 of 8 November 1978 to outline the conditions and procedure of medical examination and expertise of victims of professional risks requires that, such examination be carried out by approved Medical Doctors under the responsibility of the NSIF. This provision has the effect of NSIF influencing the medical doctor's report which of course, out rightly affects the nature of compensation of the victim given that they are under the former's control and payroll.

In the guise of minimizing cost, the NSIF's medical doctor may issue reports that do not actually match with what the victim is suffering from. This makes the situation even worse in the sense that the law does not take into account the fact that these controllers who are workers employed and paid by the NSIF can make unfavourable reports in relation to the health situation of the victim, hence deteriorating his situation. A good case in point is that of Mme DJUIDJA TEGUE Leslie Audrey, an employee of UNITED CREDIT S.A who worked as an accountant in the said financial establishment. In the course of executing her contract of employment, she had an accident at work which affected her spinal cord [38]. Her medical Doctor upon examination declared her 70% incapacitated. As practice demands, the NSIF's Medical Doctor after examination declared the victim to be 50% incapacitated which had a negative effect on her treatment.

Upon declaration of the victim's 50% incapacity, the NSIF compensated based on that and unfortunately for her, things went even worse which could have costed her life. Though the NSIF is still to examine the victim to reevaluate the level of incapacity, it may still not surpass 70% even if it is the case because the NSIF does not go above 70% in evaluating a victim's incapacity.

Though the law provides for a third-party doctor to examine a victim after dissatisfaction by the victim on the NSIF's medical doctor's report, we recommend that the first medical examination be carried out by a neutral certified industrial medical doctor who resides in the same town as the victim to avoid displacing the latter. This can be backed by the fact that a third-party medical examination which is carried out after the NSIF's doctor's report has been found unsatisfactory by the victim, is costlier and lengthier.

2.3 Delay in processing compensation files

The processing of files in every structure goes in a hierarchical manner. This means that when a file enters a particular institution, it has to move in a descending order to the person who has to treat it. This is equally the case with the NSIF. The problem however, is not the movement of file from the hierarchy to the subordinate, but on the manner in which the files are treated. It must be mentioned that, the treatment of compensation files is very slow because of shortage of personnel and most importantly, the absence of penalties for late compensation and an effective and

efficient mechanism to enforce these penalties. All these have contributed to slow down the compensation of victims of professional risk which is expected to be prompt and efficient. Hence, rendering the compensation ineffective.

Against this backdrop, we recommend that the legislator should institute a deadline within which a case for compensation shall be dispensed with, accompanied by penalties for failure to do so. In our view, the law should put in place deadlines which shall start running from the date of notification of the occurrence of the risk followed by provision of all the necessary documents for those that cost the life the victim or where the victim has fully recovered. Such a provision should equally stipulate the penalty to be paid to the victim in addition to his principal compensation where the NSIF does not respect the stipulated deadline. For instance, the legislator may hold that the NSIF has a deadline of three months to fully compensate a victim or his heirs after being provided with all the documents failing which, she shall be bound to pay a penalty of 10% per month, calculated on the basis of the principal amount. It is believed that if this is done, the compensation of victims of professional risks will be expeditious due to fear of paying penalties.

2.4 Negligence and corruption of investigative authorities in case of commuting accidents

Another problem that plagues the effective compensation of victims of professional risk in Cameroon is the negligent and corrupt attitudes of investigative units in cases of motor vehicle accidents. It pains the heart to know that several accidents in Cameroon remain uncompensated because the investigation units that are in charge of drafting accident reports collect money from the vicariously liable (owners of faulty vehicles) in order not to draft reports that serve as evidence of the accident, or change the circumstances or facts of the accident in order to relief the tortfeasor of his responsibility. It must be pointed out that the facts above constitute the ingredients of corruption punished by Section 134 [39] and 134-1 [40] of the Pena1 code of Cameroon. Though the punishment for corruption vis-à-vis judicial police officers [41] is deterrent in nature, the practice remains looming in Cameroon. This raises the question as to the effectiveness of the implementation of the penal provisions given that majority of the defaulters go scot-free. It must however be stressed that the difficulty in tracking down corruptors in Cameroon is fueled by the fact that corruption is similar to adultery which is difficult to prove except caught in flagrant delit.

The general practice is that, when a road accident occurs, the police investigative report must be drafted to attest the accident and must be transmitted to the NSIF to enable it ascertain the occupational nature of the accident before compensating the victim(s). In the accident report, the investigating officer has to take down all necessary information concerning the victims and their statements including that of his employer, which shall consequently establish the occupational nature of the accident. In this regard, where the officer fails to do so, it will turn out in the disadvantage of the victim given that the NSIF cannot compensate an accident which does not have link with work.

A good example of such a case is that of Mr Fosso Ernest of the Penka-Michel Council who had an industrial accident caused by a motor vehicle and the accident was investigated by the Nkong-Ni Gendarmerie unit. The NSIF in the Menoua Division situated in Dschang, upon reception of the declaration went to the said investigative unit to confirm the occurrence of the accident but found that the accident report was not drafted and this prevented the victim from being compensated [42]. Even when a report was later drafted, the issue of fraud was raised by the NSIF as the latter raised the argument that, the victim had connived with the investigating officer to fabricate an industrial accident. This of course prevented the said victim from being compensated despite the loss suffered.

Following from the above, we strongly recommend the adoption of the "immediate reporting scheme of accidents" by health establishments. This scheme should require every health establishment which receives victims of motor vehicle accidents to inform the competent Legal Department through a report detailing the circumstances and nature of the accident as recounted by the surviving victims, accompanied by initial medical certificates of each victim or certificate of cause of death as the case may be. The main aim of this report by health establishments is to bypass the corrupt and negligent police units and to kill the desire to alter the circumstances of accidents or ensuring the Legal Department to be aware of all accidents which could have been hidden by the police units. In addition, after reception of the said report by the Legal Department, the former should then seize the competent police unit to carry out further investigations as to the exact circumstances and cause of the accident within a limited timeline. It is believed that if this is done, the number of uncompensated cases based on inaccurate or unreported accidents will witness a drastic fall.

2.5 Failure by employers to assist the victims to recoup their compensation

Another extra-legal factor that inhibits the effective compensation of victims of professional risks in the private sector in Cameroon is the lack of interest on the part of their employers to assist them recover their compensation. Given that the hazard suffered is employment-related, employers are expected to assist victims at all levels right up to when compensation is done. But this is not usually the case as employers even fail to declare such risks after being notified by the victim. Consequently, this has adversely affected the compensation of victims of professional risks in the private sector. On this note, it is imperative that, employers should be obliged by the law to provide moral and technical assistance to their employees who are victims of professional risks from the moment of declaration to when compensation is done failure of which sanctions in financial terms shall be meted on them. The question of who to drag such an employer to the court is one that attracts legal discourse. In this light, it is suggested that, employees or the Labour Inspectorate should be vested with the power to seize the competent court for failure to assist in the recovery of employees' compensation.

Conclusion

The legislations on professional risks continue to be a very important part of the social security system. The many legal instruments available for preventive action cannot even in their fullest prevent the occurrence of professional risks. It must be said that, the current organisation has not made it possible to deal with the problem of occupational diseases to

the full extent, which already constitutes and will be even more so in the future a major component of professional risks. This is manifested in many ways which include: The defective functioning of the occupational diseases commission, which is responsible for adapting the tables of occupational diseases to the evolution of knowledge and risks, inadequate knowledge of these risks, very significant differences in the rates of recognition of diseases by the funds and underestimation of the number of victims.

After a thorough assessment of the laws on the compensation of victims of professional risks, beginning with the concept of professional risk in employment, the preliminary matters and setbacks to effective compensation, a comprehensive reform of the management of occupational injuries and diseases is therefore necessary today. As remarked, some of the provisions of the laws are marred with ambiguities, while others are obsolete which render effective implementation difficult. The institution of revised laws and strong implementation measures would not only resolve the substantive and procedural flaws that have backed the violation of workers' rights in the country as a whole, but will contribute considerably to adapt these laws to international labour standards and make the country's social security legislations suitable to attain her development objectives.

References

1. Section 23 of the Cameroonian Labour Code defines a contract of employment as an agreement by which a worker undertakes to put his services under the management of an employer against remuneration
2. Ujwal Kharel, "The global epidemic of occupation injuries: counts, cost and compensation", PhD Thesis, Pardee RAND Graduate School, 2016, p.33.
3. Contributory negligence meant that the employer was not responsible if the worker bore any fault for the injury. Where for instance, a freight conductor, who was responsible for checking faulty equipment, fell off the train due to a loose handrail, then his employer, the Railroad Company, would not be held liable. Such was the case in Martin v. Wabash Railroad Co. 142 F.650 (1905).
4. This principle, the fellow servant rule, asserted that the employer was not responsible if a fellow worker was at fault for the injury. This rationale was exercised in an 1842 case called Farwell v. Boston & Worcester Railroad-45 Mass.49 (1842), in which an injured engineer of a passenger train was disallowed to recover compensation from the railroad company because the injury was established to have occurred due to the negligence of the switch-man, a fellow employee.
5. Under this rule, the employee, by agreeing to a contract with full knowledge of the hazards involved, accepted inherent risks and thus needed not be compensated for injuries. This rule was adumbrated by the Massachusetts Chief Justice Lemuel Shaw in the Farwell case, where he posited that: "he who engages in the employment of another for the performance of specified duties and services, for compensation, takes upon himself the natural and ordinary risks and perils incident to the performance of such services, and in legal presumption, the compensation is adjusted accordingly."
6. Yanou M. A., labour Law: Principles and Practice in Cameroon Buea, REDEF, 2009, p.109
7. Koton Orsino C., "The protection of job security rights of workers during industrial accidents: case study of the Bamenda Centre of National Social Insurance Fund", Master Dissertation, University of Dschang, 2021, p.4.
8. It must be mentioned that after its creation in 1973, NSIF didn't assume its responsibilities of compensation. It was only after the signing of Decree No. 76-321 of 2nd August 1976 that the NSIF started undertaking its assigned responsibilities. This Decree conferred the Fund with the responsibility of managing industrial accident matters throughout the country as from 1st July 1977.
9. Article 13 of Law no 77-11 of 13th July 1977 on the reparation and prevention of industrial accidents and occupational diseases modified by law n° 80-05 of 14th July 1980.
10. Per Article 16(1) of Law no 77-11 of 13th July 1977 on the reparation and prevention of industrial accidents and occupational diseases modified by law n° 80-05 of 14th July 1980, temporal disability is the incapacity to work which extends from the day following the accident to the day of consolidation or recovery or date of resumption of service.
11. According to Article 16 (2) of Law no 77-11 of 13th July 1977 on the reparation and prevention of industrial accidents and occupational diseases modified by law n° 80-05 of 14th July 1980, permanent disability is the reduction in work capacity that remains after consolidation. Permanent disability can be partial or total. Permanent partial disability is when the worker, following an occupational accident or an occupational disease, suffers damage to their anatomy or definitive functional disorders or after-effects that limit their ability to carry out their work or profession, without preventing them from carrying out essential tasks. Permanent total disability on its part is when the worker is completely unable to work or carry out any profession and needs the assistance of another person for their daily care. This occurs following an occupational accident or an occupational disease that causes definitive anatomical limitations or functional disorders. The amount paid for this type of incapacity is determined by the Medical council of the NSIF and when it is equal to 20%. Where the incapacity is estimated to be below 20%, (partial disability) the victim will be entitled to a lump sum payment which will be disbursed just once.
12. If the worker dies following an occupational accident or professional disease, which has previously been qualified as such, then benefits are payable according to the applicable regulations pertaining to the National Social Insurance Fund. See to this effect, FAO, (2018), Manual on health and safety in the banana industry – Cameroon, Rome, p.5.
13. See article 1 of Decree No. 78/283 of 10 July 1978 to fix the rates of contribution applicable to the industrial accidents and occupational diseases branch.
14. See, Annex to Decree No. 2016/072 of 15 February 2016 To Fix the Rates of Social Contributions and Ceiling of Remunerations Applicable in the Branches of Family Benefits, Old Age, Invalidity and Death Pension Insurance, Industrial Accidents and Occupational Diseases Managed by The National Social Insurance Fund.
15. See also article 96 of the legal instruments governing social insurance institutions (ops) of the CIPRES Member States of 12 December 2019 as it states that:

"An industrial accident shall be deemed to be an accident, whatever its cause, if it occurs as a result of or in the course of work to any person employed or working, in any capacity or in any place whatsoever, for one or more employers. An industrial accident is also considered to be an accident occurring to an employee during the journey to and from affairs, provided that the journey was not interrupted or diverted for a reason dictated by personal interest and unrelated to the essential requirements of everyday life or independent of the job: - between the employee's main residence, a secondary residence of a stable nature or any other place to which the employee habitually goes for family reasons and the place of work; - between the place of affairs and the restaurant, canteen or, in general, the place where he usually takes his meals or receives his pay;"

16. Nde Ngo S., "The protection of workers against professional risks under Cameroonian social security law", PhD Thesis, University of Dschang, 2023, p.234.
17. See article 96 of the legal instruments governing social insurance institutions (ops) of the CIPRES Member States of 12 December 2019.
18. Lewis R., "Accidents whilst travelling and the limits of compensation for industrial injury", Journal of Social Welfare Law, 1986, p.193.
19. Article 1(b) of Protocol of 2002 to the Occupational Safety and Health Convention, 1981 (No. 155) defines occupational diseases similarly in the following words: "the term "occupational disease" covers any disease contracted as a result of an exposure to risk factors arising from work activity".
20. See article 73 of Ordinance No. 59-100 of 31 December 1959 to provide for the compensation and prevention of work accidents and occupational diseases in Cameroon.
21. Martha S. Tumnde, Insurance Law in Cameron, 2nd Ed., Yaoundé, Cameroon, 2012, p.78.
22. Nde Ngo S., op.cit, p.142.
23. Article 1(1) of Decree No. 78-546 of 28 December 1978 laying down the reporting and investigation procedures of industrial accidents or occupational diseases.
24. Ibid, article 1(2). In this case, the employer shall be required to report any occupational accident or disease occurring in the undertaking within three working days. This period shall run from the day of the accident or the day on which the occupational nature of the illness is established or from the day on which the employer learns of the accident or illness.
25. www.cnps.cm, accessed on the 23rd of April 2023.
26. Yanou M. A., op.cit, p.120. See also article 17(6) of Law No. 77/11 of 13th July 1977 which states that "In all cases, the National Social Insurance Fund covers occupational accidents and diseases that occur during work performed for an unregistered employer and has recourse against the employer concerned for the recovery of benefits paid or for damages."
27. Article 47 of the 1977 Law.
28. Article 2(1) of Decree No. 78-546 of 28 December 1978 laying down the procedure for reporting and investigation of industrial accidents or occupational diseases.
29. Ibid, Article 3(1).
30. Fouomene E., "Les protections traditionnelles et le développement du système de sécurité social au Cameroun » Thèse de doctorat, Université de Genève, 2013, p.180.
31. See Article 7 of Decree No. 78-546 of 28 December 1978 laying down the procedure for reporting and investigation of industrial accidents or occupational diseases.
32. Article 2 of Decree No. 78-480 of 8 November 1978 to outline the conditions and procedure of medical examination and expertise of victims of industrial accidents and occupational diseases.
33. Ibid, article 4.
34. The Doctor concerned must be chosen within 15 days following the deposit of the request for medical expertise or of the report of the medical adviser.
35. Ibid, article 7.
36. Ibid, article 11.
37. See articles 240 and 241 of the CIMA Code.
38. See Article 7 of Decree No. 78-546 of 28 December 1978 laying down the procedure for reporting and investigation of industrial accidents or occupational diseases.
39. An investigation report drafted by a Sworn NSIF Social Security Investigation Technician to the Chief of Centre of CNPS Akwa, Douala.
40. Section 34 entitled "Active Corruption" provides that: "Any national, foreign or international civil servant or public employee who, for himself or for a third party, solicits, accepts or receives any offer, promise, gift or present in order to perform, refrain from performing or postpone any act of his office shall be punished with imprisonment of from 5 (five) to 10 (ten) years or with fine of from CFAF 200 000 (two hundred thousand) to CFAF 2 000 000 (two million). (2) The penalty provided for in Subsection 1 above shall be imprisonment for from one to 5 (five) years and with fine of from CFAF 100 000 (one hundred thousand) to CFAF 1 000 000 (one million) where the act is not part of the duties of the corrupt person but has been facilitated by his position. (3) Any national or international public official who solicits and accepts any retribution in kind or in cash for himself or a third party, in remuneration for an act that has or has not been performed, shall be punished with the penalties provided for under Sub-section 2 above. (4) Penalties provided for under Subsections 1 2 and shall be doubled where the offender 1s a Judicial or Legal Officer, a Judicial Police Officer, an employee of the institution in charge of the fight against corruption the head of an administrative unit or any other sworn public servant or employee."
41. Section 134-1 entitled "Passive corruption" states in substance that "Whoever makes promises, offers, gifts and presents or yields to requests liable to result in corruption in order to obtain either the performance, postponement or abstention from an act or one of the favours or benefits defined in Section 134 above, shall be punished in like manner as under Section 134 (1) above, whether corruption produced its effects or not. (2) Whoever makes gifts or presents or yields to requests for remuneration for an act performed or deliberately not performed shall be punished with penalties provided for in Section 134 (2) above."
42. Section 134 (4) of the Penal code.
43. Gotten from a one-on-one discussion with a worker at CNPS Dschang.